

PRESENTATION BID NUMBER: NERSA/2122/PPR/PRP/BID006

SUPPLY CHAIN MANAGEMENT PROCESSES	
BID NUMBER:	NERSA/2122/PPR/PRP/BID006
BID DESCRIPTION:	The appointment of a panel of service provider(s) to assist the National Energy Regulator of South Africa (NERSA 'or the Energy Regulator') with performing prudency reviews on petroleum pipeline, storage and loading facilities over a period of 5 years using the NERSA Guidelines for Prudency Assessment.
PUBLISH DATE:	11 June 2021
NON-COMPULSORY VIRTUAL BRIEFING SESSIONS	21 June 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 by 21 June 2021 at 09:00 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.
CLOSING DATE:	01 July 2021 at 11h00 as per the official Telkom time (Dial 1026). Late bids would not be accepted by NERSA under any circumstances. Bidders must ensure that bids be despatched allowing enough time for any unforeseen events that may delay the delivery of the bid.
VALIDITY PERIOD:	29 October 2021 (120 days from the closing date).
CLARIFICATIONS/ QUERIES	Bidders are welcomed to send any clarifications/queries from the date of advert to SCM@nersa.org.za up to no later than 12h00 on 22 June 2021 and should quote the bid reference number on the email. A reply to all questions will be forwarded on 23 June 2021 with answers.
BID DOCUMENT AVAILABILITY	NERSA website (www.nersa.org.za) by taking the following route: Homepage>Procurement>Published tenders>Open tenders. It can also be obtained electronically, on request by e-mail at SCM@nersa.org.za . Strictly no telephonic enquiries.
BID RESPONSES MUST BE HAND DELIVERED TO, ADDRESS	The Procurement Manager NERSA, (Reception Area) Kulawula House, 526 Madiba (Vermeulen) Street, Arcadia, Pretoria <ul style="list-style-type: none"> • Bidders will be required to observe NERSA's COVID 19 protocols when entering the building. • A strict policy of "No mask, no entry" will be maintained for the safety of all NERSA stakeholders. • Bidders must maintain a minimum of 1, 5 meters social distancing from any other person encountered in the building.
SUBMITTING BIDS	Bidders must submit one (1) original of the bid document plus one (1) CD or memory stick that contains the duplicate of the original submission. NB: Bidder(s) will be disqualified for failing to submit the original plus one (1) CD/memory stick. Failure to include <u>all attachments</u> in the CD/memory stick will result in automatic disqualification. Bidder(s) will also be disqualified for submitting a blank CD/memory stick. (Page 5 of the bid document - <i>Bid submission conditions and instructions</i>).
EVALUATION CRITERIA	Bidders should draft their proposals to address the functional evaluation criteria on page 13-14 of the bid document – (<i>Evaluation Criteria</i>). Bidders must also provide the most recent signed and Audited Financial Statements of the company not older than three (3) years.

PRESENTATION BID NUMBER: NERSA/2122/PPR/PRP/BID006

<p>BID EVALUATION STAGES</p>	<p><u>Stage 1 Pre-qualification criteria for preferential procurement</u></p> <p>Bidders must have must have a B-BBEE status of level 3 contributor or must have A B-BBEE Improvement Plan In order to qualify to be accepted for evaluation.</p> <p><u>Stage 2 Compliance with minimum requirements</u></p> <p>Bidders will be examined to determine compliance with the bid requirements and conditions. Bidders must submit the following documents in order to comply with the bidding requirements:</p> <ul style="list-style-type: none"> • 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. In bids where consortia / joint ventures / sub-contractors are involved, each party must submit a separate proof of TCS / pin / CSD Number. • 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. In case of a consortium / joint venture, a consolidated B-BBEE certificate should be submitted. • 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. <p>Non-compliant bidders may be eliminated from further evaluation on functionality.</p> <p><u>Stage 3 Functionality evaluation</u></p> <p>All bidders who score less than 60% (which is 60 points out of 100 points) on functionality will be regarded as non-compliant and will not be considered to serve on panel of service provider(s) for the provision of Prudency Assessment.</p>
<p>GCC</p>	<p>This bid is subjected to the General Conditions of Contract (GCC). Bids should not be qualified by own terms & conditions. Failure to withdraw, waive or to renounce the bidder's own terms and conditions of bid, when called upon to do so may invalidate the bid.</p>

PRESENTATION BID NUMBER: NERSA/2122/PPR/PRP/BID006

**RULES FOR
VIRTUAL
BRIEFING
SESSION**

- *Keep your video camera off at all times during the meeting,*
- *Please use your mic icon to select mute or unmute. It is recommended that mics be on mute unless the participant is allowed to speak. This is to ensure that there is no audio feedback, which makes it difficult for the other meeting participants to hear the person who is speaking,*
- *Participants are discouraged from connecting into two devices as this also gives bad audio feedback,*
- *To get the attention of the presiding officer (Chairperson), you must raise your hand and once permitted to speak unmute your mic and mute at the end of your input,*
- *Immediately after you have made your input, always ensure that your hand is lowered to avoid a lingering hand thus confusing the presiding officer (Chairperson),*
- *During the time that you are speaking avoid making irrelevant comments, be precise and to the point in order to save time,*
- *Ensure that you have the necessary supporting documents such as the bid documents to be able to respond to questions for clarity without delay, where applicable,*

The use of the chatroom

- *The chatroom should be used to communicate a message to the Chairperson or the meeting about any matter pertaining to the meeting only;*
- *Private chats should be kept private in the chat room and not be visible to other participants, and*
- *Any comment/statement made in the chat room may constitute the official record of the meeting.*

TECHNICAL REQUIREMENTS – TERMS OF REFERENCE

1. ROLE OF NERSA

- 1.1. The National Energy Regulator of South Africa (NERSA or 'the Energy Regulator') is a regulatory authority established as a juristic person in terms of Section 3 of the National Energy Regulator Act, 2004 (Act No. 40 of 2004). NERSA's mandate is to regulate the electricity, piped-gas and petroleum pipeline industries in terms of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), Gas Act, 2001 (Act No. 48 of 2001) and Petroleum Pipelines Act, 2003 (Act No. 60 of 2003)¹.
- 1.2. In regulating the petroleum pipeline, loading and storage facilities, the Energy Regulator ensures that the most efficient and effective petroleum loading and storage facilities are in place to meet the requirements of existing and future customers. The objectives of the Petroleum Pipelines Act, 2003 (Act No. 60 of 2003) ('the Act'), include *to promote competition in the construction and operation of petroleum pipelines, loading facilities and storage facilities, promote the development of competitive markets for petroleum products and ensure an appropriate supply of petroleum to meet market requirements.*
- 1.3. Some of the activities of the NERSA Petroleum Pipelines Regulation division in terms of the Act include:
 - issuing licences for the construction and operation of petroleum pipelines, storage facilities and loading facilities;
 - setting tariffs for petroleum pipelines; and
 - approving tariffs for storage facilities and loading facilities.

2. BACKGROUND

- 2.1. In terms of section 28(1) of the Act, the Energy Regulator must set, as a condition of a licence, the tariffs to be charged by a licensee in the operation of a petroleum pipeline and approve the tariffs for storage and loading facilities. Section 28(2)(a) of the Act states that the tariffs charged must be based on a systematic methodology applicable on a consistent and comparable basis, fair, non-discriminatory, simple and transparent, predictable and stable, such as to promote access to affordable petroleum products. Section 28(3)(a – c) of the Act further states that the tariffs set or approved must enable the licensee to recover the investment, operate and maintain the system and make a profit commensurate with the risk.
- 2.2. Regulation 4(7)(c) of the Regulations made under the Act ('the Regulations'), states that *the Regulatory Asset Base (RAB) contemplated in Regulation 4(6)(e) must include only those assets that are prudently acquired (emphasis added).*

PRESENTATION BID NUMBER: NERSA/2122/PPR/PRP/BID006

2.3. NERSA wishes to act within the confines of the relevant legislation by ensuring that only 'prudently acquired' assets are included in the RAB for the determination of tariffs. Therefore, on 29 August 2018, NERSA approved the Guidelines for Prudency Assessment ('the NERSA Guidelines'). The NERSA Guidelines are applicable to the three industries regulated by NERSA (i.e. electricity, piped-gas and petroleum pipelines).

3. PURPOSE

3.1. NERSA seeks to appoint the services of qualified and experienced service provider(s) to advise and assist the Energy Regulator with performing prudency reviews on petroleum pipeline, storage and loading facilities licenced by NERSA (hereinafter referred to as licensees) over a period of 5 years using the NERSA Guidelines for Prudency Assessment. Based on the quality of the proposals submitted, NERSA intends selecting at least four service providers with a view to conclude a Memorandum of Agreement with each successful service provider.

4. SCOPE OF WORK

- 4.1. The successful service provider(s) will be placed on the NERSA panel of service provider(s) for the provision of Prudency Assessment.
- 4.2. The service provider(s) listed on the panel will be used as and when a need arises.
- 4.3. The prudency assessment required over a period of 5 years entails the following:
 - a) Conducting prudency reviews on petroleum pipeline, storage and loading facilities procured.
 - b) Conducting prudency reviews on capitalised operating expenditure, borrowing costs and capital expenditure.

5. APPLICABLE LAW

- 5.1. In performing this assignment, the consultant must be familiar with:
- a) the National Energy Regulator Act, 2004(Act No. 40 of 2004);
 - b) the Petroleum Pipelines Act, 2003 (Act No. 48 of 2003);
 - c) the Petroleum Pipelines Regulations (GN R764 Government Gazette No. 39142 of 28 August 2015, as amended);
 - d) Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - e) the NERSA Tariff Methodology for the Petroleum Pipelines Industry);

¹ Hereinafter referred to as the 'Petroleum Pipelines Act' or 'the Act'

- f) the NERSA Tariff Methodology for Petroleum Loading Facilities and Storage Facilities
- g) NERSA Reasons for Decisions – tariff applications processed; and
- h) NERSA Guidelines for Prudency Assessment.

6. DELIVERABLES

6.1. The consultant(s) will be required to provide a written report covering the following:

- a) The consultant's findings from their investigation into the processes followed by licensees in the procurement of the construction services and assets. Investigations may include:
 - i. internal and external audit reports relating to such procurement;
 - ii. Licensees' technical and/or investment committee decisions and/or reviews of the facilities procurement.
- b) The consultant's findings from their investigation into the prudency of the costs of the facilities, using a quantity surveyor or suitably qualified technical adviser's opinion.
- c) The aforementioned investigation should include an assessment of the reasons for cost escalations and to what extent the following were responsible for such cost escalations:
 - i. The contracting strategy employed.
 - ii. Government legislation (such as the National Key Points Act), regulation, directives or instructions.
 - iii. Licensees' capabilities, at different stages during the life of the contracts, to manage such contracts.
 - iv. Risk mitigation measures put in place by licensees in managing the contracts.
 - v. The appropriateness of penalty clauses in contracts, including penalties payable by licensees for cancellation of contracts.
- d) The manner in which contract(s) dealt with or failed to deal with cost escalations due to unforeseen occurrences such as terrain obstacles, geotechnical challenges and other unforeseen costs.
- e) The manner in which contract(s) dealt with or failed to deal with risk allocation to a licensee and to the contractor concerned and whether these risk allocations were normal and prudent in the industry.
- f) The outcome of the study is to be supported by excel spreadsheets quantifying the impact of the findings of the study.
- g) The report to provide expert opinion on the implementation of the guidelines and other related documents.

7. PROCESS TO BE FOLLOWED ONCE THE PANEL IS ESTABLISHED

- 7.1. The following procedure will be followed to select a service provider from the Panel when the need for a prudency review arises.
- 7.1.1. A request for proposal (RFP) will be sent to the service providers on the approved panel
 - 7.1.2. Service Providers will be requested to respond to the RFP within the timeline stipulated in the RFP.
 - 7.1.3. The proposals will be evaluated in terms of the 80/20 preference points system and the service provider who scores the highest points will be awarded the project.
- 7.2. The selected consultant must, before commencing work, present to NERSA its proposed work plan and consider NERSA's comments thereon.
- 7.3. The consultant must, in completing the task, first provide NERSA with a draft of its report and present it to NERSA. It must consider NERSA's comments on the draft report and then submit a final report. NERSA's comments on the draft report will only relate to the completeness of the report.
- 7.4. The consultant must liaise with NERSA on regular basis to address any issues at hand to avoid project delays and provide progress reports at 30-day intervals from the date of appointment.
- 7.5. The consultant must present its findings per deliverable and final report to the appropriate NERSA subcommittee meeting(s).

8. TIME FRAME

- 8.1. The commitment period will be for a period of five (5) years from the date of signing the Memorandum of Agreement with NERSA upon successful negotiation of the contract. NERSA shall draft the contract to initiate negotiations with the successful bidder(s). The successful service provider(s), shall not commence with any work prior to the conclusion of written agreement. However, each assessment of prudency review is expected to take a period of 270 days (9 months).

Compiled by:

Stanley Radebe

Stanley Radebe (Supply Chain Officer)

Date: 11 JUNE 2021