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TENDER NOTICE

ENQUIRY NO: CTT 24687

DESCRIPTION: RENTAL OF EARTH MOVING EQUIPMENT (COMPACTOR) BY PetroSA IN MOSSEL BAY

1. Introduction

Registered and approved suppliers ("Suppliers") are hereby invited to submit a tender for the provision of the above to PetroSA.

Tenders must be **submitted electronically via the E Procurement Portal** by logging on to the procurement website www.procurement.petrosa.com and selecting the 'Login to Access Tenders/Quotes tab' and logging on to the E Procurement Portal.

The tender must be submitted in accordance with the online terms and conditions and the documentation listed below:

- This Tender Notice
- The Standard Terms and Conditions for PetroSA Rev 03
- The Draft Acceptance Agreement
- Transaction Documents (Service Order)
- General Requirements for Suppliers working in the PetroSA Works.

IMPORTANT NOTICE

- **Suppliers must ensure that they are registered and approved. Suppliers that are not approved or provisionally approved will not be able to submit tenders on the portal.**
- **All current PetroSA registered and future suppliers are kindly requested to also register on the National Treasury Central Supplier Database with effect from 1 May 2016. Please use the following link (<https://secure.csd.gov.za>) or visit the Office of the Chief Procurement Officer's webpage at www.treasury.gov.za.**
- **Tenders will not be considered if it is not submitted electronically on the E-Procurement Portal by the closing date and time.**

Directors:

Mr Nkululeko Poya (Chairperson),
Mr Llewellyn Delport, Mr Leon Haywood, Ms Nolubabalo Sondlo, Mr Mthozami Xiphu,
Group Chief Executive Officer: Mr Pragasen Naidoo
Group Company Secretary: Ms Marlene Khumalo

- **All current PetroSA registered and future suppliers are requested to upload their POPI Statement/Notice/Policy on their PetroSA online registration with effect from 01 July 2021 as per the Protection of Personal Information Act No. 4 of 2013.**

PetroSA may issue Tender Bulletins from time to time to clarify certain aspects or to provide additional information on this tender. It is the Supplier's responsibility to check PetroSA procurement website (<http://www.procurement.petrosa.com/OpenTenders.aspx>) to establish whether any bulletins were issued on this tender, prior to tender submission.

The scope of supply and pricing requirements are contained in the Transaction Document, annexed as Annexure "A" to the Draft Acceptance Agreement.

Please TAKE NOTE that for the purposes of this tender only the following sections of the Standard Terms and Conditions for PetroSA Rev 02 are applicable:

- **Part I**
- **Part II - Section A – General terms and conditions**
- **Part II - Section B – Provision of Services**

PetroSA endorses Broad Based Black Economic Empowerment (BBBEE) and reserves the right to give preference to BBBEE suppliers, or Suppliers that form partnerships and/or joint ventures with BBBEE suppliers.

PetroSA reserves the right to require joint ventures between such Suppliers and BBBEE suppliers that tendered for or expressed interest in the provision of the above supply. Suppliers are required to submit a BBBEE improvement plan with their tenders, as per the attached BBBEE Proposal guideline.

Suppliers are required to give preference to suitable labour from the area in which the supply is required and to liaise closely with local labour forums in this regard. Preference should also be given to local black subcontractors.

In keeping with the principles of good corporate governance, which includes adequate fraud prevention measures as required by the Public Finance Management Act (PFMA), PetroSA has established **toll free hotlines**, **Telephone No: 0800 602 603, Whatsapp No: 0860 004 004, Sms No: 49017 Email: petrosa@behonest.co.za**, where any act of fraud should be reported. This "whistleblower" facility is managed by an independent company that will ensure the anonymity of the whistleblowers and establish the substance of any allegations made.

2. Minimum documentation required to accompany your tender

In addition to the technical and commercial proposal, the Supplier shall provide all supporting documentation where required.

3. Declaration

By submitting a tender (offer to render the supply the goods and/or services referred to above) the Supplier declares that:

- (a) the information provided is true and correct;
- (b) the person submitting the tender electronically is duly authorised to submit the tender on behalf of the Supplier;
- (c) the tender is completed independently from, and without consultation, communication, agreement or arrangement with any competitor. Communication between parties in a joint venture or consortium will not be construed as collusive tendering (As detailed in the Certificate of Independent Bid Determination-SBD 9, available from National Treasury's website);
- (d) documentary proof regarding any tender submission will be submitted to the satisfaction of PetroSA when called upon to do so;
- (e) the Supplier consents to a "due diligence" being conducted on it by PetroSA or its authorised representatives regarding the Supplier's legal and empowerment status, technical ability, creditworthiness, security clearance, etc., and the Supplier undertakes to co-operate fully in this regard, within two days of receiving notification from PetroSA; and
- (f) the Supplier understands and acknowledges that any award made to it will be subject to the conclusion of a written agreement between the Supplier and PetroSA. The Supplier understand and acknowledge that the PetroSA's Terms and Conditions shall be applicable and shall take precedence over the Supplier's own terms and conditions of supply (if any). The Supplier further acknowledge that it is its responsibility to peruse same prior to making any proposal to PetroSA. It is an express condition that should there be any comments and/or qualification on PetroSA's Terms and Conditions, any such comments and/or qualifications should be submitted with the Supplier's tender. Any negotiations shall solely be conducted on the basis of such Supplier's comments and/or qualifications.

4. Tender Evaluation Process

Pre-qualification for preferential procurement

In order to advance certain designated groups, this tender is subject to pre-qualification. Only Suppliers who meet the following minimum requirements will proceed to the technical/functionality evaluation stage:

- The Supplier must be at least a level four (4) BBBEE contributor or an EME or QSE.

Only technically acceptable tenders that meet the scope of work requirements will be considered and evaluated further (Refer to technical questionnaire available on the eProcurement System). Points will be allocated in accordance with the following preference point system:

Preference points system

Preference points in terms of the Preferential Procurement Regulations 2011. Refer to Claim Form SBD 6.1 for full explanation

The following preference point systems are applicable to all tenders:

- the 80/20 system for requirements with a Rand value up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

Preference points for this tender shall be awarded for:

- (a) Price; and
- (b) B-BBEE Status Level of Contribution.

Points awarded for Price

THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

$$\begin{array}{ccc} \mathbf{80/20} & \mathbf{or} & \mathbf{90/10} \\ P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) & \text{or} & P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right) \end{array}$$

Where

- P_s = Points scored for comparative price of tender under consideration
- P_t = Comparative price of tender under consideration
- P_{min} = Comparative price of lowest acceptable tender

Points awarded for B-BBEE Status Level of Contribution

It is the Supplier's responsibility to ensure that PetroSA is, at all times, in possession of the Supplier's valid B-BBEE certificate. Suppliers with expired B-BBEE certificates and/or who are non-compliant contributors to B-BBEEE will not be awarded preference points for B-BBEE.

In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a Supplier for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20

2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

- A Supplier will not be awarded points for BBEE if it is indicated in the tender documents that such a Supplier intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not have an equal or higher BBEE status level than such a Supplier, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- If any portion of the tender is to be sub-contracted, the Supplier must indicate the following;
 - The percentage of the tender/contract to be sub-contracted
 - The name(s) of the sub-contractor(s)
 - The BBEE status level of the sub-contractor and
 - Whether the sub-contractor is an EME or not.
- A Supplier awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher BBEE status level than the successful Supplier, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

5. **Submission of Proposals**

5.1 **Contract Period**

This tender makes provision for a one (1) year contract award period, with the option to extend the Agreement for a further two terms of one (1) year each.

The option to extend after the initial period will be at the sole discretion of PetroSA and further the decision to consider the additional two one (1) year term options will be driven by the following:

- a) Overall performance by the Supplier during the initial contract period relating to quality, delays, management of costs, no ratings of 2 or less on performance, etc. Exact indicators will be confirmed with the Supplier on commencement of the contract. Evaluation will be based on monthly performance reports by the User Department as well as ratings via the Supplier Management Reporting System

- b) Proposed Supplier cost optimisation initiatives during the initial contract period amounting to 5% – 10% savings to be implemented during the two option periods.
- c) Successful negotiation of revised commercial terms for the option period.

5.2 Prices to be submitted

Suppliers are to insert rates for a one year contract period on the Commercial Bid Analysis (CBA) attached to this tender. Non-compliance may disqualify a Supplier.

5.3 Suppliers submitting Tenders

The following requirements are to be adhered to:

- a) The registered Supplier on the PetroSA Supplier database should be the Supplier submitting the tender.
- b) Should the Supplier tendering sub-contract more than 25% of the work, a sub-contracting Agreement or letter of intent between both parties should be submitted with the tender.
- c) Should the Supplier tendering make use of a sister company in providing the services, full documentation/proof is to be provided that the sister company is technically competent to provide the services, together with a full explanation on the distribution of the services to be provided.
- d) An Agent or local Supplier cannot submit a tender on behalf of a Holding Company and vice versa.
- e) Should a tender be submitted as a Joint Venture full details are to be provided on issues of providing services, payment details, liabilities, management, etc. and a signed undertaking of Agreement should the Joint Venture be awarded the contract.

6. Fronting

PetroSA 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 in an honest, fair, equitable, transparent and legally compliant manner. Against this background, PetroSA condemns any form of fronting.

PetroSA, in ensuring that Suppliers conduct themselves in an honest manner will, as part of the tender evaluation process, conduct or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in tender documents. Should any of the fronting indicators as contained in the Guidelines on Complex Structures & Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry/investigation, the onus will be on the Supplier to prove that fronting

does not exist. Failure to do so within 14 days from date of notification may lead to the disqualification of the Supplier and may also result in the restriction of the Supplier to conduct business with PetroSA, in addition to any other remedies PetroSA may have against the Supplier.

7. Subcontracting of contracts above R 30 million

As a rule, Suppliers must subcontract a minimum of 30% of the contract value to an EME or QSE which is at least 51% black owned. Where it is impractical or not feasible to subcontract, Suppliers are to provide reasons and are required to make proposals which will advance designated groups as outlined in paragraph 9 of the PPPFA Regulations. PetroSA reserves the right to negotiate with and to assist any Supplier to comply with this provision. Furthermore, PetroSA may, entirely at its own discretion, reject any tender proposal which does not comply with the minimum requirements outlined above.

8. Enquiries

Technical enquiries regarding this tender should be addressed to **Zonazihle Sityata** in the Tender Office at telephone no. **+27 44 601 2311**, fax no. **+27 44 601 4646** or e-mail address **zonazihle.sityata@petrosa.co.za**.

General enquiries (i.e. Supplier queries, Updating / Completing supplier registration) should be addressed to our Supplier Database Call Centre on 021 928 4731.

9. Reverse Auctions

Prior to any contract award, PetroSA may, at its sole discretion, request short listed Suppliers who have submitted technically and commercially acceptable tenders to engage in a reverse auction to determine the final winning tender.

The following additional provisions are applicable during the reverse auction:

- 9.1 Short listed Suppliers will be notified of the scheduled time and date of the reverse auction.
- 9.2 Suppliers who elect not to participate in the reverse auction will not be eligible for contract award.

10. Contract Award

PetroSA reserves the right to withdraw tenders, reissue tenders and/or divide the scope of supply and award more than one contract.

PetroSA shall not be obliged to accept the lowest or part or all of any tender submitted. No agreement between PetroSA and the Supplier shall come into existence until such time as a written contract signed by PetroSA and the Supplier is concluded, or an official purchase order is issued to the Supplier, and becomes unconditional in accordance with its terms. The Supplier should

not and cannot rely on any communication to the Supplier of a successful tender by PetroSA staff and representatives as no legally binding agreement will come into existence until a formal written and legally binding and enforceable agreement is validly concluded and executed. Please further take note that even if a Supplier scores the highest points in a tender/auction the award is subject to a due diligence before a purchase order or contract can be concluded with PetroSA.

PetroSA reserves the right not to award any tender, including a tender that is technically compliant, if the tender is found to be commercially unattractive.

Comfort Bunting
Group Supply Chain Manager