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FOR THE PROVISION OF APPOINTMENT OF SERVICE PROVIDER TO REVIEW
THE WORK CONDUCTED BY TRANSNET FREIGHT RAIL (TFR) IN PREPARATION
FOR THE ECONOMIC REGULATION OF RAILWAYS, ON FREIGHT RAIL
REGULATORY REFORM FOR A PERIOD OF SIX (6) MONTHS

TCC/2023/04/0001/27040/RFP

09 MAY 2023

INTRODUCTION



- Procurement : Cwayita Nyeli
- Economic Strategy : Monde Gqoli
- Legal & Compliance : Kgomotso Modise

Agenda

| | ... | Allotted Time | Presenter |
|-----------------------------------|-----|---------------|----------------------------------|
| Welcome and introduction | | 10 Mins | Cwayita Nyeli |
| Evaluation Methodology Step 1 & 2 | | 20 Mins | Cwayita Nyeli |
| Scope of Work | | 30 Mins | Kgomotso Modise / Monde Gqoli |
| Evaluation Methodology... cont | | 15 min` | Kgomotso Modise /Monde Gqoli |
| Q & A | | | |

Rules of Engagement

- ❑ This briefing session is compulsory. Company name and contact details must be stipulated on the chat box
- ❑ An approximate time allocation of 1 hour has been catered for, the session could end sooner or later, depending on the volumes of clarification questions.
- ❑ All questions will be recorded, and the answers will be consolidated and uploaded on the tender bulletin.
- ❑ All communication subsequent to this briefing session, before the closing date and time, must only be directed to the Cwayita.Nyeli@transnet.net

Procurement Process briefing (Overview)

- ❑ The tender was advertised on the National Treasury Portal www.etenders.gov.za and on the Transnet website.
- ❑ The RFP closing date and time is on 26 May 2023 at 22H00.
- ❑ Please refer to RFP, Section 2 paragraph 3 for instructions on the RFP submission.
- ❑ **Bidders are required to ensure that electronic bid submissions are done at least a day before the closing date to prevent issues which they may encounter due to their internet speed, bandwidth or the size of the number of uploads they are submitting. Please do not wait for the last hour to submit. A Bidder can upload 30mb per upload and multiple uploads are permitted.**
- ❑ Please refer to "RFP, Section 3, Returnable documents" for details of all returnable documents that need to accompany your RFP submission

SCOPE OF WORK

1. BACKGROUND

The accounting separation of TFR and development of appropriate regulatory frameworks pertaining to access, access fees and service tariffs is conducted as part of preparations for the implementation of the White Paper on National Rail Policy (Rail Policy) which was approved by Cabinet on 23 March 22, and, in anticipation of the economic regulation of the rail sector once the Economic Regulation of Transport Bill (ERT Bill) is enacted into law.

The Rail Policy introduces radical structural reforms in the sector that are intended to open up space for private sector investment and effective economic regulation that enables equitable access to both the primary and secondary network. The ERT Bill, which is currently undergoing constitutional processes for Cabinet approval, intends to establish the Transport Economic Regulator (TER). The TER will be responsible, amongst other things, for regulating access to rail infrastructure by third party operators, access fees and prices for transport services.

The Department of Transport has also drafted a Rail Private Sector Participation Framework that is intended to guide the incorporation of private sector participation in all aspects of the rail ecosystem.

TFR has made substantial progress in the separation of infrastructure accounts from operation accounts, as well as developing the tariff methodology for access and haulage service provision. To that end, the Terms of Reference ("TOR) for the appointment of a globally experienced service provider have already been drafted.

SCOPE OF WORK cont...



1. SCOPE OF REQUIREMENTS

Transnet seeks to appoint a competent and experienced Service Provider to perform a detailed review of work conducted by Transnet on the accounting separation of infrastructure manager and rail operations, and the development of rail regulatory frameworks.

The Service Provider will advise Transnet on the associated risks and relevant inter-dependencies and how to mitigate those risks with reference to:

- (a) the National Rail Policy,
- (b) the ERT Act,
- (c) TFR realities, the draft National Rail Private Sector Participation Framework,
- (d) Transnet balance sheet and governance architecture, and
- (e) relevant international learnings to validate the company's approach and to ensure compliance.

In detail, the scope is to advise and make recommendations in respect of:

1. An appropriate economic regulatory regime applicable to railways.
2. Regulation of Infrastructure Managers within a framework of multiple railway operator access that ensures:
 - a) Formulating a predictable regulated asset base (RAB) to derive a cost reflective access charges;
 - a) Sustainable network delineation to be licensed;
 - b) Fair and equitable access criteria, contracting, including pricing for all services, to ensure competitive neutrality;
 - c) A ring-fenced infrastructure manager with a governance structure and transparent procedures that are fair and equitable; and
 - d) A Connectivity regime between infrastructure managers.

SCOPE OF WORK cont...

1. An appropriate pricing methodology for rail operator service tariffs to customers.
2. Reviewing accounting separation work completed by TFR and providing recommendations to support finalisation in line with global and/or industry best practice.
3. Identify the associated risks and inter-dependencies and how to mitigate those risks with reference to:
 - (a) the National Rail Policy,
 - (b) the ERT Act,
 - (c) TFR realities,
 - (d) the draft National Rail Private Sector Participation Framework,
 - (e) Transnet balance sheet and governance architecture, and
 - (f) relevant international learnings to validate the company's approach and to ensure compliance.
4. Provide a report on the relevant international learnings pertaining to rail economic regulation to validate the company's approach and to ensure compliance with generally accepted practices and relevant legislative and regulatory requirements.

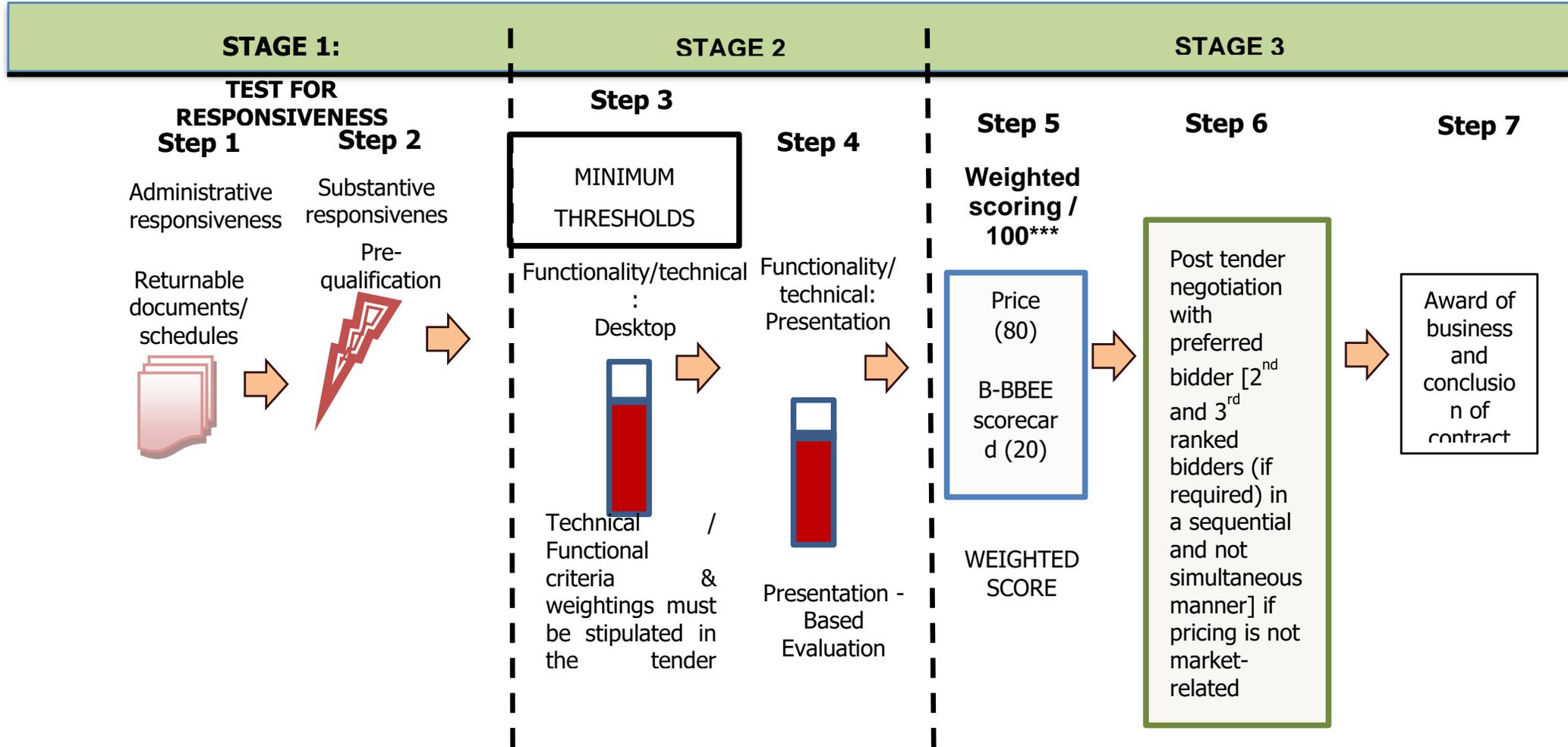
Transnet requires a service provider with previous experience working with clients in **relevant network industries** such as rail, pipelines, maritime ports, aviation, toll roads, utility industries (gas, electrical, water) and telecommunication.

The Service Provider will liaise with all relevant stakeholders at Transnet and External to deliver the service.

The Transnet will therefore place reliance on the advice provided by the appointed firm in its decision-making process.



Evaluation Methodology



Evaluation Methodology:

STEP ONE: Test for Administrative Responsiveness

Administrative responsiveness check

- Whether the Bid has been lodged on time
- Bidder has signed SECTION 6: Certificate of Acquaintance with RFP Documents

The test for administrative responsiveness [Step One] must be passed for a Respondent's Proposal to progress to Step Two for further pre-qualification

Evaluation Methodology

STEP TWO: Test for Substantive Responsiveness to RFP

The test for substantive responsiveness to this RFP will include the following:

| Check for substantive responsiveness |
|---|
| • Bidder has completed SECTION 1: SBD1 Form |
| • Bidder has submitted a Priced Offer |
| • Bidder has attended Compulsory Briefing Session |

The test for substantive responsiveness [Step Two] must be passed for a Respondent's proposal to progress to Step Three for further evaluation

Evaluation Methodology

STEP THREE: Minimum Threshold 80 points for Technical Criteria

The test for the Technical and Functional threshold will include the following:

| Evaluation Criteria | Maximum Points |
|--|------------------|
| <p>Bidder experience in projects related to institutional and regulatory reform in the relevant industry</p> <ul style="list-style-type: none"> • No Client Reference [0] • (1) – (5) Client Reference [5] • (5) – (10) Client Reference [15] • (10) or more client references [30] | <p>30</p> |
| <p>Bidder completed projects related to institutional and regulatory reform, in the relevant industry</p> <ul style="list-style-type: none"> • Less than R5 million Excluding VAT Contract Value [0] • Between R5 million – R10 million Excluding VAT Contract Value [10] • More than R10 million Excluding VAT Contract Value [20] | <p>20</p> |

Evaluation Methodology

| Key Resource | |
|--|-----------|
| <p>Project manager experience as “Project Manager” leading and completing projects related to institutional and regulatory reform in the relevant industry</p> <ul style="list-style-type: none"> No client references [0] (1) – (5) Client Reference [3] (5) – (10) Client Reference [5] (10) or More Client Reference [10] | 10 |
| <p>Regulatory Accountant as “Regulatory Accountant” with required experience related to undertaking accounting separation of institutions in the relevant industries.</p> <ul style="list-style-type: none"> No client references [0] (1) – (5) Client Reference [1] (5) – (10) Client Reference [3] (10) or More Client Reference [5] | 5 |
| <p>Regulatory Economist as “Regulatory Economist” with the required experience related to the preparation and implementation of access regimes, access fees and access fee methodologies in the relevant industries.</p> <ul style="list-style-type: none"> No client references [0] (1) – (5) Client Reference [1] (5) – (10) Client Reference [3] (10) or More Client Reference [5] | 5 |

Evaluation Methodology

| | |
|--|-----------------|
| <p>Rail Transport Economist as “Rail Transport Economist” with the required experience related to the tariff methodologies and applications, access fees and pricing methodologies in the relevant industries.</p> <ul style="list-style-type: none"> • No client references [0] • (1) – (5) Client Reference [1] • (5) – (10) Client Reference [3] • (10) or More Client Reference [5] | <p>5</p> |
| <p>Regulatory Legal Expert as “Regulatory Legal Expert” with the required experience in developing terms of governance and contracting arrangements, Competition Law requirements, Economic Regulation of Transport Bill, and associated regulatory and government policy requirements in the relevant industries.</p> <ul style="list-style-type: none"> • No client references [0] • (1) – (5) Client Reference [1] • (5) – (10) Client Reference [3] • (10) or More Client Reference [5] | <p>5</p> |
| <p>Rail Transport Specialist as “Rail Transport Specialist” with the required experience with regards to freight rail infrastructure and operations management and planning.</p> <ul style="list-style-type: none"> • No client references [0] • (1) – (5) Client Reference [1] • (5) – (10) Client Reference [3] • (10) or More Client Reference [5] | <p>5</p> |

Evaluation Methodology

| | |
|--|-----------------|
| <p>Qualifications of "Project Manager" who has led and completed projects related to institutional and regulatory reform, in relevant industries.</p> <ul style="list-style-type: none"> • No qualifications [0] • B Degree [1] • Post Graduate Diploma [2] • Honours [3] • Masters [4] • PhD [5] | <p>5</p> |
| Total | 100 |
| Minimum Score | 80 |

Evaluation Methodology cont...

STEP FOUR: PRESENTATION EVALUATION

Bidders that have passed step three will be required to do an in-person presentation to demonstrate their capability. The presentation will be held at Transnet Offices:

| Requirement | Yes | No |
|--|-----|----|
| Can the Bidder provide a Methodology for establishing a standalone infrastructure manager with a coherent governance structure and transparent procedures? | | |
| Does the Bidder have Pricing methodology for rail operator service tariffs? | | |
| Does the Bidder have a Methodology for framing a regulated asset base (RAB) and developing cost reflective access tariffs for a rail network? | | |
| Does the Bidder have a Methodology to develop access criteria, contracting regime and pricing for all support and ancillary services for a railway (e.g., marshalling yards & shunting), to ensure competitive neutrality? | | |
| Does the Bidder have Methodology for establishing a connectivity regime between infrastructure managers (e.g., freight & passenger rail network managers)? | | |

Evaluation Methodology cont...

Step 5: Price and B-BBEE

- Only bidders who have met step 4 will proceed to this stage
- Points will be allocated as follows:
 - ✓ Price (80); and
 - ✓ B-BBEE (20)
- Please refer to "RFP, Section 4" for PRICING SCHEDULE and further notes to pricing

Evaluation Methodology cont...

SECTION 8: BBEE (20 points)

B-BBEE Definition:

Broad-Based Black Economic (B-BBEE) means the economic empowerment of all black people including women, workers, youth, people living with disabilities and people living in rural areas through diverse but integrated socio-economic strategies.

Purpose:

- To increase the number of black people that manage, own and control enterprises and productive assets.
- To facilitate ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises
- To achieve an equitable representation in all occupational categories and levels in the workforce
- To procure from large, medium and small sized black owned enterprises
- To increase investment in enterprises and communities that are owned and managed by black people
- A valid B-BBEE certificate OR an Affidavit for QSE and EME's is required

B-BBEE Amended Codes Principles

- Enhanced the recognition status of black owned EMEs and QSEs
- An EME that is 100% owned by black people qualifies as a level 1 contributor;
- An EME that is more than 51% owned by black people qualifies as a level 2 contributor;
- No verification requirements for EMEs; EME to obtain a Sworn affidavit or a CIPC Certificate

Evaluation Methodology cont...

Joint Venture



In 2019 DTI released amendments to the Codes of Good Practice. Joint Ventures are referred to in Revised Code 000, Statement 000: General Principles

As per paragraph 7 of Amended Code Series 000, Statement 000 of the Codes of Good Practice, unincorporated joint ventures are required to compile a consolidated verification certificate. A consolidated verification certificate will consolidate the verified compliance data of joint venture partners if those Measured Entities were a single Measured Entity.

A JV will require its own Broad-Based Black Economic Empowerment (B-BBEE) certificate if they would like to tender or enter into a contract that requires a B-BBEE Certificate.

A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level verification certificate for every separate bid.

A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but may only score points out of 90 for price and (b) scores 0 points applying the 80/20 principle . Refer PPPFA No. 40553 for more info on preference point.

Note the following:

- A consolidated verification certificate is required.
- The consolidation is based on the weighting as defined in the joint venture agreement.
- The respective scores are weighted according to their proportionate share in the joint venture.
- A joint venture certificate is valid for 12 months and only applicable to a specific project.

Eligibility of a Joint Venture

Joint Ventures are required to compile a consolidated verification certificate. A consolidated verification certificate will consolidate the verified compliance data of joint venture partners in accordance .

More information on JV and Consortiums Section 2: Clause 5

Evaluation Methodology cont...

Step 6: Post Tender Negotiation (if applicable)

Step 7: Award of business and conclusion of contract

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Thank You





Clarification

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Clarifications

| Clarifications | Response |
|--|--|
| <p>We noticed that there is a similar tender out on Economic Regulations by NDoT. Would from your side be any conflict of interest?</p> | <p>Transnet respects the bidder’s rights to bid for both tenders; however, the company is of the view that there will be a conflict of interest should the service provider undertake work for both Transnet and the Department of Transport. This is in light of the fact that the service provider will be privy to confidential information relating to the internal workings in Transnet on the regulatory frameworks.</p> |
| <p>Given the fact that there may be skills acquired internationally for this bid, Pricing that will be guided by DPSA Rates may limit the bidders, is it necessary to use DPSA Rates as a guide?</p> | <p>Refer to Addendum 1 for a new Pricing schedule.</p> |