

TERMS OF REFERENCE
(ESTABLISHMENT OF A PANEL)

To:	The Bidder
From:	Supply Chain Management Unit

1. BID PARTICULARS

Project Description	Establishment of a Panel of Professional Service Providers to undertake work relating to the Design, Supply, Installation and Maintenance of Solar Photovoltaic (PV) Systems as well as other alternative energy sources.		
Bid Enquiries	Alfonzo Jacobs		
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Specifications Enquiries	Sharief Davids		
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Bid Reference	EDT 001-23		
Bid Closing Date	05 July 2023	Bid Closing Time	11:00 am
Bid Briefing Session	None		

2. PURPOSE

- 2.1 To establish a panel of professional service providers to undertake work related to the Design, Supply, Installation and Maintenance of Photovoltaic (PV) Systems, or other alternate energy solutions to Small Micro Medium Enterprises (SMMEs) throughout the Western Cape. The procurement of the aforementioned services will be done in various, separate procurement processes, with this Terms of Reference ("ToR") relating only to the establishment of the panel of providers
- 2.2 Through the establishment of the panel, DEDAT anticipates being able to register appropriately accredited service providers that will, in turn, enable the successful implementation of the **Alternative Energy Support Programme (AESP)**.
- 2.3 The AESP is a pilot programme that will provide alternative energy solutions to SMMEs. The objective of the programme is to enable SMMEs to operate optimally and continually during times of load shedding.

3. BACKGROUND

- 3.1 The inability to maintain consistent and reliable supply of energy continues to affect SMMEs negatively as it has a direct effect on the productivity of these small businesses. If the energy supply challenges are not resolved soon, or if businesses are not able to develop independence from the grid, any remaining hope that SMMEs could help rekindle the economy and create jobs would become challenging.
- 3.2 Without energy, the economy cannot function optimally, and the necessary growth to address the country's socio-economic challenges will not be possible. Energy resilience is a necessary condition for business competitiveness, confidence, investment, growth and job preservation and creation. This energy needs to be affordable to customers, financially sustainable for municipalities, enable the mitigation of load shedding risks and, ideally, promote local energy-related business investment and job creation.

4. NATURE AND SCOPE OF SERVICES TO BE RENDERED

- 4.1 The Department invites professional and/or specialised service providers with expertise and experience in any or all aspects of alternative energy provision to apply for registration on the Panel of Service Providers. Applicants need to meet requirements based on their expertise, experience, accreditations and compliance to relevant industry standards and regulations.
- 4.2 The Alternative Energy Support Programme will provide alternative energy solutions across the Province, at sites to be identified by the Department.
- 4.3 The use of the panel will be activated through the issuance of specific job briefs exclusively to the panel, outlining the key requirements needed, to which service providers may choose to respond.
- 4.4 Potential service providers must provide a holistic alternative energy solution inclusive of the following:
- 4.4.1 Design, Supply, Installation and maintenance of Solar PV System (Tier 1 Solar Panels)
- a) The bidder needs to provide sufficient detail about the proposed system design, performance, warranties applicable, compatible appliances/services, etc.
 - b) Overall system design and performance of system; indicate components, integration, energy management, energy availability, etc.
 - c) Theft prevention reduction; any available technical interventions to reduce likelihood of theft.
 - d) PV System Maintenance: Maintenance is any activity that is performed to restore a solar system, equipment, or component to a functioning state. Maintenance of the solar system in addition to the warranty is required and it will be carried out on site.

- e) **Solar PV User Training:** The provision of this training should enable end users to operate the solar power systems and be able to provide low-level support and report useful fault information. Essentially, the training should protect the systems from accidental misuse or improper treatment.

4.4.2 Other alternative energy sources (where applicable)

Bidders should provide any other alternative sources of energy (other than Solar PV) that could be taken up by beneficiaries of the Alternative Energy Support Programme (i.e. SMMEs)

5. EVALUATION METHODOLOGY

5.1 Bids shall be evaluated in terms of the following process¹:

- 5.1.1 **Phase 1:** Compliance to compulsory requirements: during this phase, bids will be verified against the minimum eligibility requirements as set out in sections 8 and 9 of this Terms of Reference. If bids do not meet the minimum eligibility requirements, they will be deemed non-responsive and will not be evaluated further.
- 5.1.2 **Phase 2:** Responsive bids will, thereafter, be evaluated for compliance / non- compliance to the minimum requirements as per the table outlined below:

Table 1: Minimum Requirements

#	CRITERIA: MINIMUM REQUIREMENTS	Reference
1.	<u>Company Profile</u> A comprehensive Business Profile that: - Provides a high-level overview of the business operations. - Highlights the area of expertise / core business. - Responds to the services as set out in the Nature and Scope of Services to be rendered.	Paragraph 7.1
2.	<u>Accreditation</u> Bidders must be accredited Solar PV installers with accreditation to one of the following industry bodies: - Association for Renewable Energy Practitioners (AREP), or - South African Photovoltaic Industry Association (SAPVIA), or - Sustainable Energy Society of Southern Africa (SESSA)	Paragraph 7.1



#	CRITERIA: MINIMUM REQUIREMENTS	Reference
3.	<u>Registration with Industry Bodies / Associations</u> Service providers must be able to provide a Certificate of Compliance (COC) upon completion of any installation to verify that the electrical installation complies with the legislated requirements. As such service providers must therefore be registered with any of the below: • Electrical Conformance Board ("ECB") • Electrical Contractors Association of South Africa ("ECASA") • Registration with the Department of Labour in accordance with Regulation 6 and 11(1) of the Electrical Installation Regulations, 2009.	Paragraph 7.1
4.	<u>Construction Industry Development Board (CIDB) Registration</u> Provide proof of a valid Construction Industry Development Board (CIDB) registration of Electrical Engineering Works – Building grade of 2EB or higher.	Paragraph 7.1
5.	<u>Technical Capability</u> • Provide a detailed list of personnel who will form the team for this project. • The team leader must be a registered electrician. Evidence must be provided to substantiate the registration. • The team leader must have at least three (3) years' experience in the installation, testing and commissioning of electrical installations relating to Solar PV Systems and other alternative energy solutions. The CV and certified qualifications of the team leader must be attached as proof. • <u>For Solar PV Supply:</u> Written confirmation from the bidder that Tier 1 Solar Panels will be supplied.	Paragraph 7.1
6.	<u>Experience</u> Proven track record of relevant / related projects undertaken in the past 3 years. The service provider will be required to provide three written and contactable work references on the relevant company / government department / organisation letterhead for relevant services undertaken in the past.	Paragraph 7.1

5.2 Only service providers that meet all minimum criteria above will be listed on the panel and will be eligible to submit proposals/quotations for job briefs as and when these are issued. It should be noted that Job Briefs will be issued which will contain their own unique requirements and evaluation criteria.

5.3 JVs and consortia that are registering on the panel need to provide the required information for each member as appropriate. JVs and consortia must be established upfront and will **not** be allowed to be formed at the job brief stage.

5.4 Written work reference letters indicating previous work done by at least three contactable client references will be checked for relevance to the services being applied for and may be subject to reference checking.

5.5 There is no guarantee that service providers placed on the panel will be awarded with a contract.

6. DURATION OF CONTRACT

6.1 The service providers who meet the minimum eligibility requirements and minimum compliance criteria will be appointed to the Panel of Service Providers for a period of three/3 years until March 2026, subject to the performance of the service provider(s). The performance of appointed service provider(s) will be reviewed on completion of a specific project.

6.2 Requests for service providers to submit applications for inclusion on the Panel will remain open for the remainder of the 3-year period and this process will be managed through bid re-advertising windows.

7. SERVICE PROVIDERS PROPOSAL

7.1 Service providers are required to submit the documents mentioned below. **Failure to comply, will render the service provider's application non-compliant** (please use the checklist in Table 1 below to ensure all required project proposal documents are provided):

Table 2: List of required documents in response to nature & scope of services to be rendered

Document that must be submitted	Description/ Instructions
Business Profile	Indication of the services that the service provider can offer. High level overview of the business operations. Highlights the area of expertise / core business.
Reference letters	Copies of all reference letters on the relevant company / government department / organisation letterhead
CV (Team Leader)	The CV provided must reflect expertise and years of relevant professional experience. Proof of relevant qualifications should be annexed to the CV of the Team Leader
Confirmation of Technical Capability	Written and duly signed confirmation from the bidder, on official company letterhead, confirming that Tier 1 Solar Panels will be supplied
Accreditation	Proof of accreditation with the following: • Association for Renewable Energy Practitioners (AREP), or • South African Photovoltaic Industry Association (SAPVIA), or • Sustainable Energy Society of Southern Africa (SESSA)

Document that must be submitted	Description/ Instructions
Registration with Industry Bodies / Associations	All service providers must be able to provide a Certificate of Compliance (COC) upon completion of any installation to verify that the electrical installation complies with the legislated requirements. As such service providers must therefore be registered with <u>any</u> of the below: • Electrical Conformance Board ("ECB") • Electrical Contractors Association of South Africa ("ECASA") • Registration with the Department of Labour in accordance with Regulation 6 and 11(1) of the Electrical Installation Regulations, 2009.
Registration with the Construction Industry Development Board	Provide proof of valid Construction Industry Development Board (CIDB) registration of (Electrical Engineering Works – Building grade of 2EB or higher

8. MINIMUM REQUIREMENTS FOR A VALID BID

- 8.1 Minimum compliance requirements are listed in the table in section 5.
- 8.2 Service providers that fail to adhere to any of the following, will be rendered non-responsive:
- Bidders must be registered on Central Supplier Database (CSD).
 - All service providers applying to register on the database should be tax compliant.
 - Each party participating in a joint venture or consortium must be tax compliant and must provide a WCBD 4. Signed agreements as satisfactory proof for the existence of a joint venture and/or consortium arrangement must be submitted

9. RETURNABLE DOCUMENTS

- 9.1 Bidders must submit the documents listed in the Table 3 below. All documents must be completed and signed by the duly authorised representative of the prospective bidder(s). The bidders' proposal may be disqualified for non-submission of any of the documents.

Table 3: Documents which must be submitted for Pre-qualification

Document to be submitted	Disqualification	Description / Instruction
Business Profile	Yes	Bidder's proposal highlighting the bidders core business in relation to this request.
WCBD 1	Yes	Invitation to Bid 1) Authorised representative to sign bid. 2) Complete and sign.



Document to be submitted	Disqualification	Description / Instruction
* WCBD 4	Yes	Declaration of Interest, Declaration of Bidder's Past Supply Chain Management Practices and Certificate of Independent Bid Determination 1) Complete and sign.
* WCBD 6.1	No	Preference Points Claim Form 1) Non-submission will lead to zero (0) score for B-BBEE points. 2) Only the B-BBEE status stated on the completed WCBD 6.1 will apply to the evaluation of this bid and not the B-BBEE status on the WCSEB or CSD. 3) Complete and sign.
South African Photovoltaic Industry Association (SAPVIA) accreditation or Association for Renewable Energy Practitioners (AREP) or Sustainable Energy Society of Southern Africa (SESSA)	Yes	Provide proof of accreditation
Construction Industry Development Board (CIDB) Registration	Yes	Provide proof of valid Construction Industry Development Board (CIDB) registration of (Electrical Engineering Works – Building grade of 2EB or higher
Electrical Conformance Board (ECB) of South Africa or Electrical Contractors Association of South Africa ("ECASA") or Registration with the Department of Labour in accordance with	Yes	Proof of registration

Document to be submitted	Disqualification	Description / Instruction
Regulation 6 and 11(1) of the Electrical Installation Regulations, 2009.		

*** If registered on the WCSEB and the information as per the completed forms submitted are still the same and valid, there would be no need to complete and resubmit.**

10. JOINT VENTURE / CONSORTIUM / TRUST

- 10.1 A joint venture, consortium or trust must submit a consolidated B-BBEE scorecard if they are claiming preference points.
- 10.2 A joint venture, consortium or trust will qualify for points on evaluation of their B-BBEE status level as a legal entity, provided that the entity submits the requisite B-BBEE status level certificate.
- 10.3 Bidders must submit substantive proof of the existence of joint ventures and/or consortium arrangements. The department will accept signed agreements as satisfactory proof for the existence of a joint venture and/or consortium arrangement.
- 10.4 Joint venture and/or consortium agreements must clearly set out the roles and responsibilities of the lead partner. The agreement must also clearly identify the lead partner that is accordingly provided with a power of attorney to bind the other co-parties in all matters pertaining to the joint venture and/or consortium arrangement.
- 10.5 Each party participating in a joint venture, consortium or trust must submit a WCBD 4.
- 10.6 Each party participating in a joint venture, consortium or trust must be tax compliant.
- 10.7 The organisational structure of the team for which a registration application is being submitted (including any joint venture, consortium or trust arrangements) must be provided.
- 10.8 Joint ventures, consortia or trusts may not be formed with service providers that are also independently registered on the Panel.

11. SUBCONTRACTING

- 11.1 A service provider awarded a contract may only enter into a subcontracting arrangement to a maximum of 25% of the value of the contract.
- 11.2 Subcontracting may only be with service providers that are not also independently registered on the Panel.

- 11.3 The organisational structure of the team for which a registration application is being submitted (including any sub-contracting arrangements) must be provided.

12. REGISTRATION ON SUPPLIER DATABASES

- 12.1 Prospective bidders must be registered on the Central Supplier database (CSD) at the time of bid closure.
- 12.2 All prospective bidders who are not registered on the Central Supplier Database are requested to self-register on www.csd.gov.za. For further assistance with the registration process, please contact Alfonso Jacobs at (021) 483 8130 or e-mail alfonso.jacobs@westerncape.gov.za.
- 12.3 **Registration on databases and compliance of tax status will be verified at the time of the award.** Where the successful bidder is not tax compliant, the department will notify the bidder in writing of their non-compliant status and the bidder will be requested to submit written proof from SARS of their tax compliance status or proof that they have arranged to meet their outstanding tax obligations within 7-working days.

13. CONTRACTUAL ASPECTS

- 13.1 The contents of this document shall be deemed to constitute the Special Conditions of Contract applicable to this bid and shall be read together with the General Conditions of Contract issued in accordance with Chapter 16A of the Treasury Regulations.
- 13.2 Where, however, the Special Conditions of Contract conflict with the General Conditions of Contract, the Special Conditions of Contract shall prevail.
- 13.3 The bid document, together with the specifications contained in this document, shall constitute part of the Contract.
- 13.4 Bidders shall not perform any work or render any services in terms of the Contract unless in receipt of a written instruction to this effect by the Department.
- 13.5 The successful bidder may not assign his/ her obligations.
- 13.6 The successful bidder must advise the Head of Department of Economic Development and Tourism immediately when unforeseeable circumstances will adversely affect their performance on the panel. Full particulars of such circumstances as well as the period of delay must be furnished.

14. DISCLAIMER

- 14.1 Bidders must make and rely on their own investigations and satisfy themselves as to the correctness of all aspects of the bid. The Department will not be liable for any incorrect or potentially

misleading information in relation to any part of this document and any accompanying bid documents.

- 14.2 The department reserves the right not to appoint any contracted partner who does not comply with the conditions of this bid or if information is obtained by the department about a bidder that could put the department at risk.
- 14.3 The department reserves the right to cancel this bid should the budget not be available at the time of award to cover the full quote of this tender or if the need does not exist anymore or the specification has changed.

15. ABSENCE OF OBLIGATION

- 15.1 No legal or other obligation shall arise between bidders and the Department unless and until the formal appointment documentation has been signed. The Department is not obliged to proceed with any proposals of any bidder. The Department also reserves the right to request changes to any proposed consortia.

16. INDEMNITY

- 16.1 The successful bidder will indemnify, protect, defend and hold harmless the Department from and against any and all claims, demands, actions and proceedings whatsoever including all fees, costs and expenses incurred in respect thereof arising out of:
- a) Any claim of any taxes payable by the bidder.
 - b) Any claim for Workmen's Compensation Insurance or for any loss for which the bidder is liable.
- 16.2 Any claim by a third party including any employees of the Department or of the bidder for any loss resulting from any bodily injury and or damages to property by any act or omission of the bidder or any of its employees, servants or agents.

17. FRONTING

- 17.1 The department supports the spirit of broad based black economic empowerment and recognises that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and garnering opportunities in an honest, fair, equitable, transparent, and legally compliant manner. Against this background the department strongly condemns any form of fronting.
- 17.2 The department, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries / investigations in determining the accuracy of the representations made in bid documents / proposals. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade Industry and Competition ("dtic"), be

determined during such enquiry / investigation, the onus will be on the bidder to prove that the allegation of fronting does not exist. Failure to do so within a period of 14-days from date of notification may invalidate the bid / contract and may also result in the restriction of the bidder to conduct business with the public sector for a period not exceeding 10-years, in addition to any other remedies the department may have at its disposal and accordingly wish to institute against such bidder concerned.

18. CONFLICT OF INTEREST, CORRUPTION AND FRAUD

- 18.1 The department reserves the right to disqualify any potential bidding agency who either itself, or through any of its members (save for such members who hold a minority interest in the bidding agency through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of the department or any other department organ or entity and whether from the Republic of South Africa or otherwise:
- a) Engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid.
 - b) Seeks any assistance, other than assistance officially provided by a department, from any employee, advisor or other representative of a department in order to obtain any unlawful advantage in relation to the procurement or services provided or to be provided to the department, officers, directors, employees, advisors or other representatives.
 - c) Makes or offers any gift, gratuity, anything of any value or other inducement, to any departmental officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a department.
 - d) Accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a department.
 - e) Pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift, or any other consideration, that is contingent upon or results from, the awarding of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to the department.
 - f) Has in the past engaged in any matter referred to above.
 - g) Has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such a bidding agency, member or director's name(s) not specifically appearing on the List of Tender Defaulters kept at National Treasury.

19. MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT

- 19.1 The bidding agency should note that the terms of its tender will be incorporated in the proposed



contract by reference and that the department relies upon the bidder's tender as a material representation in making an award to a successful bidding agency and in concluding an agreement with said bidding agency.

- 19.2 It follows therefore that misrepresentations in a tender may give rise to service termination and a claim by the department against the bidder notwithstanding the conclusion of the SLA between the Department and the bidding agency for the provision of the service(s) in question. In the event of a conflict between the bidder's proposal and the SLA concluded between the parties, the contents of the SLA will prevail.
- 19.3 Throughout this bid process and thereafter, bidding agencies must secure the department's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this bid relates; or (ii) the process which follows this bid. Failure to adhere to this requirement may result in disqualification from the bid process and civil action.

END.