
**TERMS OF REFERENCE FOR THE APPOINTMENT OF A SERVICE PROVIDER
TO DEVELOP A PROCUREMENT FRAMEWORK FOR 2500MW NUCLEAR NEW
BUILD PROGRAMME, FOR A PERIOD OF 12 WEEKS**

1 BACKGROUND

- 1.1 In October 2019, Cabinet approved the Integrated Resource Plan (IRP2019) of which Decision 8 requires that the Department of Mineral Resources and Energy (DMRE) commence preparations for a nuclear build programme to the extent of 2 500MW at a pace and scale that the country can afford because it is a no-regret option in the long term”.
- 1.2 The IRP2019 proposes that the nuclear power programme must be implemented at an affordable pace, modular and standardised configuration and taking into account technological developments in the nuclear space. The IRP2019 further advocates for energy system requirements with incremental capacity addition (modular) and flexible technology, to complement the existing installed inflexible capacity.
- 1.3 The preparation for Nuclear New Build Programme (NNBP) would be implemented through a number of stages, which are made up of several project phases with specific review gateways / milestones. The first phase is the preparation for the issuance of the Request for Information (RFI). The subsequent roadmap stages are issuance of the Request for Proposal (RFI), Development of Governance Framework through multi-disciplinary structures and the procurement of the NNBP.
- 1.4 In 2020, the DMRE issued an RFI for 2500MW of the NNBP to which positive responses were obtained from a number of nuclear vendor companies. The RFI tested the market on the readiness of the following thematic areas:
- (a) Conventional Nuclear Power Plants (NPP) and Small Modular Reactor Technology (SMR);
 - (b) Costs of nuclear, funding and financing models and ownership models;
 - (c) Project Management and scheduling;
 - (d) Localization and industrialization; and

(e) Siting, permitting, and nuclear safety.

- 1.5 An established Task Team comprising government Departments and State-Owned Entities convened in January 2021 to undertake assessment of the non-binding RFI and produce a consolidated report thereto. The Department envisages that there would be much more certainty on the issuance of the RFP since detailed and binding information would be provided by interested vendor companies at this project stage.
- 1.6 The procurement process for the NNBP will be guided by the RSA Constitution, which prescribes that procurement must be done in such a way that guarantees a fair, equitable, competitive, transparent, and cost-effective process. Other important legislative prescripts that regulate the procurement process and implementation of the Nuclear Programme are the provisions of the Public Finance Management Act, the Preferential Procurement Policy Framework Act, National Treasury Strategic Procurement Framework; the relevant National Treasury Practice Notes, the Electricity Regulation Act No. 4 of 2006, the Nuclear Energy Act No.46 of 1999 , the National Nuclear Regulator Act No.47 of 1999, the Broad-Back Black Economic Empowerment Act and other applicable RSA legislation documents as well as treaties and multi-lateral international agreements in the nuclear field to which RSA is a signatory.
- 1.7 The Ministerial section 34 determination for procurement of 2500MW designated the Department, or any other organ of state, or in partnership with any juristic as the Procurer of the Nuclear New Build Programme. The procurer designated will be responsible to determining the procurement process which will be established through a tendering procedure which is fair, equitable, transparent, competitive and cost effective. The Department seek to fulfil this mandate through the sourcing of a service provider to develop a Nuclear Procurement Process to meet these stated requirements
- 1.8 As part of the roadmap for the 2500MW NNBP is that the department has committed to development of a Nuclear Procurement Framework to guide the procurement process of the programme in line with amongst others the Nuclear Energy Policy of 2008, Eskom's unbundling process and associated roadmap and the concurrence issued by the South African National Energy Regulator in

Confidential

terms of Section 34 of the Electricity Regulation Act of 2006.

2 OBJECTIVES

- 2.1 The study is intended for the development a Nuclear Procurement Framework for the 2500MW of nuclear energy in line with national legislative prescripts and international best practice and taking into account Eskom's unbundling process and further addressing the suspensive conditions set out by the Nersa in the concurrence for 2500MW of nuclear generating capacity issued in August 2021.

3 SCOPE OF WORK

- 3.1. The service provider is expected to deliver the work through four (4) phases with recommendations reports for each phase as follows:
- 3.1.1 **Phase 1** – Analyse the RFI process and reports for the 2500MW NNBP comprising Conventional Nuclear Power Plants (NPP) and Small Modular Reactor Technology (SMR) and drawing lessons learnt and recommendations for procurement approaches for the programme;
- 3.1.2 **Phase 2** – Assess legal framework for procurement in South Africa and integrate with international best practice towards a Procurement for 2500MW of nuclear energy in South Africa;
- 3.1.3 **Phase 3** - Develop governance mechanisms and project management approaches for the procurement of the 2500MW NNBP in line with national legislative prescripts and international best practice and taking into account Eskom's unbundling process;
- 3.1.4 **Phase 4** – Determine optimal funding and financing models and ownership structure;
- 3.1.5 **Phase 5** – Make recommendations on procurement approaches that would maximise on localisation and industrialisation of the 2500MW NNBP.

3.2 The final product would be a collation of each of these phases into a coherent report with recommendations of a Procurement Framework for the 2500 MW NNBP in South Africa. The service provider is expected to review adequately and address the following:

3.2.1 Further assessment and review of the RFI Report for the 2500MW NNBP.

3.2.2 National legislative framework for procurement as well as international best practice for nuclear procurement.

3.2.3 The governance structures and project management and procurement approaches for the 2500MW NNBP.

3.2.4 An optimal funding and financing models, contracting and arrangements for 2500 MW of nuclear power taking into account suspensive conditions from Nersa's Section 34 Ministerial Determination concurrence, as well as the constrained financial situation of Eskom and the fiscus.

3.2.5 Present options for procurement approaches, including a multi-variate full option analysis to derive the most favourable.

3.2.6 Develop a report with recommendations and Nuclear Procurement Framework and Innovative funding approaches for the 2500MW NNBP comprising Conventional Pressurised Water and Small Modular Reactors taking into account the suspensive conditions directed by Nersa.

3.2.7 The service provider will be required to provide legal opinions on the Nuclear Procurement Framework proposed to ensure it is aligned with national legislation and takes into consideration international best practice as well as propose legislative amendments that could ensure the effective implementation of the recommended Procurement Framework for 2500MW of nuclear energy.

4 PAYMENTS

4.1 The Department of Mineral Resources and Energy (DMRE) will not make an upfront payment to a successful service provider. Payments will only be made in accordance with the delivery of service that will be agreed upon by both parties and upon receipt of an original invoice.

Confidential

5 REPORTING REQUIREMENTS AND PROGRESS MEETINGS

- 5.1 It is envisaged that the DMRE will require an initial meeting with the successful service provider to agree on the project process and options to be investigated. Bi-weekly meetings will then follow to discuss the progress of the project until completion.
- 5.2 Progress meeting feedback shall be held as and when necessary, but at least bi-weekly for a period of 12 weeks. The venue for these meetings will be at **Matimba Building, 192 Visagie Street, Pretoria**-the DMRE Head Office (Pretoria). Representatives from the service providers' organisation shall be obliged to attend at their own costs. Where applicable, conference calls shall be held to facilitate such meetings.
- 5.3 Reports shall be submitted to the DMRE prior to the meetings and will be in the form of Microsoft PowerPoint™ slides and Microsoft Word™ reports. Calculation models are to be done in Microsoft Excel™.

6 DOCUMENTATION

- 6.1 For all the identified milestones of the project, the successful service provider shall submit two (2) copies of the reports after completion of each phase. The reports shall be organised in a systematic way, with adequate indexing. The reports shall contain all documents (including reference material) produced including copies of minutes of meetings.
- 6.2 The copyright in the product will vest in DMRE and be presented with its logo, and it will be at liberty to use the report and results as deemed necessary.

7 INFORMATION TO BE SUPPLIED BY THE DEPARTMENT OF MINERAL RESOURCES AND ENERGY

- 7.1 Any information requested by the service provider to perform the services will be subject to discretion of the DMRE to provide such information.
- 7.2 The Department will inform and provide the service provider with any material or information that it deems relevant during the service period.

7.3 Bidders should base their proposal on the grounds that no further information from the DMRE, or related entities would be necessary to perform the service. Note information of the previous study and related financial information referred to in the Scope of Work would be made available where necessary.

8 COMPLETION DATE

8.1 The duration of the project is 12 weeks after signing of the contract with the successful service provider.

9 TAX CLEARANCE CERTIFICATE

9.1 The potential service provider/s must ensure compliance with their tax obligations.

9.2 The potential service provider/s 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.

9.3 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.

9.4 The potential service provider may also submit a printed TCS together with the proposal.

9.5 In proposals where consortia / joint ventures / sub-contractors are involved; each party must submit a separate proof of TCS / pin / CSD number.

9.6 Where no TCS is available but the potential service provider/s is registered on the central supplier database (CSD), a CSD number must be provided.

10 CONFIDENTIALITY OF INFORMATION

10.1 The names, qualifications, and experience of all the members of the service provider team must be disclosed for the prior approval of DMRE. Any changes, replacements and additions should be submitted for prior approval of DMRE.

- 10.2 All members will have to sign a Non-Disclosure Agreement before project commencement and may be required to undergo security screening and tests as the DMRE deems necessary.

11 TERMS AND CONDITIONS

- 11.1 DMRE reserves the right to exclude any member whom DMRE deems, at its own discretion. In this case the service provider will be requested to replace the excluded member with another suitable candidate. The replacement candidate must submit the above-mentioned resume and declaration and be approved by DMRE in writing.

- 11.2 The service provider shall disclose all information in its proposal regarding any interests that may result in an actual or perceived conflict of interest.

- 11.3 Please note that DMRE reserves the right to disqualify any service provider in circumstances where a conflict of interest exists or is perceived to exist or where a service provider has failed to disclose any conflict of interest or any other material information that may have affected the award of the service.

12 COMPULSORY INFORMATION SESSION

- 12.1.1 A compulsory briefing session will be held virtually on **16 February 2022** at 10:00 through Microsoft Teams. Companies will find the meeting link on DMRE Website or E-Tender portal or kindly send email to Lucia.Nkhethoa@dmre.gov.za to receive the meeting link.

13 EVALUATION METHODOLOGY

13.1 COST

- 13.1.1 The service provider will be requested to provide a quote regarding the work to be undertaken for this project.

- 13.1.2 The total cost must be VAT inclusive and should be quoted in South African currency (i.e. Rands).

13.1.3 The service provider should provide hourly rates as prescribed by Department of Public Service and Administration (DPSA), Auditor- General (AG) or the body regulating the profession of the consultant.

13.1.4 The service Provider should provide (Subsistence &Travel (S&T)) rates that are in aligned to the National Treasury instruction note as follows:

- i) Hotel Accommodation – R1500 per night per person, including breakfast, dinner, and parking
- ii) Air travel must be restricted to economy class
- iii) Claims for kilometres may not exceed the rates approved by the Automobile Association of SA.

13.2 **BROAD BASED BLACK ECONOMIC EMPOWERMENT**

13.2.1 Provisions of the Preferential Procurement Policy Framework Act (PPPFA) 2011 and its regulation will apply in terms of awarding points.

13.2.2 Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their quotes, to substantiate their B-BBEE rating claims.

13.2.3 Bidders who do not submit their B-BBEE status level verification certificates or are non-compliant contributors to B-BBEE will not qualify for preference points for B-BBEE.

13.2.4 A trust, consortium or joint venture must submit a consolidated B-BBEE status level verification certificate for every separate bid.

13.2.5 In case of Exempted Micro Enterprises, the following document must be submitted:

- (a) Verification agencies accredited by SANAS

13.2.6 Bidders who qualify as EMS's must submit:

- (a) Affidavit signed by EME representative and attested by a Commissioner of oaths.

13.2.7 The table below depicts the B-BBEE status level of contribution:

Confidential

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

13.3 COMPANY EXPERIENCE

13.3.1 Service providers should have at least ten (10) years of recent experience in the nuclear sector, preferably with demonstrated expertise in nuclear power reactor procurement advisory; advisory for implementation of nuclear energy and technology projects; experience in development of funding and financing models for mega projects; experience in providing legal advisory on implementation of mega projects.

13.3.2 Have a grasp of the dynamics and challenges of the nuclear energy sector with reference to conventional Pressurised Water Reactors (PWRs) and Small Modular Reactors (SMRs).

13.3.3 Written proof on a signed company letterhead must be provided from three (3) contactable references indicating that similar projects or studies were successfully executed.

13.4 Qualifications of Team Leader and Team Members

13.4.1 Team leader must possess at least a Postgraduate Degree in Nuclear Science or Engineering, or a Postgraduate Degree in Finance.

13.4.2 Team member(s) must possess at least a Degree in Natural Science or Engineering and/or Finance Degree.

13.4.3 At least one team member must be a qualified and registered legal practitioner with at least a degree in Law.

13.4.4 Curriculum Vitae's and certified copies of certificates (within 6 months) of the team leader and team members must be attached to the technical proposal. Failure to attach copies, bidders will forfeit functionality point.

13.5 **Experience of Team Leader and Team Members**

13.5.1 The team leader must have at least 15 years of experience in energy/nuclear mega project implementation, procurement and financing..

13.5.2 Team members should have at least 10 years of experience in procurement and advisory services in the energy/nuclear mega project, developing of funding and financing models for energy/nuclear mega projects, development of procurement framework for energy/nuclear mega projects.

13.6 **Independence**

13.6.1 The service provider, team leader and team members must assure its independence from all government departments and related state-owned entities involved with nuclear energy.

13.7 **Project Plan**

13.7.1 The service provider must provide:

- a. A project proposal that demonstrates comprehension and competence to deliver on what is required in line with the scope of work under paragraph 3.
- b. A preliminary project plan outlining key activities and time frames.
- c. A schedule of resources to be committed to the project.
- d. The key milestones which will be used as a measure of performance in the project.
- e. The role, location, and commitment of each member in the team during the assignment must be clearly specified.

14 EVALUATION PROCESS

14.1 Phase 1: Compliance and Technical Review:

14.1.1 Each submission is checked for compliance. The following documents are compulsory:

A valid Tax Clearance Certificate	
A valid B-BBEE Certificate	
Signed SBD forms	
Proof of CSD registration	
Disqualification criteria (if available, e.g. registration with professional body)	Service Provider should have at least one team member with a degree in Law and registered as a Legal practitioner with at least 10 years of experience in energy mega project and related legal advisory service and/or experience in the nuclear industry with respect to legal advisory for project implementation, nuclear procurement, drafting of agreements and governance frameworks.

14.2 Service providers will be evaluated based on functionality. The minimum threshold for functionality is 70 out of 100 points. Service providers who fail to meet minimum threshold will be disqualified and will not be evaluated further for price and preference points for B-BBEE.

Evaluation criteria	Score	Weight
<p>1 Company Experience</p> <p>1.1. Service providers should have at least ten (10) years of recent experience in the nuclear sector, preferably with demonstrated expertise in nuclear power reactor procurement advisory; advisory for implementation of nuclear energy and technology projects; experience in development of funding and financing models for mega projects; experience in providing legal advisory on implementation of mega projects; and have a grasp of the dynamics and challenges of the nuclear sector.</p>	<p>15 years or more = 5 points 11 to 14 years = 4 points 10 years = 3 points Between 4 and 9 years = 2 points 3 years or less = 1 point.</p>	<p>20</p> <p>12</p>
<p>1.2. Written proof on a signed company letterhead must be provided from three (3) contactable references indicating that similar projects were successfully executed</p>	<p>5 letters or more = 5 points 4 letters = 4 points 3 letters = 3 points 2 letters = 2 points 1 letter = 1 point</p>	<p>8</p>
<p>Qualifications and Experience of Team Leader and Team Members</p>		<p>38</p>
<p>Qualifications</p>		<p>18</p>
<p>2.1 Team leader must possess at least a Postgraduate Degree in Nuclear Science or Engineering, or a Postgraduate Degree in Finance</p>	<p>PhD = 5 points Master's degree = 4 points Honours degree = 3 points Degree = 2 points Diploma or Certificate = 1 point</p>	<p>6</p>
<p>2.2 Team member(s) must possess at least a Degree in Natural Science or Engineering and/or Finance Degree</p>	<p>Master's degree or higher = 5 points Honours degree = 4 points</p>	<p>10</p>

Evaluation criteria	Score	Weight
	Degree = 3 points Degree = 2 points Diploma or Certificate = 1 point	
2.3 The Team Leader and Team Member(s) must submit their Curriculum Vitae and certified (within 6 months) copies of certificates.	Certified copies of certificates and CV attached with 5 or more projects = 5 Certified copies of certificates CV attached with 4 projects = 4 Certified copies of certificates CVs attached with 3 projects = 3 Certified copies of certificates CV attached with 2 projects = 2 Certified copies of certificates CV not attached = 1	2
Experience		20
2.4 The team leader must have at least 15 years of experience in energy/nuclear mega project implementation, procurement and financing.	Above 17 years = 5 points Between 15 years and 17 years = 4 points 15 years = 3 points Between 5 and 15 years=2 points less than 5 years=1 point	8
2.5 Team members should have at least 10 years of experience in procurement and advisory services in the energy/nuclear mega project, developing of funding and financing models for energy/nuclear mega projects, development of procurement framework for energy/nuclear mega projects	13 years or more = 5 points Between 11 and 12 years = 4 points 10 years = 3 points Between 4 and 9 years = 2 points 3 years or less = 1 point	12

Evaluation criteria	Score	Weight
<p>3 Independence</p> <p>3.1 The service provider, the project leader and the project team must assure its independence from all government departments and related state-owned entities involved with nuclear power sector.</p>	<p>Service provider, team leader and all team members independent = 5 points</p> <p>Service provider, team leader and 75 % of team members independent = 4 points</p> <p>Service provider, team leader and 50 % of team members independent = 3 points</p> <p>Service provider, team leader and 25 % of team members independent = 2 points</p> <p>Service provider, team leader and less than 25% of team members independent = 1 points</p>	<p>2</p>
<p>3 Project Plan</p>		<p>40</p>
<p>3.1 The project plan should contain the following:</p> <p>a. A preliminary project plan outlining key activities and time frames.</p> <p>b. A schedule of resources to be committed to the project.</p> <p>c. The key milestones which will be used as a measure of performance in the project.</p> <p>d. The role, location, and commitment of each member in the team during</p>	<p>Project plan with detailed activities, milestones, timeframes, and resources = 5 points</p> <p>Project plan with detailed activities, timeframes, and milestones = 4 points</p> <p>Project plan with activities, timeframes, and milestones = 3 points</p> <p>Project plan with activities only = 2 points</p> <p>No project plan attached = 1</p>	<p>20</p>

Evaluation criteria	Score	Weight
the assignment must be clearly specified.		
3.2 The Project proposal should demonstrate comprehension and competence to deliver on what is required in line with the Scope of Work under paragraph 3	All 5 key outputs adequately demonstrated = 5 4 key outputs adequately presented = 4 3 key outputs adequately presented = 3 2 key outputs adequately presented = 2 Only 1 key output adequately presented = 1	20

For purpose of evaluating functionality, the following values will be applicable:

1=	Very poor	Will not be able to fulfil the requirements
2=	Poor	Will not be able to fulfil the requirements
3=	Average	Will partially fulfil the requirements
4=	Good	Will be able to fulfil the requirements
5=	Excellent	Will fully fulfil the requirements

Phase 2: Price and B-BBEE

Evaluation criteria	Weight
Price	80
B-BBEE Compliance	20

15. FORMAT AND SUBMISSION OF THE PROPOSAL

- 15.1 All official forms (SBD) must be completed in all respects by service providers. Failure to comply will invalidate a quote.
- 15.2 Service providers are requested to submit two (2) copies: 1 original plus 1 copy of the proposal and quote documents.

16. CLOSING DATE

- 16.1.1 Proposal must be submitted on or before **25 February 2022** at the Department
- 16.1.2 of Minerals and Energy, 70 Meintjies Street, Travenna Campus, Pretoria, 0001 in the Bid Box marked Department of Energy. No late quotes will be accepted.

17 ENQUIRIES

- 17.1 All technical enquiries to be directed in writing to;

Mr Katse Maphoto

Tel: 012 406 7498

Email: katse.maphoto@dmre.gov.za

- 17.2 All general enquiries relating to bid documents should be directed to:

Ms. Nonhlanhla Zingwevu/ Ms. Lucia Nkhethoa

Tel No: (012) 444 3055 /444 3778

E-mail: Nonhlanhla.Zingwevu@dmre.gov.za or Lucia.Nkhethoa@dmre.gov.za