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**TERMS OF REFERENCE FOR APPOINTMENT OF A SERVICE PROVIDER FOR ADVISORY SERVICES ON A BUSINESS CASE FOR THE ESTABLISHMENT OF THE RADIOACTIVE WASTE MANAGEMENT FUND FOR THE DEPARTMENT OF ENERGY HEAD OFFICES AT 192 VISAGIE STREET, CORNER PAUL KRUGER AND VISAGIE STREET, FOR A PERIOD OF 12 MONTHS**

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**1 BACKGROUND**

1.1 The Radioactive Waste Management framework within South Africa consists of the following key legislative instruments:

- a. **Nuclear Energy Act, 1999 (Act No. 46 of 1999)**, in particular section 55(2), under which the Minister of Energy has previously delegated the South African Nuclear Energy Corporation to assume responsibility for the management of radioactive waste and operation of the national radioactive waste disposal facility, Vaalputs.
- b. **Radioactive Waste Management Policy and Strategy of 2005**, which establishes the “polluter pays principle” and further calls for the establishment of the Radioactive Waste Management Fund, “the fund”.
- c. **National Radioactive Waste Disposal Institute Act, 2008 (Act No. 53 of 2008)**, under which the National Radioactive Waste Disposal Institute is established.

1.2 The Department is in the process of establishing the Radioactive Waste Management Fund Act to put into law the process of collecting levies from waste generators with the purpose of eventual storage and disposal of high-level radioactive waste. Concurrently, the National Treasury will put into effect the accompanying Money Act.

1.3 The main objective of the fund is to ensure sufficient provision for long-term storage and disposal of high-level radioactive waste, achieved through managing and investing levies paid into the fund by waste generators. Such levies are then

transferred into the National Radioactive Waste Disposal Institute to allow the Institute to carry out its mandate, specifically as it pertains to the management of high-level radioactive waste and its final disposal.

- 1.4 In summary, a levy will be collected from waste generators by National Treasury, which will be paid into the national revenue fund. The collected levy amount will be utilised for radioactive waste pre-disposal activities at a waste disposal site and disposal activities of the national radioactive waste disposal institute. These activities typically cover research, siting, licensing, construction, operation, decommissioning activities and related services directed at radioactive waste management classified as high-level. This will ensure that long-term storage and disposal of high-level radioactive waste is fully catered for in line with policy prescripts.

## **2 OBJECTIVES**

- 2.1 The overall objective of this project is to develop a founding business case with associated documentation for the establishment of an entity named the radioactive waste management fund. Such founding business case and associated documentation is further detailed in Section 3:
- 2.2 In undertaking this project, the Department is ensuring that all reasonable and necessary arrangements are in place for the efficient establishment of the Radioactive Waste Management Fund to begin the implementation process of the Radioactive Waste Management Fund Act, upon its approval.

## **3 SCOPE OF WORK**

- 3.1 The successful bidder is expected to develop various founding business case documentation for the establishment of an entity named the radioactive waste management fund. This will include, as a minimum deliverable, all the items referenced in the outline of the National Treasury's template titled "*Business Case (Outline) issues to be addressed*" which is included in the Terms of Reference as **Annexure A**.

**4 DELIVERABLES**

4.1 This project will be delivered in phases covering the following deliverables, which are based on the National Treasury business case outline provided in **Annexure A**:

- a. **Phase 1:** Report 1 – deliverables of Sections 3-5 (Background, Options Analysis and Corporate Form and Legislative Regime).
- b. **Phase 2:** Report 2 – deliverables of Sections 6-8 (Organisational Structure, Human Resources and Risk Analysis & Mitigation).
- c. **Phase 3:** Report 3 – deliverables of Sections 9-11 (Operational and Service Delivery Indicators, Financial Plan and Corporate Governance Principles).
- d. **Phase 4:** Report 4 – deliverables of Sections 12, 13, 1 and 2 (Implementation Plan & Interim Arrangements and Appendices, Introduction and Executive Summary). This phase also envisages the development of Report 5 which is a consolidation of all reports as a package.

**5 PAYMENTS AND PAYMENT SCHEDULE**

5.1 The Department will not make an upfront payment to a successful service provider. Payment will only be made according to the delivery of milestones that will be agreed upon by both parties and receipt of an original invoice.

5.2 The Department will utilise the following schedule of payments:

<b>Item no.</b>	<b>Deliverables</b>	<b>Percentage</b>
1	<b>Phase 1</b> - deliverables of Sections 3-5 (Background, Options Analysis and Corporate Form and Legislative Regime)	10%

2	<b>Phase 2</b> - deliverables of Sections 6-8 (Organisational Structure, Human Resources and Risk Analysis & Mitigation)	40%
3	<b>Phase 3</b> - deliverables of Sections 9-11 (Operational and Service Delivery Indicators, Financial Plan and Corporate Governance Principles)	30%
4	<b>Phase 4</b> - deliverables of Sections 12, 13, 1 and 2 (Implementation Plan & Interim Arrangements and Appendices, Introduction and Executive Summary). This phase also envisages the development of Report 5 which is a consolidation of all reports as a package	20%

## **6 REPORTING REQUIREMENT AND PROGRESS MEETINGS**

- 6.1 It is envisaged that the Department will require an initial meeting with the successful bidder(s) to agree on the project process and options to be investigated.
- 6.2 Progress meetings shall be held as and when necessary, but at least once a quarter. These meetings will be held at a yet-to-be identified venue in Pretoria and are expected to be attended by representatives of the Department and the successful service provider. Where possible and appropriate, conference calls shall be held to facilitate such meetings.
- 6.3 The successful service provider shall submit to the Department, progress reports and any presentations, as a minimum, on a bi-weekly basis, to allow the Department to keep track of project progress. These progress reports and any presentations must reflect on the achievement of the project milestones/tasks and must be written in English. It is permitted to transmit these progress reports and any presentations to the Department electronically (WORD version) and

hard copy, however the final report and any presentation must be bound and provided in hard copy format, with a total of three (3) copies.

## **7 CONTRACT PERIOD**

7.1 A contract will be entered into between the Department and the successful service provider for a period of **twelve (12) months**.

## **8 COMPULSORY INFORMATION SESSION**

8.1 A compulsory briefing session will be held at the following Department of Energy offices, 192 Corner Paul Kruger and Visagie Streets, Pretoria on **6 February 2020 at 10h00**.

## **9 TAX CLEARANCE CERTIFICATE**

9.1 The potential service provider must ensure compliance with their tax obligations.

9.2 The potential service provider is required to submit their unique personal identification number (pin) issued by SARS to enable the organ of state to view the taxpayer's profile and tax status.

9.3 Application for tax compliance status (TCS) or pin may also be made via e-filing. In order to use this provision, taxpayers will need to register with SARS as e-filers through the website [www.sars.gov.za](http://www.sars.gov.za).

9.4 The potential service provider may also submit a printed TCS together with the proposal.

9.5 In proposals where consortia / joint ventures / sub-contractors are involved, each party must submit a separate proof of TCS / pin / CSD number.

9.6 Where no TCS is available but the potential service provider is registered on the central supplier database (CSD), a CSD number must be provided.

## **10 SECURITY BACKGROUND CHECKS**

10.1 The Department reserves the right to conduct security background checks on any of the service provider team members, its Directors and Staff. The

appointment of a service provider will be subject to positive security screening and vetting results.

## **11 COPYRIGHT, OWNERSHIP, DECLARATION OF CONFLICT OF INTEREST AND CONFIDENTIALITY**

11.1 The Department will take copyright ownership of the developed documentation, methodology, results and any other related information generated during the execution of this project.

11.2 All project reports and presentations should have the Department's logo and it is expected that the successful service provider understands that the Department has a full right to utilise any of this project deliverables in any manner it deems fit during and post project implementation.

11.3 The successful service provider is expected to retain confidentiality of information generated during the implementation of this project, including project planning, administration and execution of the project.

11.4 A bidder must disclose any realised and potential conflict of interest with respect to the execution of this project.

## **12 TERMS AND CONDITIONS**

12.1 The General Conditions of the Contract that will be entered into between the Department and the successful service provider must be accepted as these are issued by National Treasury and are non-negotiable.

12.2 In the event that the contracted service provider offers a service in collaboration with another service provider in a form of a sub-contract, the Department of Energy will only recognise the contracted service provider as the provider of such service, thus all payment arrangements or penalties arising from any of the terms of the contract will apply directly to the main contractor in terms of the standing contract.

12.3 Once the letter of appointment has been issued to a successful service provider, the service provider shall be expected to enter into a Service Level Agreement with the Department of Energy.

12.4 The service provider will sign a confidentiality agreement regarding the protection of the Department of Energy information that is not in the public domain.

12.5 The successful service provider will be required to submit payment schedule providing projections for the period of twelve (12) months on work performed.

12.6 The Department reserves the right to terminate the contract based on lack of approval of the Radioactive Waste Management Fund Bill by any of the structures the Bill will serve under during its legislative processing.

12.7 The service provider will provide a single overall project manager for this project.

### 13 **EVALUATION METHODOLOGY**

#### 13.1 **Cost**

- a. The service provider will be requested to provide a quote regarding the work to be undertaken for this project.
- b. The total cost must be VAT inclusive and should be quoted in South African currency (i.e. Rands).
- c. The service provider should provide hourly rates as prescribed by Department of Public Service and Administration (DPSA), Auditor- General (AG) or the body regulating the profession of the consultant.

#### 13.2 **Broad-Based Black Economic Empowerment**

- a. **Provisions of the Preferential Procurement Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000) as amended in 2017** and its regulation will apply in terms of awarding points.
- b. Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their quotes, to substantiate their B-BBEE rating claims.

- c. Bidders who do not submit their B-BBEE status level verification certificates or are non-compliant contributors to B-BBEE will not qualify for preference points for B-BBEE.
- d. A trust, consortium or joint venture must submit a consolidated B-BBEE status level verification certificate for every separate bid.
- e. Accounting Officers must ensure that the B-BBEE Status level Verification Certificates submitted are issued by the following agencies:
- f. Bidders other than Exempted Micro Enterprises (EME), must submit proof from verification agencies accredited by SANAS; and
- g. Bidders who qualify as EME, must submit a sworn affidavit signed by the EME representative, attested by a commissioner of oaths.
- h. The table below depicts the B-BBEE status level of contribution:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

### 13.3 Company Experience

- a. The service provider and suppliers of advisory services on business cases for the establishment of optimally functioning entities should have at least five (5) years experience in the energy sector assisting such entities to address

financial planning, organisational structuring, risk analysis and mitigation, and contracting.

- b. The reported experience should be supported by at least five (5) signed reference letters from contactable referees (previous and/or current clients) indicating that similar service was executed.

#### 13.4 Team leader and team members' experience

- a. Team Leader of the Service Provider/s of advisory services on business cases for the establishment of optimally functioning entities must have at least five (5) years work experience to be shown in at least five (5) related projects of the services being applied for as reference.
- b. Team members (a minimum of 2 members is required) must have at least three (3) years work experience in at least three (3) related projects of advisory on business cases for the establishment of optimally functioning entities being applied for as reference.
- c. CV's of the Team Leader and Team Member/s must be attached to the technical proposal as proof, and should reflect the number of projects executed by members.
- d. CV's of the Team Member/s (minimum 2 members) must be attached to the technical proposal as proof, and should reflect the number of projects executed by members.

#### 13.5 Qualifications (expected to be in line with the National Qualifications Framework Amendment Act 12 of 2019):

- a. Team Leader must have a minimum of Masters degree in Engineering or Environment or Natural Science or Finance or Business Administration or Economics.
- b. Team Members must have a minimum of Diploma in Engineering or Environment or Natural Science or Finance or Business Administration or Economics.

- c. Certified copies of certificates must be attached to the proposal as proof, failure to attach any copies will result in the bidders will forfeiting all the allocated points.

13.6 Assurance of independence from all possible government departments and related state owned entities involved with nuclear waste management

13.7 Project Plan, methodology, approach and management structure

- a. Project implementation plan which is in line with the scope of work to achieve project objectives.
- b. Proposed Methodology detailing the approach on the provision of the required advisory service
- c. A fit for purpose management structure with roles and responsibilities of team members.

14 **EVALUATION CRITERIA**

14.1 Bids will be evaluated on **80/20** point system as outlined in the Preferential Procurement Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000) as amended in 2017 with its regulations. The proposals will be evaluated in two phases:

14.2 **Phase 1:** Bidders will be evaluated based on functionality. The minimum threshold for functionality is **70 out of 100 points**. Bidders who fail to meet minimum threshold will be disqualified and will not be evaluated further for price point.

<b>No.</b>	<b>Evaluation criteria</b>	<b>Score</b>	<b>Weight</b>
1	<b>Company Experience</b> (i) The service provider and suppliers of advisory services on business cases for the establishment of optimally functioning entities should have at	7 years or more = 5 points 6 years = 4 points <b>5 years = 3 points</b> 4 years = 2 points 3 years or less = 1 point	<b>15</b>  10

No.	Evaluation criteria	Score	Weight
	<p>least five (5) years experience in the energy sector assisting such entities to address financial planning, organisational structuring, risk analysis and mitigation, and contracting.</p> <p>(ii) The reported experience should be supported by at least five (5) signed testimonial letters from contactable referees (previous and/or current clients) indicating that similar service was executed.</p>	<p>7 letters or more = 5 points  6 letters = 4 points  <b>5 letters = 3 points</b>  4 letters = 2 points  3 letters or less = 1 point</p>	5
2	<p><b>Team leader and team members' experience:</b></p> <p>(i) Team Leader of the Service Provider/s and Supplier/s of advisory services on business cases for the establishment of optimally functioning entities must have at least five (5) years work experience to be shown in at least five (5) related projects of the services being applied for as reference.</p> <p>(ii) Team members (a minimum of 2 members is required) must have at least three (3) years work experience in at least three (3) related projects of advisory on business cases for the establishment of</p>	<p>7 years, 7 projects or more = 5 points  6 years and 6 projects = 4 points  <b>5 years and 5 projects = 3 points</b>  4 years and 4 projects = 2 points  3 years, 3 projects and less = 1 point</p> <p>5 years, 5 projects and more = 5 points  4 years, 4 projects = 4 points  <b>3 years and 3 projects = 3 points</b>  2 years and 2 projects = 2 points  1 year, 1 project = 1 point</p>	20  8  5

No.	Evaluation criteria	Score	Weight
	<p>optimally functioning entities being applied for as reference.</p> <p>(iii) CV's of the Team Leader and Team Member/s must be attached to the technical proposal as proof, and should reflect the number of projects executed by members.</p> <p>(iv) CV's of the Team Member/s (<b>minimum 2 members</b>) must be attached to the technical proposal as proof, and should reflect the number of projects executed by members.</p>	<p style="text-align: center;"><b>Team Leader</b></p> <p>CVs attached with 6 or more projects = 5 points  CVs attached with 6 projects = 4 points  <b>CVs attached with 5 projects = 3 points</b>  CV attached with 4 projects = 2 points  CV attached with 3 or less projects = 1 point</p> <p style="text-align: center;"><b>Team Members (2 members)</b></p> <p>CVs attached with 5 or more projects = 5 points  CVs attached with 4 projects = 4 points  <b>CVs attached with 3 projects = 3 points</b>  CV attached with 2 projects = 2 points  CV attached with 1 or less project = 1 point</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">4</p>
3	<p><b>Qualifications (expected to be in line with the National Qualifications Framework Amendment Act 12 of 2019):</b></p> <p>(i) Team Leader must have a minimum of Bachelor degree in Engineering or Environment or Natural Science or Finance or Business</p>	<p>Master's degree = 5 points  Honours degree = 4 points  Bachelor degree = <b>3 points</b>  Diploma = 2 points  Certificate = 1 point</p> <p>Honours degree or more = 5 points</p>	<p style="text-align: center;">15</p> <p style="text-align: center;">8</p>

No.	Evaluation criteria	Score	Weight
	<p>Administration or Economics.</p> <p>(ii) Team Members must have a minimum of Diploma in Engineering, Environment or Natural Science or Finance or Business</p> <p>Administration or Economics.</p> <p>(iii) Certified copies (stamped, dated and signed) of such as (qualifications, professional registration, etc.) must be attached to the proposal as proof. Failure to attach the said documents will result in bidders forfeiting points.</p>	<p>Bachelor degree = 4 points</p> <p>National Diploma (Natural Science/Statistics/Communications) or more = 3 points</p> <p>National Senior Certificate (Matric) = 2 points</p> <p>Qualification rated at NQF level 2 or 3 (SAQA) = 1 point</p> <p>Stamped, dated and signed copies (qualifications, professional registration) of all team members attached = 5 points</p> <p>Stamped, dated and signed copies (qualifications, professional registration) of more than 80% of the team members attached = 4 points</p> <p>Stamped, dated and signed copies (qualifications, professional registration) of more than 60% of the team members attached = 3 points</p> <p>Stamped, dated and signed copies (qualifications, professional registration) of more than 50% of the team members attached = 2 points</p> <p>No certified copies attachment = 1 points</p>	<p>4</p> <p>3</p>
4	Assurance of independence from all possible government departments and related state owned entities involved with nuclear waste management.	<p><b>Assurance of independence provided = 5 points</b></p> <p>Assurance of independence not provided = 1 point</p>	5

No.	Evaluation criteria	Score	Weight
5	<p><b>Project Plan, methodology, approach and management structure:</b></p> <p>(i) Project implementation plan in line with the scope of work to achieve project objectives.</p> <p>(ii) Proposed Methodology detailing the approach on the provision of the required advisory service</p> <p>(iii) Management structure with roles and responsibilities of team member/s</p>	<p>Project plan with detailed milestones, activities, timelines, estimated budget and deliverables = 5 points</p> <p>Project plan provided with milestones, estimated budget and timelines =4 points</p> <p>Project plan with milestones and timelines provided = <b>3 points</b></p> <p>Project plan attached but not activities, milestones, estimated budget and deliverables = 2 points</p> <p>No project plan attached = 1 point</p> <p>Detailed methodology and approach provided indicating creativity for Department added value = 5 points</p> <p>Detailed methodology and approach provided = 4 points</p> <p>Generic methodology and approach provided = <b>3 points</b></p> <p>Generic methodology or approach provided = 2 points</p> <p>Methodology and approach not provided = 1 point</p> <p>Clear and tailored-for-project management structure with clear team member roles and responsibilities = 5 points</p> <p>Clear management structure with clear team member roles and responsibilities = 4 points</p> <p>Generic Management structure with team member roles and responsibilities provided = <b>3 points</b></p> <p>Management structure provided with no team member roles or responsibilities = 2 points</p> <p>Management Structure not provided = 1 point</p>	<p><b>45</b></p> <p>20</p> <p>15</p> <p>10</p>
<b>TOTAL</b>			<b>100</b>

**For purpose of evaluating functionality, the following values will be applicable:**

<b>1=</b>	<b>Very Poor</b>	Will not be able to fulfil the requirements
<b>2=</b>	<b>Poor</b>	Will partially fulfil the requirements
<b>3=</b>	<b>Average</b>	Will be able to fulfil the requirements
<b>4=</b>	<b>Good</b>	Will be able to fulfil better in terms of the requirements adequately
<b>5=</b>	<b>Excellent</b>	Will fulfil the requirements exceptionally

**Phase 2: B-BBEE**

<b>Price</b>	<b>80</b>
<b>B-BBEE compliance</b>	<b>20</b>

**15 FORMAT AND SUBMISSION OF THE PROPOSAL**

15.1 All the official forms (SBD) that are included in the bid document must be completed in all respects by bidders. Failure to comply will invalidate bid.

15.2 Bidders are requested to submit two (2) copies: 1 original plus copy of the proposal and bid documents.

15.3 A two-envelope system will be used for the evaluation of bidders, first envelope must contain the technical proposal only and the second envelope must contain the price only.

**16 CLOSING DATE**

**16.1** Proposals must be submitted on or before **19 February 2020 at 11H00** at Department of Energy, 192 Corner Visagie and Paul Kruger Streets, Pretoria in the bid box marked Department of Energy .**No late bids will be accepted.**

## **17 ENQUIRIES**

17.1 All technical enquiries to be directed in writing to:

Mr Zukile Zibi

Tel: 012- 406 7822

Email: [Zukile.zibi@energy.gov.za](mailto:Zukile.zibi@energy.gov.za)

17.2 All bid enquiries to be directed to:

Ms Keitumetse Pitse / Mr Samuel Msiza

Tel: 012- 406 7742 /7910

Email: [Keitumetse.Pitse@energy.gov.za](mailto:Keitumetse.Pitse@energy.gov.za) / [Samuel.Msiza@energy.gov.za](mailto:Samuel.Msiza@energy.gov.za)

## **Annexure A:**

1. Executive Summary
2. Introduction
3. Background
  - a. Legislative and Policy Context.
  - b. Needs analysis.
  - c. Sector overview.
  - d. Sector Challenges.
  - e. Rationale.
  - f. Roles and functions of the Entity.
    - i. Role.
    - ii. Functions.
    - iii. Institutional Relationships.
4. Options Analysis
  - a. Principle sector roles in the Policy
    - i. Leadership.
    - ii. Funding.

- iii. Delivery.
    - iv. Regulation.
    - v. Facilitation.
  - b. International Review.
  - c. South African Review.
  - d. Options
    - i. Advantages and disadvantages.
    - ii. Value for money.
    - iii. Performance against risk.
  - e. Conclusions in respect of preferred option.
- 5. Corporate form and legislative regime.
  - a. Devolution of the function.
  - b. Establishment legislation.
- 6. Organisational Structure.
  - a. Vision, mission and values.
  - b. Strategic objectives.
  - c. Functions.
    - i. Regulation.
    - ii. Investment.
    - iii. Corporate services.
  - d. Structure.
    - i. Competency profile.
  - e. Board.

- i. Structure of the Board.
  - ii. Board functions.
  - iii. Board Committees.
- f. Internal and external accountability.
- i. Accountability to Government.
  - ii. Accountability to the public.
  - iii. Relationships with other organisations.

## 7. Human Resources

- a. Human resource approach.
  - i. Job evaluation.
- b. Performance management approach.
- c. Remuneration approach.
  - i. Proposed remuneration ranges.
  - ii. Performance-linked pay.
  - iii. Performance incentive awards.
- d. Chief Executive's contract of employment.
  - i. Role profile of Chief Executive.
  - ii. Contract of Employment.

## 8. Risk analysis and mitigation

- a. Policy and regulatory risks.
- b. Operating and governance risks.
- c. Funding risks.
- d. Sector risks.

9. Operational and service delivery indicators

10. Financial Plan

- a. Budget assumptions.
- b. Operational budget.
- c. Value for money.

11. Corporate Governance Principles

- a. Corporate planning and reporting.
- b. Procurement/Supply Chain Management.
- c. Broad-Based Black Economic Empowerment (BBBEE).
- d. Labour relations.
- e. Line/Policy department oversight role.

12. Implementation plan and interim arrangements

- a. Implementation plan.
- b. Interim arrangements.
- c. Preparation phase.
  - i. Establishment phase.
  - ii. Operational phase.

13. Appendices

- a. Appendix 1: Draft Bill
- b. Appendix 2: Sector Entities Overview
- c. Appendix 3: International background
- d. Appendix 4: Job descriptions/profiles
- e. Appendix 5: Chairperson Contract.

f. Appendix 6: TOR: Interim arrangements.