

# REQUEST FOR BID PROFESSIONAL SERVICES



## BID DETAILS

<b>BID NUMBER:</b>		NERSA/2122/EIP/EDRP/BID014			
<b>CLOSING</b>	<b>Date:</b>	23 SEPTEMBER 2021			
	<b>Time:</b>	11:00			
<b>DESCRIPTION:</b>		THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN AUDIT OF THE ESKOM DEMAND RESPONSE PROGRAMME UNDER INTEGRATED DEMAND MANAGEMENT FOR THE 2020/21 FINANCIAL YEAR			
<b>NON-COMPULSORY VIRTUAL BRIEFING SESSION:</b>	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	
See Section A Part 1: Bid Submission Conditions and Instructions.					

## DETAILS OF BIDDER

<b>Organisation/individual:</b>	
<b>Contact person:</b>	
<b>Date:</b>	
<b>Email address:</b>	
<b>Telephone Number:</b>	
<b>Cellular Number:</b>	
<b>Fax Number:</b>	

*Please indicate whether it is the original or copy, tick the applicable block.*

ORIGINAL

☐

COPY

☐

*Please do not retype the bid document.*

SECTION A

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**GLOSSARY**

AWARD	Conclusion of the procurement process and final notification to the effect to the successful bidder
B-BBEE	Broad-based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) and the Codes of Good Practice issued there under by the Department of Trade and Industry
BID	Written offer in a prescribed or stipulated form in response to an invitation by NERSA for the provision of services, works or goods
CONTRACTOR	Contracting entity with whom NERSA will conclude a formal contract and potential service level agreement subsequent to the final award of the contract based on this Request for Bid
DTI	Department of Trade and Industry
GCC	General Conditions of Contract
IP	Intellectual Property
NIPP	National Industrial Participation Programme
ORIGINAL BID	Original document signed in ink Copies of original document signed in ink Facsimile of original document signed in ink
SCM	Supply Chain Management
SLA	Service Level Agreement

SECTION A

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**DOCUMENTS IN THIS BID DOCUMENT PACK**

Bidders are to ensure that they have received all pages (pp. 63) of this document, which consist of the following sections:

**SECTION A**

**Note: Documents in this section must be returned with bids.**

- ☐ Bid Submission Conditions and Instructions
- ☐ Evaluation Process / Criteria
- ☐ Terms of Reference
- ☐ Contract Form (Rendering of Services Parts 1 & 2) - The pro forma contract is only included for bidders to take note of the contents of the contract that will be entered into with the successful contractor)

**SECTION B**

**Note: Documents in this section must be fully completed, signed and returned or supplied with bids.**

- ☐ Special Conditions of Bid and Contract – Special conditions that the bidder needs to accept
- ☐ SARS Tax Compliance Status Pin Letter or Printed Tax Clearance Certificate
- ☐ Declaration of Interest
- ☐ Declaration of bidder's past SCM practices
- ☐ Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Purchases) And Declaration Certificate for Local Production and Content Designated Sector Form
- ☐ B-BBEE Certificate, Sworn Affidavit for Exempted Micro Enterprises (EME)
- ☐ Invitation to Bid
- ☐ Technical Proposal
- ☐ Experience in this field
- ☐ Team Details (CV's)
- ☐ Pricing Schedule/Financial Proposal (Services: Professional)
- ☐ Certificate of independence
- ☐ Labour Legislative Requirements (CIPC)
- ☐ Membership of professional bodies (Institutes, Affiliates, Accreditations or Associates)
- ☐ National Treasury CSD registration summary report

SECTION A

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# SECTION A

## **BID SUBMISSION CONDITIONS AND INSTRUCTIONS**

### **CONDITIONS AND INSTRUCTIONS THAT BIDDERS NEED TO TAKE NOTE OF**

#### **1 FRAUD AND CORRUPTION**

- 1.1 All service providers are to take note of the implications of contravening the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004 and any other Act applicable.

#### **2 NON-COMPULSORY VIRTUAL BRIEFING SESSIONS**

**13 September 2021** at 10:00, MS TEAMS. Bidders who would like to participate in the non-compulsory virtual briefing session, must send their request/confirmation to: [briefingsessions@nersa.org.za](mailto:briefingsessions@nersa.org.za) by **10 September 2021 at 17:00**.

A bid presentation will accompany the bid document and is placed on the NERSA homepage website for downloading as well as emailed to prospective bidders upon request from [scm@nersa.org.za](mailto:scm@nersa.org.za) not later than **10 September 2021 at 17:00**. The presentation accompanies the bid document to disseminate key information to prospective bidders regarding SCM and Technical requirements to allow bidders to have a common understanding of the bidding requirements in order to prepare a suitable proposal for the bid

#### **2 CLARIFICATIONS/ QUERIES**

- 2.1 Any clarification required by a bidder regarding the meaning or interpretation of the Terms of Reference, or any other aspect concerning the bid, is to be requested from the date of bid publication (**03 September 2021**) in writing (letter, facsimile or e-mail) from [scm@nersa.org.za](mailto:scm@nersa.org.za) not later than 12:00 on **14 September 2021**. No clarification will be attended to after this closing time, **14 September 2021 at 12:00**.
- 2.2 A reply will be published on the NERSA website on **15 September 2021**. The bid reference number should be mentioned in all correspondence. Telephonic requests for clarification will not be accepted. If appropriate, the clarifying information will be made available to all bidders by e-mail only.

#### **3 SUBMITTING BIDS**

- 3.1 One (1) original of the bid document plus one (1) **CD or memory stick** that contains the duplicate of the original submission to be handed in / delivered to:
- The Procurement Manager, NERSA, Kulawula House, 526 Madiba (Vermeulen) Street, Arcadia, Pretoria
- 3.2 The original version of the bid must be submitted with one (1) CD/memory stick. Failure to submit the original plus one (1) CD/memory stick and to include all attachments in the CD/memory stick will result in automatic disqualification. Bidder(s) will also be disqualified for submitting a blank CD/memory stick.

SECTION A Part 1: Bid Submission Conditions and Instructions

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- 3.3 The original bid document must be fully completed and/or signed in ink and thereafter duplicate the original in the CD or memory stick with all its attachments.
- 3.4 **NB:** Bidder(s) will be disqualified for failing to submit the original plus one (1) CD/memory stick. Failure to include all attachments in the CD/memory stick will result in automatic disqualification. Bidder(s) will also be disqualified for submitting a blank CD/memory stick
- 3.5 An original bid document may not be converted into word format or retyped, however, may be completed/filled in ink.
- 3.6 In addition, Bidders must submit a CD/memory stick sealed in a closed envelope for submission.
- 3.7 **The financial proposal should be submitted separately in a sealed envelope.**
- 3.8 Bids should be submitted in a sealed envelope, marked with:
- Bid number **NERSA/2122/EIP/EDRP/BID/014**
  - Closing date and time **(23 SEPTEMBER 2021 at 11:00)**
  - The name and address of the bidder.
  - Bids received in an envelope that is not sealed may be disqualified.
- 3.9 Documents submitted on time by bidders shall not be returned.
- 3.10 Bidders will be required to observe NERSA COVID 19 protocols when entering the building.
- 3.11 A strict policy of **"No mask, no entry"** will be maintained for the safety of all NERSA stakeholders.
- 3.12 Bidders must maintain a minimum of 1,5 meters social distancing from any other person encountered in the building.

**4 LATE BIDS**

- 4.1 Bids received late shall not be considered. A bid will be considered late if it arrived even one second after 11:00 or any time thereafter. The tender (bid) box shall be locked at exactly 11:00 and bids arriving late will not be considered under any circumstances. Bids received late shall be returned unopened to the bidder. Bidders are therefore strongly advised to ensure that bids be despatched allowing enough time for any unforeseen events that may delay the delivery of the bid.
- 4.2 The official Telkom time (Dial 1026) will be used to verify the exact closing time.
- 4.3 Bids sent to NERSA via normal post or any other mechanism shall be deemed to be received at the date and time of arrival at the NERSA premises (in tender box in reception area or if too big for the tender box, over the counter in the reception area). Bids received at the physical address after the closing date and time of the bid, shall therefore be deemed to be received late.

**5 DIRECTIONS TO NERSA OFFICES FOR DELIVERY OF BIDS**

**Physical Address**  
NERSA

Kulawula House  
526 Madiba (Vermeulen) Street  
Arcadia  
Pretoria

**Bidders should allow time to access the premises due to security arrangements that need to be observed.**

## **DIRECTIONS TO NERSA**

### **From OR Tambo International Airport**

Take the R21 (North) to Pretoria  
Continue on the R21 for approximately 45 kilometers  
At the roundabout (Fountains Circle) follow the Sunnyside signs (M5)  
Continue driving on Mears Street (becomes Steve Biko Street)  
Turn right onto Madiba St  
Kulawula House (NERSA) will be on your left

NB: Parking available opposite NERSA at Sancardia Centre

### **From Johannesburg**

Follow N1/M1 north  
Continue on the N1/M1 north  
This road then becomes M1  
Continue on the M1 and take the Eeufees off ramp  
At the bottom of the Eeufees T-junction turn right  
Turn left under the bridge  
Follow the Sunnyside signs (M5)  
Continue driving on Mears Street (becomes Steve Biko Street)  
Turn right onto Madiba St  
Kulawula House (NERSA) will be on your left

NB: Parking available opposite NERSA at Sancardia Centre

### **GPS coordinates**

Dec:                      Latitude -25.743579  
                                 Longitude 28.204839

DMS:                     Lat 25°44'37.6"S  
                                 Long 28°12'17.3"E

### **3 NEGOTIATION AND CONTRACTING**

- 3.1 NERSA has the right to enter into negotiation with one or more bidders regarding any terms and conditions, including price(s), of a proposed contract.
- 3.2 NERSA shall not be obliged to accept the lowest of any quotation, offer or proposal.
- 3.3 A contract will only be deemed to be concluded when reduced to writing in a formal contract and Service Level Agreement signed by the designated responsible person of both parties. The designated responsible person of NERSA is the Chief Executive Officer (CEO) or his/her written authorised delegate.
- 3.4 Under no circumstances will negotiation with any bidders constitute an award or promise / undertaking to award the contract.

### **4 ACCESS TO INFORMATION**

- 4.1 All bidders will be informed of the status of their bid once the procurement process has been completed.
- 4.2 Requests for information regarding the bid process will be dealt with in line with the NERSA procurement policy and relevant legislation.

### **5 REASONS FOR REJECTION**

- 5.1 NERSA shall reject a proposal for the award of a contract if the recommended bidder has committed a proven corrupt or fraudulent act in competing for the particular contract.
- 5.2 NERSA may disregard the bid of any bidder if that bidder, or any of its directors:
  - 5.2.1 Have abused the SCM system of NERSA.
  - 5.2.2 Have committed proven fraud or any other improper conduct in relation to such system.
  - 5.2.3 Have failed to perform on any previous contract and the proof exists.
- 5.3 Such actions shall be communicated to the National Treasury.

### **6 PAYMENTS**

- 6.1 NERSA will pay the contractor the fees set out in the final contract according to the table of deliverables. No additional amounts will be payable by NERSA to the contractor.
- 6.2 The contractor shall from time to time during the currency of the contract, invoice NERSA for the services rendered.



SECTION A Part 1: Bid Submission Conditions and Instructions

- 6.3 The invoice must be accompanied by supporting source document(s) containing detailed information, as NERSA may reasonably require, for the purposes of establishing the specific nature, extent and quality of the services which were undertaken by the contractor.
- 6.4 No payment will be made to the contractor unless an original tax invoice complying with section 20 of the VAT Act No 89 of 1991, as amended, has been submitted to NERSA.
- 6.5 Payment shall be made by bank transfer into the Contractor's bank account normally 30 days after receipt of an acceptable, original, valid tax invoice. Money will only be transferred into a South African bank account. (Banking details must be submitted as soon as the bid is awarded).
- 6.6 The Contractor shall be responsible for accounting to the appropriate authorities for its income tax, VAT or other moneys required to be paid in terms of the applicable law.
- 6.7 Method of Payment in respect of services delivered by the Contractor will be made monthly, subject to the submission of detailed invoices, and verification by NERSA staff or person designated.

Invoices must be forwarded to:

**Information Resources Management Department**

**NERSA**

Postal Address:  
P.O. Box 40343  
Arcadia  
South Africa  
0007

Physical Address:  
Kulawula House  
526 Madiba Street  
Arcadia  
Pretoria  
0083

**7 CANCELLATION OF PROCUREMENT PROCESS**

- 7.1 This procurement process can be postponed or cancelled at any stage provided that such cancellation or postponement takes place prior to entering into a contract with a specific service provider to which the bid relates.

**BIDDERS MUST TAKE NOTE OF THE EVALUATION PROCESS THAT WILL BE FOLLOWED****1 EVALUATION PROCESS****1.1 COMPLIANCE WITH MINIMUM REQUIREMENTS CRITERIA**

- 1.1.1 All bids duly lodged as specified in this Request for Bid will be examined to determine compliance with bidding requirements and conditions. Bids with deviations from the requirements / conditions, will be eliminated from further consideration.

**1.2 FUNCTIONALITY, PRICE AND PREFERENCE POINTS**

- 1.2.1 All remaining bids as per paragraph 1.1.1 will be evaluated as follows:
- 1.2.2 Bids will be evaluated first for functionality and then in accordance with the 80/20 reference points system prescribed in Preferential Procurement Regulations.
- 1.2.3 The First stage, bids will be evaluated on functionality, of which (100 points) shall be awarded for functionality.
- 1.2.4 Bids will be considered further if it achieves the minimum prescribed qualifying score for functionality (60.00 points out of 100). Bids that failed to achieve the minimum qualifying score for functionality will be disqualified for further evaluation.
- 1.2.5 The Second stage, bids will be evaluated in terms of the 80/20 preference point systems. Only bids that achieve the minimum qualifying score/percentage for functionality will be evaluated in accordance with the 80/20 preference point system.

**1.3 DETERMINATION OF PERCENTAGE FOR FUNCTIONALITY**

- 1.3.1 The evaluation criteria and weights for functionality as indicated in the table in paragraph 2, will apply.
- 1.3.2 The percentage scored for functionality should be calculated as follows:

- ☐ Each panel member shall award values for each individual criterion on a score sheet. The value scored for each criterion shall be multiplied with the specified weighting for the relevant criterion to obtain the marks scored for the various criteria. These marks should be added to obtain the total score. The following formula should then be used to convert the total score to a percentage for functionality:

$$Ps = \frac{So}{Ms} \times Ap$$

where

Ps = percentage scored for functionality by bid/proposal under consideration

So = total score of bid/proposal under consideration

Ms = maximum possible score

Ap = percentage allocated for functionality

## SECTION A Part 2: Evaluation Process/Criteria

- ☐ The percentages of each panel member shall be added together and divided by the number of panel members to establish the average percentage obtained by each individual bidder for functionality.

#### 1.4 ELIMINATION OF PROPOSALS ON GROUNDS OF FUNCTIONALITY

- 1.4.1 Bids that score less than **60%** of the marks available for functionality will be eliminated from further consideration **which is 60.00 points out of 100 points.**
- 1.4.2 If appropriate, implied contract price adjustments will be made to the cost proposals of all remaining bids.
- 1.4.3 The percentage scored for price shall be calculated as follows:

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

**80/20**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

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

#### 1.5 AWARDING OF POINTS FOR B-BBEE

- 1.5.1 Points for B-BBEE will be determined out of 20.
- 1.5.2 Points scored by the bidder in respect of the level of contribution will be added to the points scored for price.
- 1.5.3 Points to be awarded to a bidder based on his or her B-BBEE status of level of Contribution. E.g. Level 1 contributor would receive 20 points whilst level 4 contributor would receive 12 points out of a maximum of 20 points as follows.

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

**1.6 COMBINING PRICE AND B-BBEE MARKS**

- 1.6.1 The B-BBEE marks for each bid will now be added to the price.
- 1.6.2 Only the bid with the highest number of points scored may be selected for award.
- 1.6.3 The Bid Adjudication Committee will consider the recommendations and make the final award. The successful bidder will usually be the bidder scoring the highest number of points or it may be a lower scoring bid on justifiable grounds or no award at all.

**1.7 PRESENTATIONS (optional)**

- 1.7.1 NERSA reserves the right to invite bidders for presentations before the award of the bid.
- 1.7.2 NERSA may decide to have compulsory presentations made either by all bidders who have obtained at least **60%** of the marks for functionality, or by the bidders ranked first, to third once the functionality, price and preference marks have been combined.
- 1.7.3 Presentations shall only affect the marks awarded for functionality. If NERSA wishes to use presentations to discriminate between bidders, the evaluation criteria to be affected shall be determined in advance and due allowance made in the mark scheme and indicated in paragraph 1.2 above.
- 1.7.4 If the date of the presentation meeting is not indicated in the bid document, at least three days' notice will be given to bidders required to attend a presentation as well as the detail of the venue for the presentation.
- 1.7.5 Presentations will be made to the full Bid Evaluation Committee.
- 1.7.6 Points determined by the presentation will be awarded to each bidder by each member of the Bid Evaluation Committee and then an average calculated.
- 1.7.7 Under no circumstances will a presentation by any bidder constitute an award or promise / undertaking to award the contract.

**1.8 ADJUDICATION OF BID**

- 1.8.1 The Bid Adjudication Committee will consider the recommendations and make the final award. The successful bidder will usually be the bidder scoring the highest number of points or it may be a lower scoring bid on justifiable grounds or no award at all.

## **2 EVALUATION CRITERIA**

All bidders will be evaluated in accordance with the Supply Chain Management Policies, as well as the Preferential Procurement Policy Framework, 2000 (Act No. 5 of 2000), Preferential Procurement Regulations of 2017.

### **2.1 Stage 1: Pre-qualification criteria for preferential procurement**

2.1.1 It is a mandatory tendering condition that only bidders that meet the following criteria will qualify for further evaluation.

- (a) The bidder must have a B-BBEE status of level 3 contributor, AND
- (b) The bidder must be an EME or QSE
- (c) Bidders are requested to formally declare that they meet the above criteria
- (d) Should a bidder not declare or not meet the above criteria, their bid will be disqualified
- (e) Should a bidder mispresent their BBBEE status, this will be followed by investigation, criminal proceedings and debarment from further public sector work

### **2.2 Stage 2: Compliance with minimum requirements**

All bidders will be examined to determine compliance with the bid document terms and conditions. Bidders who fail to comply with the following minimum requirements may be eliminated from further evaluation:

- Failure to submit one (1) original plus one (1) CD or memory stick that contains the duplicate of the original version. The bid document must not be converted into word format or retyped, however, may be completed/filled in ink in PDF format.
- SARS pin letter to enable NERSA to view the taxpayer's profile and tax status. Bidders may also submit a printed Tax Compliance Status (TCS) together with the bid.
- National Treasury CSD registration summary report or Central Supplier Database Number on the Invitation to Bid form.
- A B-BBEE sworn affidavit or certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer. Only bids with a minimum **level 3** and above may respond or may submit a B-BBEE Improvement Plan if not a level three (3) contributor.
- All standard bidding forms must be fully completed and signed in ink namely: Declaration of Interest; Declaration of bidder's past SCM practices; Preference Points Claim; Declaration Certificate for Local Production & Content Designated Sector; Invitation to Bid and Certificate of independence.
- Accept the Special Conditions of Bid and Contract.

### 2.3 Stage 3: Evaluation of functionality

All bidders will be evaluated by an evaluation panel and will be evaluated independently in terms of the evaluation criteria for functionality, which will be made up of 100 points, as follows:

<b>Functionality</b>	<b>Points</b>
<b>Track Record. The prospective bidder should submit documentary proof of similar projects in conducting regulatory technical and financial compliance evaluation with contactable references</b>	<b>40</b>
No similar projects submitted	0
1-3 similar projects conducted supported with contactable references	10
4-6 similar projects conducted supported with contactable references	20
7+ similar projects conducted supported with contactable references	40
<b>Methodology and Technical approach</b>	<b>30</b>
No methodology, no technical approach	0
The methodology and technical approach does not comply with the requirements in the ToR	6
The methodology and technical approach are inconsistent and not appropriately presented. The service provider does not have a proper understanding of the requirements of the ToR	12
The methodology and technical approach are discussed in detail and properly address the entire scope of work/deliverables and the service provider has aligned the approach with the requirements in the ToR	24
The methodology and technical approach is comprehensive and the approach is advanced and innovative on how to address the requirements in the ToR and have raised important issues and possible problems and proposed solutions	30
<b>Overall Project Team Qualification and Competency in conducting similar services</b>	<b>30</b>
No experience on similar projects completed	0
1 - 3 years' experience with similar projects completed with contactable references	5
4 - 6 years' experience with similar projects completed with contactable references	10
7 - 9 years' experience with similar projects completed with contactable references	20
10 years' or more experience with similar projects completed with contactable references	30
<b>Total for Functionality</b>	<b>100</b>

All bidders who score less than the minimum qualifying 60% (60.00 points out of 100 points) on functionality will be regarded as non-responsive, automatically disqualified for further evaluation in terms of the preference point system.

**2.4 Stage 4: Evaluation in terms of 80/20 preference point system**

Only those bidders that achieve the minimum of 60% for functionality will be evaluated further in accordance with the 80/20 preference point system.

<b>Price</b>	<b>POINTS</b>
<input type="checkbox"/> Relative competitiveness of proposed price. The lowest acceptable bid will score 80 points for price.	<b>80</b>
<b>B-BBEE</b>	
<input type="checkbox"/> Status Level of contribution	<b>20</b>
<b>TOTAL SCORE FOR PRICE AND B-BBEE</b>	<b>100</b>

The bid will be awarded to the bidder who scored the highest total number of points in terms of the preference point system.

**TERMS OF REFERENCE (TOR)****THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN AUDIT OF THE ESKOM DEMAND RESPONSE PROGRAMME UNDER INTEGRATED DEMAND MANAGEMENT FOR THE 2020/21 FINANCIAL YEAR****1. INTRODUCTION**

The Energy Efficiency and Demand-Side Management (EEDSM) policy of 2004 requires NERSA to ensure that Eskom uses the funds allocated for the Integrated Demand Management (IDM) programmes properly and according to the EEDSM policy and the Multi-Year Price Determination (MYPD) decision. NERSA is also required to monitor and evaluate the utilisation of these funds in order to ensure compliance with applicable regulations.

**2. BACKGROUND, OBJECTIVE AND CONTEXT**

Section 14(1)(u) of the Electricity Regulation Act, 2006 (Act No. 4 of 2006) ("the Act") authorises the Energy Regulator, when issuing licenses, to impose licence conditions relating to compliance with energy efficiency standards and requirements, including demand-side management. Therefore, NERSA has the authority to determine the conditions of supply and distribution, which include conditions relating to the development and implementation of the IDM programmes as an obligation of a licensee.

The costs of implementing IDM programmes are recovered by Eskom through the electricity tariffs over the MYPD application period. Eskom applies for required revenues through the MYPD process. The revenues include, inter alia the funds to be used for the EEDSM and Demand Response (DR) programmes. EEDSM was not allowed funding for the financial years under review as shown in Table 1 below. IDM was allocated funding of R322mil to implement DR programme for 2020/21FY to achieve 600MW demand savings and 105 000MWh of energy savings as shown in Table 2 below.

**Table 1: Approved Eskom funding for EEDSM programme**

<b>EEDSM</b>	<b>2020/21FY Approved</b>
Funding Rm	0
Demand Savings MW	0

Table 2 shows DR budget allocation for the 2020/21 period.

**Table 2: Approved Eskom funding for DR programme**

<b>Demand Response</b>	<b>2020/21FY Approved</b>
Funding Rm	322
Demand Savings MW	600



### **3. PURPOSE**

The Electricity Infrastructure Planning (EIP) department of NERSA seeks to appoint a suitably qualified service provider to conduct an audit of the DR programme under IDM fund managed by Eskom for the financial year ending 31 March 2021 for compliance with procedures, policies and regulatory requirements. The IDM programme covers EEDSM which is not included in the scope of this audit because no budget was allocated by NERSA as shown on Table 1 above.

### **4. SCOPE OF WORK**

The National Energy Regulator of South Africa (NERSA) invites proposals from service providers:

- i) To conduct audit of the DR programme for the year 2020/21. The audit cover projects approved, implemented and reported in the Eskom IDM/DR Annual Performance Reports of 2020/21; and
- ii) To validate projects and ring-fenced programme costs against the demand savings (MW) and energy savings (MWh/GWh).

The following specific programme activities should be reviewed for the FY2020/21 as follows:

- a) Review energy (R/MWh), demand savings (R/MW), associated payments and other programme costs for Demand Response projects initiated and implemented during 2020/21FY;
- b) Determine whether DR project payments were properly authorised and paid according to contracted payment rates and actual performance;
- c) Obtain and review compliance of all Eskom's DR procurement procedures, policies and regulations as implemented during the selection of DR service providers, include but not limited to verify if DR service providers are all given a fair and equal chance to be dispatched;
- d) Verify if certified capacity match the actual historical performance;
- e) Review compliance of DR contracts to Eskom DR compensation methodologies;
- f) Review DR service provider performance (through Eskom billing meters) i.e. actual MW dispatched against certified contracted MW;
- g) Evaluate the completeness, accuracy, consistency and credibility of the DR data base; and
- h) Verify that the DR allocated ring-fenced funds were used only for DR projects allocated for 2020/21FY.

### **5. PROJECT DELIVERABLES**

The following deliverables are required:

- a) A draft audit report subject to approval by NERSA;
- b) Final audit report in an electronic and five hard copy formats. The final audit report must include the recommendations on Eskom comments. The final audit report must provide auditors opinion on the findings;
- c) Hard and soft copies of the audit working papers;
- d) Soft copy of Eskom's DR project database in Excel format for the 01 April 2020 – 31 March 2021 financial year; and
- e) Regular progress reports as may be agreed with NERSA.

SECTION A Part 4: Terms of Reference

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NB: NERSA reserves the right to provide inputs and/or comment to the draft report. Therefore, the successful service provider may be required to do a presentation to the NERSA committees, including the Energy Regulator on the draft and final audit reports.

**6. TRANSFER OF SKILLS TO NERSA STAFF**

Not applicable to NERSA as the audit requires a commitment of up to three months of full-time presence on site.

**7. TIME FRAMES**

The audit must be completed within a period of three (3) months from the project commencement date.

**8. INFORMATION REQUIRED IN THE PROPOSAL**

Bidders are requested to provide their proposals in two (2) parts, i.e. technical and financial. NERSA reserves the right not to consider any proposal that does not include at least the following information:

**a. Technical requirements**

The technical proposal must contain the following information:

- I. Detailed methodology to address the terms of reference;
- II. A detailed work plan with milestones and deliverables;
- III. Project list demonstrating the involvement of the proposed project team in similar assignments, and
- IV. Demonstrate track record of the company of projects undertaken in similar assignments.

**b. Financial requirements**

The financial proposal must provide the cost for completing the project in South African Rands and it should contain the following:

- I. Company or consortium profile;
- II. Proposed project team, project management and availability of project team members and their curricula vitae (CVs); and
- III. It is important that the consultants/consortium demonstrate a firm commitment to black economic empowerment. This extends to the composition of the team of consultants that will perform the work.

**9. SUBMISSION OF PROPOSALS**

9.1 All bids must be deposited in the tender box clearly marked with the tender number, company name as well as closing date and time and placed in the at the Reception area addressed to: The Procurement Manager, NERSA, Kulawula House, 526 Madiba Street, Arcadia, Pretoria in a sealed envelope.

9.2 Bidders will be required to observe NERSA COVID 19 protocols when entering the building.

9.3 A strict policy of "No mask, no entry" will be maintained for the safety of all NERSA stakeholders.

SECTION A Part 4: Terms of Reference

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9.4 Bidders must maintain a minimum of 1,5 meters social distancing from any other person encountered in the building.

9.5 Each bidder must furnish the following information as part of the response:

9.6 One (1) original plus one (1) CD or memory stick that contains the duplicate of the original submission i.e. that includes the bid document with all its attachments.

9.7 The original version of the bid, which must be submitted with one (1) CD/memory stick. Failure to submit the original plus one (1) CD/memory stick and to include all attachments in the CD/memory stick may result in automatic disqualification. Bidder(s) may be disqualified for submitting a blank CD/memory stick. The original bid document, which must be fully completed and/or signed in ink and thereafter duplicate the original in the CD or memory stick with all its attachments.

9.8 The bidder's unique personal identification number (pin letter) issued by SARS to enable NERSA to view the taxpayer's profile and tax status. Bidders may also submit a printed TCS together with the bid. The onus is on the bidder to ensure that their tax matters with SARS are in order.

9.9 A B-BBEE certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer. Only bids with a minimum level 3 and above may respond or may submit a B-BBEE Improvement Plan if not a level three (3) contributor.

9.10 All standard bidding forms that have been fully completed and signed by the bidder.

9.11 Proof of registration on the National Treasury Central Supplier Database (CSD) prior to submitting their bids. Proof of CSD registration summary report must be submitted together with the bid document or Central Supplier Database Number must be provided on the Invitation to Bid. Failure to submit proof of CSD registration (CSD registration summary report or MA Number) will invalidate the bid. Registration requirements may be found online at <https://secure.csd.gov.za>.

9.12 Acceptance of the Special Conditions of Bid and Contract.

Please note that NERSA reserves the right to disqualify bidders that fail to meet the above conditions from the bidding process.

## **10. RIGHT TO APPOINT**

NERSA reserves the right, at its discretion, not to appoint a bidder and/or to cancel this bid, at its sole discretion, if it is of the opinion that the bids submitted do not meet the

SECTION A Part 4: Terms of Reference

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requirements of the bid document, the service is no longer required or for any other reason NERSA may deem fit.

NERSA reserves the right to contact the references provided. In the event that the majority of references contacted provide negative feedback on the bidder, NERSA reserves the right not to appoint that specific bidder.

Although NERSA wishes to enter into a contract with the appointed service provider/s, NERSA reserves the right to procure the services outside the contract where it is deemed necessary.

## CONTRACT FORM: RENDERING OF SERVICES

THIS FORM MUST BE FILLED IN DUPLICATE BY BOTH THE SERVICE PROVIDER (PART 1) AND THE PURCHASER (PART 2). BOTH FORMS MUST BE SIGNED IN THE ORIGINAL SO THAT THE SERVICE PROVIDER AND THE PURCHASER WOULD BE IN POSSESSION OF ORIGINALLY SIGNED CONTRACTS FOR THEIR RESPECTIVE RECORDS.

### PART 1 (TO BE FILLED IN BY THE SERVICE PROVIDER)

1. I/we hereby undertake to render services described in the attached bidding documents to NERSA in accordance with the requirements and task directives/proposals terms of references stipulated in Bid Number **NERSA/2122/EIP/EDRP/BID/014** at the price/s quoted. My/our offer/s remain binding upon me/us and open for acceptance by the Purchaser during the validity period indicated and calculated from the closing date of the bid.
2. The following documents shall be deemed to form and be read and construed as part of this agreement:
  - 2.1 Bidding documents, viz
    - ☐ Invitation to bid
    - ☐ SARS Tax Compliance Status Pin Letter / Printed Tax clearance certificate
    - ☐ Pricing schedule(s)
    - ☐ Proposal / filled in Terms of Reference as per my/our bid dated (date)
    - ☐ Preference certificates in terms of the Preferential Procurement Regulations, 2001
    - ☐ Declaration Certificate for Local Production and Content Designated Sector Form
    - ☐ Declaration of interest
    - ☐ Declaration of bidder's past SCM practices
    - ☐ Certificate of independent bid determination
    - ☐ Special Conditions of Contract
  - 2.2 General Conditions of Contract
  - 2.3 Other (specify)
3. I/we confirm that I/we have satisfied myself as to the correctness and validity of my/our bid; that the price(s) and rate(s) quoted cover all the services specified in the bidding documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.
4. I/we accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me/us under this agreement as the principal liable for the due fulfilment of this contract.
5. I/we declare that I/we have no participation in any collusive practices with any bidder or any other person regarding this or any other bid.
6. I confirm that I am duly authorised to sign this contract.

NAME (PRINT) \_\_\_\_\_

CAPACITY \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME OF FIRM \_\_\_\_\_

DATE \_\_\_\_\_

#### WITNESSES

1 \_\_\_\_\_

2 \_\_\_\_\_

DATE: \_\_\_\_\_

**CONTRACT FORM: RENDERING OF SERVICES****PART 2 (TO BE FILLED IN BY THE PURCHASER)**

1. I ..... in my capacity as ..... accept your bid under reference number **NERSA/2122/EIP/EDRP/BID/014** dated ..... For the rendering of services indicated hereunder and/or further specified in the annexures.
2. An official order indicating service delivery instructions is forthcoming.
3. I undertake to make payment for the services rendered in accordance with the terms and conditions of the contract within 30 (thirty) days after receipt of an invoice.

DESCRIPTION OF SERVICE	PRICE (VAT INCL)	COMPLETION DATE	PREF/POINTS CLAIMED FOR B- BBEE
THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN AUDIT OF THE ESKOM DEMAND RESPONSE PROGRAMME UNDER INTEGRATED DEMAND MANAGEMENT FOR THE 2020/21 FINANCIAL YEAR			

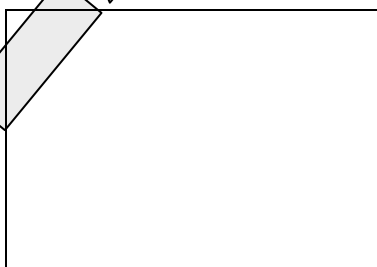
4. I confirm that I am duly authorised to sign this contract.

SIGNED AT ..... ON .....

NAME (PRINT) .....

SIGNATURE .....

OFFICIAL STAMP



WITNESSES

1 .....

2 .....

DATE: .....

SECTION B

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# SECTION B

## SECTION B Part 1: Special Conditions of Bid and Contract

**SPECIAL CONDITIONS THAT THE BIDDER NEEDS TO ACCEPT**

	<b>SPECIAL CONDITIONS OF BID</b>	<b>CONFIRMATION</b>			
		Yes	No	N/A	If no, indicate deviation
<b>1</b>	<b>GENERAL</b>				
1.1	Bidders must indicate a confirmation response against each paragraph in this part of Section B covering both the Special Conditions of Bid and the Special Conditions of Contract by marking the YES box or by marking the NO box. The bidder must clearly state if a deviation from these special conditions are offered and the reason therefore. If an explanatory note is provided, the paragraph reference must be indicated in a supporting appendix to this part of the bid submission. Answering questions or supplying detail by referring to other sections will not be accepted.				
1.2	Some of the confirmation blocks in this part are shaded. Choosing a response in one of the shaded blocks will deem your bid to be non-responsive in line with the instructions in this part.				
1.3	Should bidders fail to indicate a confirmation response, NERSA will assume that the bidder is <b>not</b> in compliance or agreement with the statement(s) as specified in this bid document.				
1.4	Bids not completed in this manner may be considered incomplete and rejected.				
1.5	The client shall not be liable for any expense incurred in the preparation and submission of a bid.				
<b>2</b>	<b>BID SUBMISSION CONDITIONS, INSTRUCTIONS AND EVALUATION PROCESS / CRITERIA</b>				
2.1	Submission conditions and Instructions as well as the evaluation process / criteria have been noted.				
<b>3</b>	<b>SPECIAL CONDITIONS OF BID AND CONTRACT</b>				
3.1	The Special Conditions of Bid and the Special Conditions of Contract of this Request for Bid must be accepted. Non-acceptance may be deemed to be non-responsive.				
<b>4</b>	<b>ADDITIONAL INFORMATION REQUIREMENTS</b>				
4.1	During evaluation of the bids, additional information may be requested in writing from bidders. Replies to such request must be submitted, within 3 (three) working days or as otherwise indicated. Failure to comply, may lead to your bid being disregarded.				



## SECTION B Part 1: Special Conditions of Bid and Contract

	SPECIAL CONDITIONS OF BID	CONFIRMATION			
		Yes	No	N/A	If no, indicate deviation
<b>5</b>	<b>VENDOR INFORMATION</b>				
5.1	The successful bidder will be required to complete a vendor information form detailing the organisation's complete profile.				
<b>6</b>	<b>FORMAT OF BIDS</b>				
6.1	Bidders must complete all the necessary bid documents and undertakings required in this bid document. Bidders are advised that their proposal should be concise, written in plain English and simply presented. Bidders are to set out their proposal in the format prescribed hereunder:				
<b>6.2</b>	<b>Special conditions of bid and contract</b>				
6.2.1	Bidders must complete and return the Special Conditions of Bid and Contract.				
<b>6.3</b>	<b>SARS Tax Clearance Certificate(s)/ Compliance</b>				
6.3.1	Bidders are required to submit their unique personal identification number (pin) issued by SARS to enable NERSA to view the taxpayer's profile and tax status. Bidders <u>may</u> also submit a printed Tax Compliance Status (TCS) together with the bid.  In bids where consortia / joint ventures / sub-contractors are involved, each party must submit a separate proof of TCS / pin / CSD number.				
<b>6.4</b>	<b>Declaration of Interest</b>				
6.4.1	Each party to the bid must complete and return the Declaration of Interest. Bids submitted without a completed and signed Declaration of Interest may be deemed to be non-responsive.				
<b>6.5</b>	<b>Declaration of bidder's past Supply Chain Management practices</b>				
6.5.1	Each party to the bid must complete and return "Declaration of bidder's past Supply Chain Management practices". Bids submitted without a completed and signed Declaration of bidder's past Supply Chain Management practices may be deemed to be non-responsive.				

## SECTION B Part 1: Special Conditions of Bid and Contract

	SPECIAL CONDITIONS OF BID	CONFIRMATION			
		Yes	No	N/A	If no, indicate deviation
<b>6.6</b>	<b>Preference Points Claim Form in terms of the Preferential Procurement Regulations 2001 (Purchases)</b>				
6.6.1	Bidders must complete and return the Preference Points Claim Form (Purchases).				
6.6.2	For a consortium or joint venture: <input type="checkbox"/> Each member organisation wishing to claim points should complete a separate Preference Points Claim Form (Purchases).				
<b>6.7</b>	<b>Invitation to Bid</b>				
6.7.1	Bidders must complete, sign and return the full "Invitation to Bid" document. Bids submitted without a completed and signed Invitation to Bid may be deemed to be non-responsive.				
<b>6.8</b>	<b>Technical Proposal</b>				
6.8.1	Bidders must, at least cover the under-mentioned in their technical approach and return as part of their submission:				
	<input type="checkbox"/> Describe, in detail, exactly how they propose to carry out the activities to achieve the outcomes identified in the terms of reference. They should identify any possible problems that might hinder delivery and indicate how they will avoid, or overcome such problems. <input type="checkbox"/> Describe how the work will be managed. Provide an organisation chart clearly indicating: <ul style="list-style-type: none"> <li>▪ The lines of reporting and supervision within the bidder's team</li> <li>▪ The lines of reporting between the bidder and NERSA and other stakeholders, if applicable</li> </ul> <input type="checkbox"/> <u>Demonstrate how the services will be rendered by addressing the scope of work.</u>				
<b>6.9</b>	<b>Team details</b>				
6.9.1	In this part the bidders must provide allocate an account manager to manage the NERSA contract.				
6.9.2	Summarised CV's of the proposed team members.  The CV's should highlight minimum roles, experience of resources and description of similar projects with references.				

## SECTION B Part 1: Special Conditions of Bid and Contract

	SPECIAL CONDITIONS OF BID	CONFIRMATION			
		Yes	No	N/A	If no, indicate deviation
6.9.3	<b>Membership of professional bodies (Institutes, Affiliates, Accreditations or Associates)?</b> Attach company registration certificates.				
<b>6.10</b>	<b>Experience in this field</b>				
6.10.1	Bidders should provide in this part, and return as part the submission, at least the following information:  <input type="checkbox"/> Project list demonstrating the involvement of the proposed project team in similar assignments. <input type="checkbox"/> Demonstration of the track record of the company on projects undertaken in similar assignments.				
<b>6.11</b>	<b>Samples</b>				
6.11.1	No samples required.				
<b>6.12</b>	<b>Pricing Schedule</b>				
6.12.1	The bidder must take the following into consideration when completing the Pricing Schedule: <ul style="list-style-type: none"> <li>Reference must be made to the scope of work on the Terms of Reference.</li> <li>Price(s) has to be in line with the Guide on Hourly Fee Rates for Consultants as regulated by the Department of Public Service (DPSA). The <b>Latest Consultants Fees</b> can be downloaded from DPSA website at <a href="http://www.dpsa.gov.za/dpsa2g/documents.asp#consultants_fees">http://www.dpsa.gov.za/dpsa2g/documents.asp#consultants_fees</a></li> </ul>				
6.12.2	<b>Bidders are required to include one (1) copy of the financial proposal/pricing schedule</b> , which must be submitted separately in a sealed envelope.				
<b>6.13</b>	<b>B-BBEE Certificate</b>				
6.13.1	Bidders should provide their original and valid B-BBEE certificate or a certified copy thereof as part of the bid document as issued by verification agencies accredited by SANAS or registered auditors approved by IRBA. In case of a consortium / joint venture, a consolidated B-BBEE certificate should be submitted.				
6.13.2	All Exempted Micro Enterprises (EMEs) must submit a certified sworn affidavit as prescribed by <b>the DTI</b> or certificate issued by the Companies & Intellectual Properties Commission (CIPC) confirming annual turnover of R10M or less and level of black ownership.				

## SECTION B Part 1: Special Conditions of Bid and Contract

	<b>SPECIAL CONDITIONS OF BID</b>	<b>CONFIRMATION</b>			
		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>If no, indicate deviation</b>
6.13.3	Bidders who do not submit a valid B-BBEE Status Level Verification Certificates as part of the bid document do not qualify for preference points for B-BBEE.				
<b>6.14</b>	<b>SUB-CONTRACTING</b>				
6.14.1	Bidders are welcome to sub-contract. However, the contract will be awarded to the main bidder as the primary contractor. No separate contracts will be entered into with any sub-contractors.				
<b>6.15</b>	<b>VETTING OF BIDDERS</b>				
6.15.1	NERSA reserves the right to subject any bidder for a security clearance through the State Security Agency (South Africa) and if a negative security screening report is issued the services of the bidders will be terminated with immediate effect.				
<b>6.16</b>	<b>LABOUR LEGISLATIVE REQUIREMENTS</b>				
6.16.1	Proof of company registration as issued by (CIPC) as well as share certificate(s) for (Pty) limited companies with other legislative requirements such as UIF, COIDA and PAYE must be submitted together with bid document.				
<b>6.17</b>	<b>CENTRAL SUPPLIER DATABASE</b>				
6.17.1	Bidders must be registered on the National Treasury Central Supplier Database (CSD) prior to the submission of this bid. Proof of CSD registration summary report must be submitted together with the bid document or Central Supplier Database Number must be provided on the Invitation to Bid form.				
6.17.2	Failure to submit proof of CSD registration (CSD registration summary report or MA Number) will invalidate the bid. Registration requirements may be found online at <a href="https://secure.csd.gov.za">https://secure.csd.gov.za</a> .				

## SECTION B Part 1: Special Conditions of Bid and Contract

	<b>SPECIAL CONDITIONS OF BID</b>	<b>CONFIRMATION</b>			
		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>If no, indicate deviation</b>
<b>1</b>	<b>GENERAL CONDITIONS OF CONTRACT</b>				
1.1	<p>The bid is subjected to the General Conditions of Contract (GCC). The GCC can be downloaded from the NERSA website at <a href="http://www.nersa.org.za">www.nersa.org.za</a> or from National treasury website at <a href="http://www.treasury.gov.za">http://www.treasury.gov.za</a></p> <p>Bids' should not be qualified by own terms &amp; conditions.</p> <p>Failure to withdraw/waive or to renounce the bidder's own terms &amp; conditions of bid, when called upon to do so, may invalidate the bid.</p>				
<b>2</b>	<b>CONFIDENTIALITY</b>				
2.1	<p>The bid and all information in connection therewith shall be held in strict confidence by bidders and usage of such information shall be limited to the preparation of the bid.</p> <p>Bidders shall undertake to limit the number of copies of this document.</p>				
2.2	All bidders are bound by a confidentially agreement preventing the unauthorised disclosure of any information regarding NERSA or of its activities to any other organisation or individual. The bidders may not disclose any information, documentation, data or products to other clients without written approval of the Energy Regulator or the delegate.				
2.3	"Confidential information" includes any information or knowledge whatsoever relating to NERSA or any of its divisions, including but not limited to all information in whatever form (tangible or intangible), reports (whether generated by NERSA or service providers to NERSA), documentation, specifications, know-how, accounts and computer readable data relating or pertaining to the project, NERSA or any of its divisions.				
<b>3</b>	<b>INTELLECTUAL PROPERTY, INVENTIONS AND COPYRIGHT</b>				
3.1	Copyright of all documentation relating to this contract belongs to the client. The successful bidder may not disclose any information, documentation or products to other clients without the written approval of the Energy Regulator or the delegate.				

## SECTION B Part 1: Special Conditions of Bid and Contract

	<b>SPECIAL CONDITIONS OF BID</b>	<b>CONFIRMATION</b>			
		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>If no, indicate deviation</b>
3.2	All the intellectual property rights arising from the execution of this contract shall vest in NERSA who shall be entitled to cede and assign such to the Department of Energy and the contractor undertakes to honour such intellectual property rights and all future rights by keeping the know-how and all published and unpublished material confidential.				
3.3	In the event that the contractor or any project team member would like to use information or data generated by the project, for academic or any other purpose, prior written permission must be obtained from the client.  Such permission will not be unreasonably withheld and if it is withheld, written reasons will be provided.				
3.4	NERSA shall own all deliverables produced by the Contractor during the course of, or as part of the contract whether capable of being copyrighted or not ("IP") and which are or may become eligible for copyright under the laws of the Republic of South Africa and which relates to the contract or which arises directly from this contract.  This IP NERSA shall be entitled to freely cede and assign to the Department of Energy. No other document needs to be executed to give effect to this cession, assignment or transfer.				
3.5	The provisions of this clause 3 shall only apply to such IP that is created during the course and scope in terms of this contract.				
3.6	The Contractor acknowledges and agrees that each provision of clause 3 is separate, severally and separately enforceable from any other provisions of this contract.				
3.7	The invalidity or non-enforceability of any one or more provision hereof, shall not prejudice or effect the enforceability and validity of the remaining provisions of this contract.				
3.8	This clause 3 shall survive termination of this contract.				
3.9	Non-acceptance of clause 3 may deem your bid to be non-responsive.				
<b>4</b>	<b>NON-COMPLIANCE WITH DELIVERY TERMS</b>				

## SECTION B Part 1: Special Conditions of Bid and Contract

	<b>SPECIAL CONDITIONS OF BID</b>	<b>CONFIRMATION</b>			
		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>If no, indicate deviation</b>
4.1	As soon as it becomes known to the contractor that he / she will not be able to deliver the services within the delivery period and / or against the quoted price and / or as specified, NERSA must be given immediate written notice to this effect. NERSA reserves the right to implement remedies as provided for in the GCC.				
<b>5</b>	<b>WARRANTS</b>				
5.1	The contractor warrants that it has the capability, experience, expertise and skills necessary and is able to conclude this Agreement to the satisfaction of NERSA.				
5.2	The contractor undertakes to perform the services in a professional manner.				
5.3	Although the contractor will be entitled to provide services to persons other than NERSA, the contractor shall not without the prior written consent of NERSA, be involved in any manner whatsoever, directly or indirectly, in any business or venture which competes or conflicts with the obligations of the contractor to provide services.				
<b>6</b>	<b>PARTIES NOT AFFECTED BY WAIVER OR BREACHES</b>				
6.1	The waiver (whether express or implied) by any Party of any breach of the terms or conditions of this contract by the other Party shall not prejudice any remedy of the waiving party in respect of any continuing or other breach of the terms and conditions hereof .				
6.2	No favour, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred on such Party in terms of this contract shall operate as a waiver of such power or right nor shall any single or partial exercise of any such power or right under this agreement.				
<b>7</b>	<b>OBLIGATION</b>				
7.1	The contractor shall perform all aspects of the services as more fully described in the terms of reference and shall comply with all reasonable instructions, requests and/or directions as may be issued by NERSA from time to time.				

## SECTION B Part 1: Special Conditions of Bid and Contract

	<b>SPECIAL CONDITIONS OF BID</b>	<b>CONFIRMATION</b>			
		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>If no, indicate deviation</b>
<b>8</b>	<b>PROJECT PLAN</b>				
8.1	The contractor shall within 2 (two) weeks after signing this contract, submit to NERSA, a draft project plan for consideration and approval.				
8.2	The approved project plan submitted in terms of clause 8.1 above shall be binding on the contractor.				
<b>9</b>	<b>RETENTION</b>				
9.1	On termination of this agreement, or at the end of the contract period, the contractor shall, on demand hand over all documentation provided as part of the project and all deliverables, etc., without the right of retention, to NERSA.				
9.2	No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force and effect unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.				
<b>10</b>	<b>INDEMNITY</b>				
10.1	The contractor hereby indemnifies and holds harmless NERSA's employees, agents or its duly authorized representatives from and against any and all claims, liabilities, losses, costs, expenses (including attorneys' fees) and damages, which NERSA may suffer and/or incur arising out of and/or resulting from wilful misconduct, negligent act or omission by the contractor in performance of the Services in terms of this agreement.				
10.2	The indemnification under this clause shall survive termination of this agreement.				
<b>11</b>	<b>UNDERTAKINGS BY THE CONTRACTOR</b>				
11.1	The contractor shall not, during the contract period or extended contract period, directly or indirectly entice away any employee of NERSA.				
<b>12</b>	<b>FORCE MAJEURE</b>				
12.1	Should the affected Party be unable to fulfil its obligations in terms of this agreement for a period of fourteen (14) days or such other reasonable period from the date of notification to the other Party of a <i>force majeure</i> , then the other Party shall be entitled to terminate this agreement forthwith if justifiable under the circumstances, by written notice to that effect to the affected Party.				



## SECTION B Part 1: Special Conditions of Bid and Contract

<b>SPECIAL CONDITIONS OF BID</b>		<b>CONFIRMATION</b>			
		<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>If no, indicate deviation</b>
<b>13</b>	<b>INDEPENDENT CONTRACTOR</b>				
13.1	The contractor agrees and acknowledges that it is an independent contractor and that this agreement shall not be construed as creating any relationship of employment, agency, partnership or joint venture between the Parties. Accordingly the contractor has no authority to represent, act on behalf of or bind NERSA in anyway whatsoever.				
13.2	The contractor shall not issue any press release, make or publish any statement or other communication relating to, connected with or arising out of this agreement or the rendering of the Services without the prior written consent of NERSA.				
<b>14</b>	<b>ASSIGNMENT</b>				
14.1	The provisions of this agreement shall automatically transfer to and continue to exist to any legal successors of the Parties.				

## **TAX CLEARANCE CERTIFICATE REQUIREMENT**

- 2.1 Bidders must ensure compliance with their tax obligations.
- 2.2 Bidders are 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.
- 2.3 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).
- 2.4 Bidders may also submit a printed TCS together with the bid.
- 2.5 In bids where consortia / joint ventures / sub-contractors are involved, each party must submit a separate proof of TCS / pin / CSD number.
- 2.6 Where no TCS is available but the bidder is registered on the Central Supplier Database (CSD), a CSD number must be provided.

## DECLARATION OF INTEREST

1. Any legal person, including persons employed by the state<sup>1</sup>, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

2. **In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

- 2.1 Full Name of bidder or his or her representative: .....
- 2.2 Identity Number: .....
- 2.3 Position occupied in the Company (director, trustee, shareholder<sup>2</sup>): .....
- 2.4 Company Registration Number: .....
- 2.5 Tax Reference Number: .....
- 2.6 VAT Registration Number: .....
- 2.6.1 The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

<sup>1</sup>"State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

<sup>2</sup>"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

- 2.7 Are you or any person connected with the bidder **YES / NO**  
presently employed by the state?

- 2.7.1 If so, furnish the following particulars:

Name of person / director / trustee / shareholder/ member: .....

Name of state institution at which you or the person  
connected to the bidder is employed: .....

Position occupied in the state institution: .....

Any other particulars:  
.....  
.....  
.....  
.....  
.....

SECTION B Part 3: Declaration of Interest

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- 2.7.2 If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? **YES / NO**
- 2.7.2.1 If yes, did you attached proof of such authority to the bid document? **YES / NO**
- (Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.
- 2.7.2.2 If no, furnish reasons for non-submission of such proof:
- .....
- .....
- .....
- .....
- .....
- .....
- 2.8 Did you or your spouse, or any of the company's directors / trustees / shareholders / members or their spouses conduct business with the state in the previous twelve months? **YES / NO**
- 2.8.1 If so, furnish particulars:
- .....
- .....
- .....
- .....
- .....
- .....
- 2.9 Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? **YES / NO**
- 2.9.1 If so, furnish particulars.
- .....
- .....
- .....
- 2.10 Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other bidder and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? **YES/NO**
- 2.10.1 If so, furnish particulars.
- .....
- .....
- .....
- 2.11 Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract? **YES/NO**
- 2.11.1 If so, furnish particulars:
- .....
- .....
- .....
- .....
- .....
- .....

SECTION B Part 3: Declaration of Interest

3 Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Tax Reference Number	State Employee Number/ Persal Number	Youth Ownership %	Black Ownership %	Women Ownership %
TOTAL OWNERSHIP PERCENTAGE				%	%	%

Please provide a separate annexure to provide full details of the list of directors / trustees / members / shareholders. In case of trustees, joint venture, consortium and sub-contractor the details of ownership of the company should be provided with the bid document.

SECTION B Part 3: Declaration of Interest

---

4    DECLARATION

I, THE UNDERSIGNED (NAME).....

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.

**I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.**

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of bidder

May 2011

## SECTION B Part 4: Declaration Of Bidder's past SCM Practices

## DECLARATION OF BIDDER'S PAST SUPPLY CHAIN MANAGEMENT PRACTICES

- 1 This declaration will be used by institutions to ensure that when goods and services are being procured, all reasonable steps are taken to combat the abuse of the supply chain management system.
- 2 The bid of any bidder may be disregarded if that bidder, or any of its directors have:
- a. abused NERSA's supply chain management system;
  - b. committed fraud or any other improper conduct in relation to such system; or
  - c. failed to perform on any previous contract.
- 3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

Item	Question	Yes	No
3.1	Is the bidder or any of its directors listed on the National Treasury's database as companies or persons prohibited from doing business with the public sector? <b>(Companies or persons who are listed on this database were informed in writing of this restriction by the National Treasury after the <i>audi alteram partem</i> rule was applied).</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.1.1	If so, furnish particulars:		
3.2	Is the bidder or any of its directors listed on the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004)? <b>To access the Register enter the National Treasury's website, <a href="http://www.treasury.gov.za">www.treasury.gov.za</a> click on the icon "Register for Tender Defaulters" or submit your written request for a hard copy of the Register to facsimile number 012-3265445.</b>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.2.1	If so, furnish particulars:		
3.3	Was the bidder or any of its directors convicted by a court of law (including a court outside of the Republic of South Africa) for fraud or corruption during the past five years?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.3.1	If so, furnish particulars:		
3.4	Was any contract between the bidder and any organ of state terminated during the past five years on account of failure to perform on or comply with the contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3.4.1	If so, furnish particulars:		

### CERTIFICATION

I, THE UNDERSIGNED (FULL NAME) .....  
CERTIFY THAT THE INFORMATION FURNISHED ON THIS DECLARATION FORM IS TRUE AND CORRECT.

I ACCEPT THAT, IN ADDITION TO CANCELLATION OF A CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.

Signature .....

Date .....

Position .....

Name of Bidder .....

## PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2011

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Broad-Based Black Economic Empowerment (B-BBEE) Status Level of Contribution.

**NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF B-BBEE, AS PRESCRIBED IN THE PREFERENTIAL PROCUREMENT REGULATIONS, 2011.**

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### 1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to all bids:

The 80/20 system for requirements with a Rand Value equal to or above R30 000 and up to R50 million (all applicable taxes included).

1.2 Preference points for this bid shall be awarded for:

- (a) Price;
- (b) B-BBEE Status Level of Contribution; and
- (c) Financial Sustainability

1.3 The maximum points for this bid are allocated as follows:

#### POINTS

1.3.1 PRICE 80

1.3.2 B-BBEE STATUS LEVEL OF CONTRIBUTION 20

Total points for Price and B-BBEE must not exceed 100

1.4 Failure on the part of a bidder to fill in and/or to sign this form and submit a B-BBEE Verification Certificate from a Verification Agency accredited by the South African Accreditation System (SANAS) or a Registered Auditor approved by the Independent Regulatory Board of Auditors (IRBA) or an Accounting Officer as contemplated in the Close Corporation Act (CCA) together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

1.5. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

### 2. DEFINITIONS

2.1 “**all applicable taxes**” includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies;

2.2 “**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad -Based Black Economic Empowerment Act;



- 2.3 **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
- 2.4 **“bid”** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods, through price quotations, advertised competitive bidding processes or proposals;
- 2.5 **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- 2.6 **“comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration;
- 2.7 **“consortium or joint venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
- 2.8 **“contract”**Error! Bookmark not defined. means the agreement that results from the acceptance of a bid by an organ of state;
- 2.9 **“EME”** means any enterprise with an annual total revenue of R5 million or less.
- 2.10 **“Firm price”** means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;
- 2.11 **“functionality”** means the measurement according to predetermined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder;
- 2.12 **“non-firm prices”** means all prices other than “firm” prices;
- 2.13 **“person”** includes a juristic person;
- 2.14 **“rand value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties;
- 2.15 **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
- 2.16 **“total revenue”** bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the *Government Gazette* on 9 February 2007;

- 2.17 **“trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
- 2.18 **“trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

### **3. ADJUDICATION USING A POINT SYSTEM**

- 3.1 The bidder obtaining the highest number of total points will be awarded the contract.
- 3.2 Preference points shall be calculated after prices have been brought to a comparative basis taking into account all factors of non-firm prices and all unconditional discounts;
- 3.3 Points scored must be rounded off to the nearest 2 decimal places.
- 3.4 In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for B-BBEE.
- 3.5 However, when functionality is part of the evaluation process and two or more bids have scored equal points including equal preference points for B-BBEE, the successful bid must be the one scoring the highest score for functionality.
- 3.6 Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

### **4. POINTS AWARDED FOR PRICE**

#### **4.1 THE 80/20 PREFERENCE POINT SYSTEMS**

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

#### **80/20**

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

### **5. POINTS AWARDED FOR B-BBEE STATUS LEVEL OF CONTRIBUTION**

- 2.1.1 Points to be awarded to a bidder based on his or her B-BBEE status of level of Contribution. E.g. Level 1 contributor would receive 20 points whilst level 4 contributor would receive 12 points out of a maximum of 20 points as follows.

## SECTION B Part 5: Preference Points Claim Form (Purchases) and Declaration Certificate for Local Production and Content for Designated Sectors Form

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 5.2 Bidders who qualify as EMEs in terms of the B-BBEE Act must submit a certificate issued by an Accounting Officer as contemplated in the CCA or a Verification Agency accredited by SANAS or a Registered Auditor. Registered auditors do not need to meet the prerequisite for IRBA's approval for the purpose of conducting verification and issuing EMEs with B-BBEE Status Level Certificates.
- 5.3 Bidders other than EMEs must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by a Registered Auditor approved by IRBA or a Verification Agency accredited by SANAS.
- 5.4 A trust, consortium or joint venture, will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 5.5 A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate bid.
- 5.6 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 5.7 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.
- 5.8 A person 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 B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capability and ability to execute the sub-contract.

## 6. BID DECLARATION

6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

## 7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.3.1.2 AND 5.1

7.1 B-BBEE Status Level of Contribution: ..... = ..... (Maximum of 20 points)  
(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA).

## 8. SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted? YES / NO (delete which is not applicable)

8.1.1 If yes, indicate:

(i) what percentage of the contract will be subcontracted? .....%

(ii) the name of the sub-contractor? .....

(iii) the B-BBEE status level of the sub-contractor? .....

(iv) whether the sub-contractor is an EME? YES / NO (delete which is not applicable)

## 9. DECLARATION WITH REGARD TO COMPANY/FIRM

9.1 Name of firm : .....

9.2 VAT registration number: .....

9.3 Company registration number: .....

9.4 TYPE OF COMPANY/ FIRM

☐ Partnership/Joint Venture / Consortium

☐ One person business/sole propriety

☐ Close corporation

☐ Company

☐ (Pty) Limited

[TICK APPLICABLE BOX]

9.5 DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

.....

.....

## 9.6 COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

## 9.7 MUNICIPAL INFORMATION

Municipality where business is situated .....

Registered Account Number.....

Stand Number.....

## 9.8 Total number of years the company/firm has been in business? .....

## 9.9 I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contribution indicated in paragraph 7 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- (i) The information furnished is true and correct;
- (ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- (iii) In the event of a contract being awarded as a result of points claimed as shown in paragraph 7, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- (iv) If the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
  - (a) disqualify the person from the bidding process;
  - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
  - (d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

SECTION B Part 5: Preference Points Claim Form (Purchases) and Declaration Certificate for Local Production and  
Content for Designated Sectors Form

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(e) forward the matter for criminal prosecution

Signature(s) of Bidder(s): \_\_\_\_\_ Date: \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

WITNESSES: 1. \_\_\_\_\_ 2. \_\_\_\_\_

## **DECLARATION CERTIFICATE FOR LOCAL PRODUCTION AND CONTENT FOR DESIGNATED SECTORS**

This Standard Bidding Document (SBD) must form part of all bids invited. It contains general information and serves as a declaration form for local content (local production and local content are used interchangeably).

Before completing this declaration, bidders must study the General Conditions, Definitions, Directives applicable in respect of Local Content as prescribed in the Preferential Procurement Regulations, 2011, the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:2011 (Edition 1) and the Guidance on the Calculation of Local Content together with the Local Content Declaration Templates [Annex C (Local Content Declaration: Summary Schedule), D (Imported Content Declaration: Supporting Schedule to Annex C) and E (Local Content Declaration: Supporting Schedule to Annex C)].

### **1. General Conditions**

- 1.1. Preferential Procurement Regulations, 2011 (Regulation 9) makes provision for the promotion of local production and content.
- 1.2. Regulation 9.(1) prescribes that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 1.3. Where necessary, for bids referred to in paragraph 1.2 above, a two stage bidding process may be followed, where the first stage involves a minimum threshold for local production and content and the second stage price and B-BBEE.
- 1.4. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- 1.5. The local content (LC) expressed as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286:2011 as follows:

$$LC = [1 - x / y] * 100$$

Where

x is the imported content in Rand

y is the bid price in Rand excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by South African Reserve Bank (SARB) at 12:00 on the date of advertisement of the bid as indicated in paragraph 4.1 below.

**The SABS approved technical specification number SATS 1286:2011 is accessible on [http://www.dti.gov.za/industrial\\_development/ip.jsp](http://www.dti.gov.za/industrial_development/ip.jsp) at no cost.**

**1.6 A bid may be disqualified if –**

- (a) this Declaration Certificate and the Annex C (Local Content Declaration: Summary Schedule) are not submitted as part of the bid documentation; and
- (b) the bidder fails to declare that the Local Content Declaration Templates (Annex C, D and E) have been audited and certified as correct.

**2. Definitions**

- 2.1. **“bid”** includes written price quotations, advertised competitive bids or proposals;
- 2.2. **“bid price”** price offered by the bidder, excluding value added tax (VAT);
- 2.3. **“contract”** means the agreement that results from the acceptance of a bid by an organ of state;
- 2.4. **“designated sector”** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;
- 2.5. **“duly sign”** means a Declaration Certificate for Local Content that has been signed by the Chief Financial Officer or other legally responsible person nominated in writing by the Chief Executive, or senior member / person with management responsibility(close corporation, partnership or individual).
- 2.6. **“imported content”** means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad (this includes labour or intellectual property costs), plus freight and other direct importation costs, such as landing costs, dock duties, import duty, sales duty or other similar tax or duty at the South African port of entry;
- 2.7. **“local content”** means that portion of the bid price which is not included in the imported content, provided that local manufacture does take place;
- 2.8. **“stipulated minimum threshold”** means that portion of local production and content as determined by the Department of Trade and Industry; and
- 2.9. **“sub-contract”** means the primary contractor’s assigning, leasing, making out work to, or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.

**3. The stipulated minimum threshold(s) for local production and content (refer to Annex A of SATS 1286:2011) for this bid is/are as follows:**

<u>Description of services, works or goods</u>	<u>Stipulated minimum threshold</u>
_____	_____ %
_____	_____ %
_____	_____ %



SECTION B Part 5: Preference Points Claim Form (Purchases) and Declaration Certificate for Local Production and Content for Designated Sectors Form

4. Does any portion of the services, works or goods offered have any imported content?  
(**Tick applicable box**)

YES		NO	
-----	--	----	--

- 4.1 If yes, the rate(s) of exchange to be used in this bid to calculate the local content as prescribed in paragraph 1.5 of the general conditions must be the rate(s) published by SARB for the specific currency at 12:00 on the date of advertisement of the bid.

The relevant rates of exchange information is accessible on [www.reservebank.co.za](http://www.reservebank.co.za). Indicate the rate(s) of exchange against the appropriate currency in the table below (refer to Annex A of SATS 1286:2011):

Currency	Rates of exchange
US Dollar	
Pound Sterling	
Euro	
Yen	
Other	

NB: Bidders must submit proof of the SARB rate (s) of exchange used.

5. Were the Local Content Declaration Templates (Annex C, D and E) audited and certified as correct?  
(**Tick applicable box**)

YES		NO	
-----	--	----	--

- 5.1. If yes, provide the following particulars:

- (a) Full name of auditor: .....
- (b) Practice number: .....
- (c) Telephone and cell number: .....
- (d) Email address: .....

(Documentary proof regarding the declaration will, when required, be submitted to the satisfaction of the Accounting Officer / Accounting Authority)

6. Where, after the award of a bid, challenges are experienced in meeting the stipulated minimum threshold for local content the dti must be informed accordingly in order for the dti to verify and in consultation with the AO/AA provide directives in this regard.

**LOCAL CONTENT DECLARATION**  
**(REFER TO ANNEX B OF SATS 1286:2011)**

**LOCAL CONTENT DECLARATION BY CHIEF FINANCIAL OFFICER OR OTHER LEGALLY RESPONSIBLE PERSON NOMINATED IN WRITING BY THE CHIEF EXECUTIVE OR SENIOR MEMBER/PERSON WITH MANAGEMENT RESPONSIBILITY (CLOSE CORPORATION, PARTNERSHIP OR INDIVIDUAL)**

**IN RESPECT OF BID NO. ....**

**ISSUED BY:** (Procurement Authority / Name of Institution):  
 ....

NB

1 The obligation to complete, duly sign and submit this declaration cannot be transferred to an external authorized representative, auditor or any other third party acting on behalf of the bidder.

2 Guidance on the Calculation of Local Content together with Local Content Declaration Templates (Annex C, D and E) is accessible on [http://www.dti.gov.za/industrial\\_development/ip.jsp](http://www.dti.gov.za/industrial_development/ip.jsp). Bidders should first complete Declaration D. After completing Declaration D, bidders should complete Declaration E and then consolidate the information on Declaration C. **Declaration C should be submitted with the bid documentation at the closing date and time of the bid in order to substantiate the declaration made in paragraph (c) below.** Declarations D and E should be kept by the bidders for verification purposes for a period of at least 5 years. The successful bidder is required to continuously update Declarations C, D and E with the actual values for the duration of the contract.

I, the undersigned, ..... (full names),

do hereby declare, in my capacity as .....

of ..... (name of bidder entity), the following:

(a) The facts contained herein are within my own personal knowledge.

(b) I have satisfied myself that:

(i) the goods/services/works to be delivered in terms of the above-specified bid comply with the minimum local content requirements as specified in the bid, and as measured in terms of SATS 1286:2011; and

(ii) the declaration templates have been audited and certified to be correct.

(c) The local content percentage (%) indicated below has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E which has been consolidated in Declaration C:

Bid price, excluding VAT (y)	R
Imported content (x), as calculated in terms of SATS 1286:2011	R
Stipulated minimum threshold for local content (paragraph 3 above)	
Local content %, as calculated in terms of SATS 1286:2011	

**If the bid is for more than one product, the local content percentages for each product contained in Declaration C shall be used instead of the table above.**

SECTION B Part 5: Preference Points Claim Form (Purchases) and Declaration Certificate for Local Production and Content for Designated Sectors Form

**The local content percentages for each product has been calculated using the formula given in clause 3 of SATS 1286:2011, the rates of exchange indicated in paragraph 4.1 above and the information contained in Declaration D and E.**

(d) I accept that the Procurement Authority / Institution has the right to request that the local content be verified in terms of the requirements of SATS 1286:2011.

(e) I understand that the awarding of the bid is dependent on the accuracy of the information furnished in this application. I also understand that the submission of incorrect data, or data that are not verifiable as described in SATS 1286:2011, may result in the Procurement Authority / Institution imposing any or all of the remedies as provided for in Regulation 13 of the Preferential Procurement Regulations, 2011 promulgated under the Preferential Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000).

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**WITNESS No. 1** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**WITNESS No. 2** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**SECTOR DESIGNATION****STIPULATED MINIMUM THRESHOLD LOCAL CONTENT**

<b>Designated Sector</b>	<b>Stipulated minimum threshold</b>
Textile, Clothing, Leather and Footwear	100%
Top set, top boxes	30%
Electrical and Telecom cables:	90%
<b>Electrical cables used for power transmission</b>	
Low Voltage	90%
Low cost reticulation	90%
Medium & High voltage	90%
ACR	90%
<b>Telecom cables used for telecommunication:</b>	
Optical Fibre cables	90%
Copper Telecom cables	90%
<b>Office Furniture:</b>	85%
Melamine office desk with drawers	70%
Office desk (drawers) with timber top on steel frame	90%
Office desk (drawers) with supawood (MDF) top on steel frame	90%
Melamine/Paper foil office desk with drawers	70%
Stacker upholstered chair – 4 legged without arms	100%
Stacker upholstered chair – sleigh base with arms	70%
High back upholstered chair with arms on 5 star base	65%
Steel stationery cupboard	100%
Steel drawer(s) filing cabinet	100%
Wood stationery cupboard	100%
Wood drawer(s) filing cabinet	100%
The amendment of the stipulated minimum threshold for local production and content is not allowed.	
Only bidders that achieved the stipulated minimum threshold for local production and content will be considered for evaluation purposes.	
The declaration certificate for local production and content for designated sectors together with Annex C, D and E must be completed, duly signed and submitted as part of the bid.	
The successful bidder's copies of the declaration certificate for local production and content for designated sectors together with Annex C, D and E will be provided to The dti to conduct compliance audits.	
The dti has the right, as and when necessary, to request for auditors certificates confirming the authenticity of the declarations made in respect of local content.	

## INVITATION TO BID PART A

### YOU ARE HEREBY INVITED TO BID FOR REQUIREMENT OF NERSA

BID NUMBER	<b>NERSA/2122/EIP/EDRP/BID/014</b>	CLOSING DATE	<b>23 SEPTEMBER 2021</b>	CLOSING TIME	<b>11:00</b>
DESCRIPTION	<b>THE APPOINTMENT OF A COMPETENT SERVICE PROVIDER TO ASSIST WITH THE REVIEW OF THE THREE ASPECTS OF THE TARIFF METHODOLOGY; NAMELY, WACC COMPONENTS, EFFICIENCY BENCHMARKING AND VOLUME RULES WITHIN THREE MONTHS (90 DAYS).</b>				
VALIDITY	Offer to be valid for 120 ( <b>28 APRIL 2021</b> ) days from the closing date ( <b>23 SEPTEMBER 2021</b> ).				

**The successful bidder will be required to fill in and sign a written Contract Form**

BID DOCUMENTS MAY BE:

DEPOSITED IN THE BID/TENDER BOX SITUATED AT  
(Street address)

**NERSA, Kulawula House, 526 Madiba  
(Vermeulen) Street, Arcadia, Pretoria**

OR

\* POSTED TO:

**The Procurement Manager, NERSA, PO Box  
40343, Arcadia, 0007, South Africa**

OR

HANDED IN AT RECEPTION SITUATED AT  
(Street address)

**NERSA, Kulawula House, 526 Madiba  
(Vermeulen) Street, Arcadia, Pretoria, prior to  
the official closure time and the bidder must  
obtain a receipt, indicating the time of  
delivery, from the receptionist.**

***No faxed or e-mailed bids will be accepted***

**Bidders should ensure that bids are delivered to NERSA before the closing date and time to the correct physical address. If the bid is late, it will not be accepted for consideration.**

**\* Refer to Paragraph 6 of the "Special Conditions of Bid and Contract: Portion 1".**

- ☐ Bids can be delivered and deposited into the bid / tender box between 08:00 and 16:30, Mondays to Thursdays and 08:00 to 16:00 on Fridays, prior to the closing date, and between 08:30 and 11:00 on the closing date.
- ☐ All bids must be submitted on the official forms (not to be re-typed).
- ☐ This bid is subject to the General Conditions of Contract (GCC) and, if applicable, any other Special Conditions of Contract.
- ☐ Bids submitted that do not comply with the following may not be considered for evaluation:
  - A bid that is not in the format prescribed.
  - A bid without some or all of the required documents.
  - Pricing schedules not in the required format.
  - Bids without the required number of copies.
- ☐ Any queries regarding bidding procedures and technical information may be directed to:
  - e-Mail: [scm@nersa.org.za](mailto:scm@nersa.org.za)
  - Tel.: 012 401 4795 / 012 401 4696 /
  - Fax: 012 401 4700

## SECTION B Part 6: Invitation to Bid

<b>YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF THE (NAME OF DEPARTMENT/ PUBLIC ENTITY)</b>					
BID NUMBER:	<b>NERSA/2122/EIP/EDRP/BID/014</b>		CLOSING DATE:	<b>23 SEPTEMBER 2021</b>	CLOSING TIME: <b>11:00</b>
DESCRIPTION	<b>THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN AUDIT OF THE ESKOM DEMAND RESPONSE PROGRAMME UNDER INTEGRATED DEMAND MANAGEMENT FOR THE 2018/19 AND 2019/20 FINANCIAL YEARS.</b>				
<b>BID RESPONSE DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT NERSA, KULAWULA HOUSE, 526 MADIBA (VERMEULEN) STREET, ARCADIA, PRETORIA</b>					
<b>BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO</b>			<b>TECHNICAL ENQUIRIES MAY BE DIRECTED TO:</b>		
CONTACT PERSON			CONTACT PERSON		
TELEPHONE NUMBER			TELEPHONE NUMBER		
FACSIMILE NUMBER			FACSIMILE NUMBER		
E-MAIL ADDRESS			E-MAIL ADDRESS		
<b>SUPPLIER INFORMATION</b>					
NAME OF BIDDER					
POSTAL ADDRESS					
STREET ADDRESS					
TELEPHONE NUMBER	CODE		NUMBER		
CELLPHONE NUMBER					
FACSIMILE NUMBER	CODE		NUMBER		
E-MAIL ADDRESS					
VAT REGISTRATION NUMBER					
SUPPLIER COMPLIANCE STATUS	TAX COMPLIANCE SYSTEM PIN:		OR	CENTRAL SUPPLIER DATABASE No:	MAAA
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No		B-BBEE STATUS LEVEL SWORN AFFIDAVIT		[TICK APPLICABLE BOX]  <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES &amp; QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE]</b>					
ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES ENCLOSE PROOF]		ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?		<input type="checkbox"/> Yes <input type="checkbox"/> No [IF YES, ANSWER THE QUESTIONNAIRE BELOW ]
<b>QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS</b>					
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)?					<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A BRANCH IN THE RSA?					<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA?					<input type="checkbox"/> YES <input type="checkbox"/> NO
DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA?					<input type="checkbox"/> YES <input type="checkbox"/> NO
IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION?					<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 2.3 BELOW.</b>					

## **PART B**

### **TERMS AND CONDITIONS FOR BIDDING**

<b>1. BID SUBMISSION:</b>
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION.
1.2. <b>ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR IN THE MANNER PRESCRIBED IN THE BID DOCUMENT.</b>
1.3. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.
1.4. <b>THE SUCCESSFUL BIDDER WILL BE REQUIRED TO FILL IN AND SIGN A WRITTEN CONTRACT FORM (SBD7).</b>
<b>2. TAX COMPLIANCE REQUIREMENTS</b>
2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VERIFY THE TAXPAYER'S PROFILE AND TAX STATUS.
2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) PIN MAY BE MADE VIA E-FILING THROUGH THE SARS WEBSITE WWW.SARS.GOV.ZA.
2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS CERTIFICATE TOGETHER WITH THE BID.
2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE TCS CERTIFICATE / PIN / CSD NUMBER.
2.6 WHERE NO TCS PIN IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED.
2.7 NO BIDS WILL BE CONSIDERED FROM PERSONS IN THE SERVICE OF THE STATE, COMPANIES WITH DIRECTORS WHO ARE PERSONS IN THE SERVICE OF THE STATE, OR CLOSE CORPORATIONS WITH MEMBERS PERSONS IN THE SERVICE OF THE STATE."

**NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.**

SIGNATURE OF BIDDER: .....

CAPACITY UNDER WHICH THIS BID IS SIGNED: .....  
(Proof of authority must be submitted e.g. company resolution)

DATE: .....

## **TECHNICAL PROPOSAL**

Submit a detailed a project plan which must include the technical approach and methodology to be used, and demonstrate innovation to audit Demand Response (DR) programme funds under Integrated Demand Management (IDM).



## EXPERIENCE IN THIS FIELD

The bidder should demonstrate experience and expertise in undertake the audit Demand Response (DR) programme funds under Integrated Demand Management (IDM) that must be submitted in the following format:

Nr	Name of Institution	Description of services	Value of contract	Date of Contract	Contact Details
1					Name: ..... Tel: ..... Email: .....
2					Name: ..... Tel: ..... Email: .....
3					Name: ..... Tel: ..... Email: .....
4					Name: ..... Tel: ..... Email: .....
5					Name: ..... Tel: ..... Email: .....
6					Name: ..... Tel: ..... Email: .....
7					Name: ..... Tel: ..... Email: .....
8					Name: ..... Tel: ..... Email: .....
9					Name: ..... Tel: ..... Email: .....
10					Name: ..... Tel: ..... Email: .....

*Please include a separate annexure to provide full details. Bidders are not limited to providing ten (10) projects (experience).*

SECTION B Part 9: Team Details (CV Template Guideline )

## CV TEMPLATE GUIDELINE

1. **Family name** \_\_\_\_\_
2. **First name:** \_\_\_\_\_
3. **Date of birth:** \_\_\_\_\_
4. **Nationality** \_\_\_\_\_
5. **Education/Key qualifications**

Institution (Date from - Date to)	Degree(s) or Diploma(s) obtained

6. **Membership of professional bodies** \_\_\_\_\_
7. **Other skills (e.g. computer literacy, etc.)** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
8. **Present position and minimum role in the project:** \_\_\_\_\_
9. **Years within the organisation:** \_\_\_\_\_
10. **Years of experience/skills:** \_\_\_\_\_

11. **Description of similar projects with contactable references**

<b>Date (From – To) (mm/yy)</b>	
<b>Organisation</b>	
<b>Position</b>	
<b>Responsibilities</b>	
<b>Description of similar projects</b>	
<b>Contact details of reference</b>	
<b>Name</b>	
<b>Tel</b>	
<b>Email</b>	

<b>Date (From – To) (mm/yy)</b>	
<b>Organisation</b>	
<b>Position</b>	
<b>Responsibilities</b>	
<b>Description of similar projects</b>	
<b>Contact details of reference</b>	
<b>Name</b>	
<b>Tel</b>	
<b>Email</b>	

SECTION B Part 10: Pricing Schedule

## PRICING SCHEDULE

(Services: Professional)

NAME OF BIDDER: **NERSA/2122/EIP/EDRP/BID/014**

OFFER TO BE VALID FOR 120 (**21 FEBRUARY 2022**) DAYS FROM THE CLOSING DATE OF BID: **23 SEPTEMBER 2021**

BID DESCRIPTION: **THE APPOINTMENT OF A SERVICE PROVIDER TO CONDUCT AN AUDIT OF THE ESKOM DEMAND RESPONSE PROGRAMME UNDER INTEGRATED DEMAND MANAGEMENT FOR THE 2020/21 FINANCIAL YEAR**

**PAR NO    DESCRIPTION**

1        The accompanying information must be used for the formulation of proposals.

2        Bidders must indicate a **ceiling price** for the contract duration of three months (90 days) inclusive of all activities associated with resources as per the scope of work/deliverables, as well as travel and disbursements costs all the activities associated with resources to render services as follows.

**COSTING TABLE**

DESCRIPTION OF SERVICES	TOTAL COST PER MONTH (EXCL. VAT)	TOTAL COST PER MONTH (INCL. VAT)	TOTAL CEILING PRICE FOR THREE (3) MONTHS (Incl. VAT)
	R.....	R.....	R.....

3        NERSA will only accept **firm prices** for the whole duration of the contract period in terms of this bid. Non-firm prices will not be considered (prices linked to industry price increase or rates of exchange) and such charges must be discounted into the bid price. The financial proposal should be inclusive of all activities cost's breakdown as per the project scope.

4        Are the rates quoted firm for the full period of the contract? **No additional costs will be admitted.** **YES/NO**

5        Are the rates quoted regulated by any professional body (Institutes or Associates)? **YES/NO**

6        **The financial proposal/pricing schedule must be submitted separately in a sealed envelope,**

## **CERTIFICATE OF INDEPENDENT BID DETERMINATION**

- 1 This Standard Bidding Document (SBD) must form part of all bids<sup>1</sup> invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).<sup>2</sup> Collusive bidding is a *per se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
  - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
  - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

<sup>1</sup> Includes price quotations, advertised competitive bids, limited bids and proposals.

<sup>2</sup> Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

## CERTIFICATE OF INDEPENDENT BID DETERMINATION

I, the undersigned, in submitting the accompanying bid:

\_\_\_\_\_  
(Bid Number and Description)

in response to the invitation for the bid made by:

\_\_\_\_\_  
(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: \_\_\_\_\_ that:  
(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
  - (a) has been requested to submit a bid in response to this bid invitation;
  - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
  - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder

SECTION B Part 11: Certificate of independence

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6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium<sup>3</sup> will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
- (a) prices;
  - (b) geographical area where product or service will be rendered (market allocation)
  - (c) methods, factors or formulas used to calculate prices;
  - (d) the intention or decision to submit or not to submit, a bid;
  - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
  - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

<sup>3</sup> Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

SECTION B Part 11: Certificate of independence

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10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....  
Signature

.....  
Date

.....  
Position

.....  
Name of Bidder

Js914w 2