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## TERMS OF REFERENCE

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FINANCIAL TRANSACTION ADVISER SUPPORT TO THE “INDEPENDENT  
POWER PRODUCERS’ OFFICE” (IPP OFFICE):

BID WINDOW 7.5 OF THE RENEWABLE ENERGY INDEPENDENT  
POWER PRODUCERS’ PROCUREMENT PROGRAMME (REIPPPP).

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## **1. INTRODUCTION**

The IPP Office is mandated to undertake the procurement of energy on behalf of the Department of Energy and Electricity (previously the Department of Mineral Resources and Energy). As such it is the IPP Office's responsibility to prepare procurement documentation and manage the procurement processes to ultimately select and appoint successful bidders. These bidders (Independent Power Producers [IPP/s]) are responsible to construct, operate and maintain independent power plants providing much needed power to the South African grid.

## **2. BACKGROUND AND PURPOSE**

Following the promulgation of the Integrated Resource Plan 2019 (IRP 2019), the Minister of Mineral Resources and Energy has gazetted three Determinations aimed at procuring 28 584 MW of new generation capacity.

NERSA agreed with the Third Ministerial Determination from the Minister of Mineral Resources and Energy and the Determination was published in the Government Gazette on 06 April 2023. This Determination provides for the procurement of an additional 14 771 MW of new generation capacity, broken down as follows:

- 3940 MW of solar PV;
- 9600 MW of Wind; and
- 1231 MW of Battery Storage

The IPP Office received a mandate to undertake the procurement of energy for the Third Determination from Independent Power Producers (IPPs) on behalf of the Department.

In consideration of the above, there is a requirement to appoint a team of Transaction Advisers to provide professional services for:

- a. Review of the RFP prepared by the IPPO.
- b. All activities related to clarification questions raised by prospective bidders and the preparation and issuance of Briefing Notes in response to these clarifications.

- c. Preparation for and evaluation of the Bid Responses received in Bid Window 7.5 of the REIPPPP pursuant to the Request for Proposals (RFP) issued to the Market under the guidance and management of the IPP Office.
- d. All activities that are associated with Commercial Close and Financial Close. for the Preferred Bidders selected under BW 7.5.

## **2.1 RFP Review, Market Clarification, Bid Evaluation, Commercial Close and Financial Close Activities**

The IPPO team is in the process of preparing the RFP.

The RFP provide for prospective bidders and market participants to raise clarification questions and for the Department to provide written responses as may be necessary through Briefing Notes.

As in all previous IPP Programmes, the Evaluation of bid responses will be undertaken by an external, independent team of experts representing all required disciplines, as well as a governance expert(s) appointed to oversee and monitor evaluation process and procedures.

As part of this TOR, a team of multi-disciplinary, independent Advisors will be selected to (a) review the RFP, respond to market clarification questions, prepare Briefing notes and update the RFP as may be necessary (b) conduct the Evaluation of Bid Responses, and (c) upon appointment of Preferred Bidders, to conduct and provide services for the purpose of all activities related to Commercial and Financial Close.

**In view of the above, the team of appointed Transaction Advisers for the Evaluation will consist of:**

- Legal Advisers.
- Economic Development Advisers.
- Financial Advisers.
- Technical Advisers; and
- Governance Advisers.

The basis for the evaluation(s) will be the RFP, the Evaluation Manual, and accompanying Evaluation Templates.

## 2.2 Fee Proposals

In responding to this TOR, the Transaction Advisors are required to note that a separate or distinct fee proposal should be provided for each of the respective functions, covering the full scope of work.

Additionally, the Transaction Advisors are required to provide their hourly charge rates for the event that the number of bids to be evaluated exceed the estimated number of bids.

Where conflicts may exist, the Department may consider the appointment of two teams to undertake the scope of work.

If more than one firm is selected per discipline, the Department retains the right to assign the role of coordinator and penholder to one of the teams to ensure the efficient coordination and delivery of the combined evaluation report from the advisory team. **If only one team is appointed there will not be a separate payment for the role of coordinator and penholder.**

Furthermore, there will be a need for the team to work collaboratively, as is necessary on deliverables such as the final reports.

The Fee proposal must consider that the Evaluation will be done on site in a secure environment.

**This Terms of Reference is being sent to open market.**

## 3. SCOPE OF WORK

All Transaction Advisors will be required to deliver on the following actions within the timetable as set by the IPPO.

### 3.1 REVIEW OF RFP, MARKET CLARIFICATIONS AND EVALUATION.

The deliverables must be managed within strict timelines and will include, among others, the following:

- 3.1.1 Review of RFP.
- 3.1.2 Prepare responses to market clarification questions through Briefing Notes based on the RFP documents issued.
- 3.1.3 Prepare for and undertake the evaluation of all bid responses received according to the qualification and evaluation criteria stipulated in the RFP and applying the Evaluation Manual, Evaluation Templates and Evaluation Scorecard as approved by the Department.
- 3.1.4 Formulate and prepare clarifications questions, evaluate responses received on the clarifications requested and prepare the explanations needed as input into Part B (Functional and Qualification Criteria Requirements) of the RFP failures.
- 3.1.5 Manage and co-ordinate the evaluation of all financial aspects of all the bids received and ensure that the reports accurately reflect the outcome of the evaluation and recommendations thereto.
- 3.1.6 Assess the financial benchmark information provided, coordinate the information required and for the benchmarking exercise in collaboration with other Transaction Advisors as input into the benchmarking reports
- 3.1.7 Prepare the detailed report and analysis on the outcome of the benchmarking exercise as input into the Value for Money Report as set out in the RFP. A combined report is required between the Financial and Technical Advisors.
- 3.1.8 Prepare the Value for Money section of the BEC Evaluation Report.
- 3.1.9 **Prepare for and undertake the BAFO if required (please note that this requirement will only be actioned if needed as should be priced separately).**
- 3.1.10 Compile the Financial Evaluation Volumes and input into the Executive Summary of the report from the Bid Evaluation Committee (BEC) to the Bid Adjudication Committee (BAC) of Department, including a detailed report per bidder on the reasons for bidders passing or not passing the qualification requirements under Part B of RFP.
- 3.1.11 Undertake all required engagements, consultations, and joint work with the Technical, Legal and Economic Development Advisors as may be required to finalise the outcome of the Evaluation and in the preparation of reports and presentations as may be required.
- 3.1.12 Prepare explanations to any questions from the BEC and BAC or the Buyer.

- 3.1.13 Input into the appointment and non-appointment letters to Bidders and post preferred bidder announcement respond to questions from Bidders on reasons for appointment.
- 3.1.14 Undertake and prepare a detailed assessment of potential Grid integration scope on project costs, possible duplication of costs and opportunities to improve value for money associated with grid costs for purposes of the Value for Money Volume and final BEC recommendations.
- 3.1.15 In the event Eligible Bidders is identified for appointment pending the successful assessment of any further Value for Money (VFM) Proposals, undertake the assessment of the VFM proposals and provide a recommendation to the BAC, following the completion of the assessments and engagements advising on the reasons to approve the value for money offerings or reason to not approve.
- 3.1.16 Prepare the Report to the Fiscal Liability Committee (FLC) for the PFMA Section 66 (1) and (2) and Section 70 concurrence by the Minister of Finance for the Preferred Bidders selected, including the contingent liabilities associated with the Preferred Bidder projects over the term of the PPA.
- 3.1.17 Respond to any queries raised by an Independent Reviewer and or the Auditor General regarding the Financial Evaluation as part of the annual audit processes.

**The Evaluation will be conducted in a secure onsite environment. The full proposed team for the Transaction Advisor is required to be onsite and available for the full duration and no work exclusions or limitations are permitted.**

## **3.2 COMMERCIAL CLOSE AND FINANCIAL CLOSE**

**The deliverables will include the following, amongst others:**

Following Bid Evaluation, the appointed Transaction Advisory Team will be required to prepare for and conclude all activities associated with achieving Commercial and Financial Close for the respective allocated projects, including, but not limited to, the following:

- 3.2.1 Review, analyze and prepare responses to Change Requests submitted in terms of the RFP processes, for consideration by IPP Office Management.
- 3.2.2 Support the IPP Office and the Department in any negotiations pertaining to specific aspects, if so required, including value for money assessments, implementation if applicable, of the reserve bidder framework, negotiations with the Buyer, the Preferred Bidders and other key stakeholder engagements required.
- 3.2.3 Prepare for and conclude all activities associated with achieving Commercial and Financial Close including but not limited to:
- Responding to queries from the Buyer.
  - Preparing all Communications to Bidders pertaining to the Commercial and Financial close process.
  - Preparation of Forecasts for interest rates and exchange rates at Dummy Close and Commercial Close dates for as part of confirming tariffs for purposes of the signing of the Power Purchase Agreement. Dummy Close serves as a simulated or dry run of the Commercial Close process, allowing for testing and validation of all relevant procedures, including the preparation of foreign exchange and interest rate forecasts. All rates will be derived from the applicable Bloomberg screens as at 09:00am Standard South African Time on both Dummy Close and Commercial Close dates.
  - The appointed Transaction Advisor is responsible for ensuring **access to Bloomberg** for Commercial and Financial Close activities.
  - Checking all Financial Models for consistency and undertaking comparative analysis of Bid Submission and Financial Close Models to ensure consistency with respect to amongst other:
    - Commercial Energy Rates (Price);
    - Indexation,
    - Success fee payments.
    - Development Fee calculations.
    - Equity IRRs.
    - Gearing Ratios.
    - Decommissioning Reserves.



- Grid connection cost.
- Development cost.
- Total Project cost.
- FX rate(s) and total FX exposure.
- Commodity exposures
- Financing terms and conditions.

3.2.4 Compile a Close-Out Report and presentation on outcomes of the REIPPPP BW 7.5 including an executive summary and details per project providing information on amongst other:

- Funding terms and conditions, trends applicable to local and international funders, debt/ equity ratios, lending margins, tenors, prepayment and refinancing penalties.
- BEE funding terms and conditions
- Community Trust and BEE cash flows where applicable
- IRRs.
- Other salient information.
- Lessons learned and improvements for next Bid Rounds.

3.2.5 Prepare response to Audit queries as may be required with regards to the Commercial and Financial Close activities.

## **4 PROCUREMENT REQUIREMENTS**

The Development Bank of Southern Africa (DBSA), with this Terms of Reference, is inviting Transaction Advisers from an open tender, to provide their resources and pricing in terms of the Scope of Work and the Service Level Agreement.

Any firm of advisors advising the Department will be allowed to advise the private sector and/or the lenders on the procurement process, provided that the same individuals from firms advising the Department on the Programmes will not be used by such firms when advising private sector and/or the lenders.

In managing potential conflict of interest and in lieu of a potential high number of bid responses, the Transactional Advisors will have to declare and indicate how they will manage potential conflict of interest.

Therefore, a firm participating in this tender should provide the Department with its policy to manage potential conflict of interest that may arise from such firm of advisors that are advising both the Department and Bidders. This policy should include the measures that will be put in place and applied to manage such conflict of interest.

**The Evaluation Team will have to sign Declaration of Interest and Confidentiality Undertakings.**

## **5 COMPETENCE AND EXPERTISE REQUIREMENTS OF RESOURCES**

It is expected that the Financial Transaction Advisory team will have the following experience and competencies:

**5.1** Thorough knowledge and previous experience of working on project financed energy projects

**5.2** Thorough knowledge of B-BBEE and PPPFA legislation.

**5.3** Thorough Knowledge and understanding of the international and South African energy sector market.

**5.4** Proven track record, knowledge, expertise, and practical experience in preparing procurement documentation, undertaking market clarifications and evaluation of bids received for government and/or private sector infrastructure investment programmes.

**5.5** Knowledge of, and practical experience in, assessing the financial and economic impact of energy, infrastructure, social and/or human development projects.

## **6 KEY DELIVERABLES, TIMELINES AND PAYMENT MILESTONES**

**The duration of the appointment is 24 months. This is an indicative timeline only; the duration of the services will continue until the completion of the full scope of work and Commercial and Financial Close is achieved.**

**In responding to this TOR, the Transaction Advisors are required to provide a separate or distinct fee proposal for each of the functions specified in the scope of work and consider the following:**

**6.1 Please note the following guidelines in respect of the fee proposal:**

- 6.1.1 The fee proposal should cover **all sections** outlined in this TOR namely Review of the RFP, responding to clarification questions, Evaluation, Commercial and Financial Close and should **not contain any scope exclusions or limitations.**
- 6.1.1 The pricing element of the bid should be a fixed fee inclusive of VAT and disbursements and should not contain any pricing assumptions containing exclusions either in terms of time or scope
- 6.1.2 The fixed fee should be broken down in cost per deliverable/milestone. Refer to the table included for the payment milestones. **It is the Respondent's responsibility to ensure that the full scope of work is covered under the price proposal.**
- 6.1.3 **The delivery on a possible BAFO should be priced separately as it will only be actioned if required. Value for money engagements should however be included in the milestone-based work.**
- 6.1.4 Ensure that the fee proposal covers all elements as detailed in the scope of work. If a particular element of the scope is not covered in the milestones as per the assessment of the bidder, it should be added.
- 6.1.5 The detailed scope should be summarized in the payment milestones referred to under previous bullet.
- 6.1.6 For the purposes of the fee calculations for the evaluation of bid responses, the fee proposal must:
  - 6.1.6.1 **Assume a total of 100 clarification questions, 50 bid responses for Evaluation and 20 Preferred Bidders for Commercial and Financial Close.**
  - 6.1.6.2 Provide a **fixed fee per bid**, as well as the sum of the cost for all bids.

6.1.7 For purposes of Financial Close fee calculations:

6.1.7.1 **Provide a fixed fee per preferred bidder as well as the sum of the cost in relation to all preferred bidders.**

## 6.2 Important considerations

6.2.1 In addition to the fixed fee proposal as set out in paragraph 6.3 below, Service Providers are required to provide hourly charge rates for each of the team members to cover additional work which may be required in addition to the scope set out in these Terms of Reference.

6.2.2 Work will commence as soon as the appointment is finalized, and a purchase order is issued. **No work is to be undertaken without a duly authorized purchase order issued by the IPP Office.**

6.2.3 Transaction Advisors are required to consider the time allocated for each section under this TOR and ensure that sufficient key staff are available for the whole period of the assignment. No changes to the constitution of the proposed resources as a bid will be permitted after submission of a proposal in response to this TOR, without the consent of the DBSA and the IPP Office

6.2.4 **Please note that the Evaluation will take place in the secure evaluation center at the IPP Office building complex** and full-time attendance is required.

6.2.5 The Department and IPP Office reserve the right to either cancel or replace a delivery with another as circumstances require or to move the timelines as may be required.

6.2.6 The Department and IPP Office also reserve the right to make assessments and / or terminate the contract in case the Project failure to submit deliverables timeously as per the IPP Office working plan, that will be agreed between the IPP Office and the Project.

6.2.7 These projects are supervised through the Public Procurement Act, and therefore subject to high levels of scrutiny. In an event wherein evidence points that a contract related to this TOR is/are concluded irregularly, the Department and IPP Office reserve the right to terminate or cancel such agreement(s).

**6.3 The fee proposal covering the full scope of work under each section of this TOR should be structured as set out below:**

**6.3.1 RFP REVIEW, MARKET CLARIFICATIONS AND EVALUATION FEE STRUCTURE.**

<b>Deliverables</b>	<b>Timeline</b>	<b>Cost per Bid</b>	<b>Total</b>	<b>Payment Milestones (%allocation of contract ZAR value including VAT)</b>
ZAR' million	Days	Rands/bid	Rands	%
<b>REVIEW, CLARIFICATIONS AND BRIEFING NOTES PHASE</b>				
Review of RFP and Project Agreements (PPA, IA, EIA, DA and the Connection Agreements).	Period between RFP release and Bid Submission		Provide a fix fee	30%
Clarifications and Briefing Notes – support for purposes of responding to bidder clarification questions, engagements with Buyer and other stakeholders where necessary on bidder clarification questions, and drafting of Briefing Notes which may include issuing revised versions of RFP documents and updating the	Period between RFP release and Bid Submission		Provide a fix fee	70%

risk matrix and evaluation templates and project agreements, including support on updated BAC reports and presentations during the period between RFP issue date and bid submission date, including support for the Bidders Conference.				
<b>EVALUATION PHASE</b>				
Penholder and coordinator if required and <b>only if there is more than one team of evaluators.</b>			Provide a fixed fee	5%
Preparations of Evaluation Templates for Evaluations; Evaluation of Bid Responses and dealing with Clarifications.	3 weeks	Cost per bid	Total for 50 bids	20%
Finalisation of Part B and Part C Evaluation including all BEC Reports including Benchmarking and Value for Money Volumes of the BEC Report.	3 weeks	Cost per bid	Total for 50 bids	30%
Appointment and non-appointment letters including responding to Bidders queries and meeting requests	1 week	n/a	Provide a fixed fee	5%

Assessment of Value for Money proposal submitted by Eligible Bidders as part of BAC recommendation and preparation of Reports to BAC. <b>(only when required)</b> .	3 weeks	n/a	Provide a fixed fee	10%
Preparation of Report to the FLC on the Contingent Fiscal Obligations of BW7.5	2 weeks	N/A	Provide a fixed fee	10%
Lessons Learnt Report and recommendations for changes to future RFPs	1 week	N/A	Fixed Fee	10%
Attending to Audit queries and engagements.	3 weeks	N/A	Provide a fixed fee	10%
<b>SUB TOTAL</b>	<b>100%</b>			
Preparing and undertaking a <b>BAFO only if required</b>	3 weeks	Cost per bid	Total for 50 bids	<b>100%</b>

### 6.3.2 COMMERCIAL AND FINANCIAL CLOSE FEE STRUCTURE

Deliverables to include the full scope of work	Timeline	Cost per Bid	Total	Payment Milestones (% allocation of contract ZAR value including VAT)
ZAR million	Days	Rand/bid	Rand	%
<b>COMMERCIAL AND FINANCIAL CLOSE PHASE</b>				
Preparation and all required negotiations of the Project Agreements	8 weeks	Cost per Bid	Total for 15 bids	50%



for each of the Projects including updating the Project Agreements with all briefing notes and all associated activities and meetings				
Analysis and recommendation on Change Requests	4 months	Cost per Bid	Total for 15 bids	15%
Actual support on Commercial and Financial Close	4 weeks	N/A	Fixed Fee	30%
Close Out Report	2 weeks	N/A	Provide a fixed fee	5%
<b>TOTAL</b>				<b>100%</b>

## 7 MINIMUM PROPOSAL REQUIREMENTS

**All proposals need to clearly state the following information:**

- 7.1 Understanding of the scope of work.
- 7.2 Deliverables (covering the full scope, timelines, and cost per deliverable).
- 7.3 Details of Team members that will be dedicated to the project, their experience, credentials, level of seniority and level of participation (hours) that will be dedicated to the project.
- 7.4 Confirmation of the capacity and resources necessary to undertake the scope of work indicated in the TOR and availability in terms of the timelines.
- 7.5 Confirmation that the full scope of work is included in the Fixed fee per deliverable or milestone.

- 7.6 Proviso to ask for a presentation or engagement after bid but before appointment of preferred TA; and
- 7.7 Acknowledgement that the work can be terminated at any milestone and only task or work done fee is payable.

## 8 ELIGIBILITY CRITERIA

Service Providers are required to indicate the lead resources responsible for the deliverables and link their experience and each of the proposed professional team resources to the functional criteria below:

The proposed eligibility criteria for the Financial Transaction Advisor to deliver on the scope of work are as follows:

Eligibility Criteria	Evidence to be provided	Weighting/Score
1. <b>Company Profile</b>	Provide a Profile that the company has been operating in the Financial Advisory field for at least <u>5 years</u> or longer.	5-10 years =5% >10 years =10%
<p>2. <b>Team Financial Advisory Experience</b> on electricity generation projects, energy sectors, infrastructure projects, or public-private partnership (PPP) projects that have gone to market.</p> <p><b>TL = Team Leader must have at least 7 years' experience</b>  <b>TM = Team Member must have at least 3 years' experience.</b></p>	<p>The Bidder must provide:</p> <p><b>The CV's and Qualifications for the Team Lead and each Team Member.</b></p> <p>Bidders must ensure that the CVs provide relevant detail that include the period of involvement of specific team member to a specific project, responsibility, scope of work.</p>	<p><b>(a). Evaluation of Team Leader:</b>  TL 7 -10 years = 15%  TL &gt; 10 years = 20%  (If more than one team lead is involved, the score for the team leads will be calculated as the average score of all the proposed team leads.)</p> <p><b>(c). Evaluation of Team Member:</b>  TM 3 - 4yrs = 15%  TM .&gt; 5 year = 20%  (The score for the team members will be calculated as the average score of all the proposed team members.)</p>

Eligibility Criteria	Evidence to be provided	Weighting/Score
<p>3. Team proven experience in undertaking the <b>Financial Evaluation</b> of the bids submitted in the electricity generation and or energy sectors and/or infrastructure projects or PPP sector projects and or <b>valuations</b> to inform decisions.</p>	<p>The Bidder must provide a summary and details of at least <b>three projects in which Financial Evaluation</b> was undertaken. Information provided should include but not limited to period of involvement, responsibility, scope of work, team members involved.</p> <p><i>(Please complete project list template attached as Annexure A.</i></p> <p><i>2 or more Projects that form part of the same Programme advised on cannot be split to be reflected in Annexure A as separate Projects - a Programme must be reflected as a single Project and will not be double counted if split.)</i></p>	<p>Minimum of three projects</p> <p>3-4 Projects = 15%</p> <p>&gt;5 Projects = 20%</p>
<p>4. Proven experience in determining assessment of the balance sheet exposures and preparation of reports on the <b>contingent liabilities</b> associated with projects.</p>	<p>Details of at least three projects to be provided. Information provided should include but not limited to period of involvement, responsibility, scope of work, team members involved.</p> <p><i>(Please complete project list template attached as Annexure A.</i></p> <p><i>2 or more Projects that form part of the same Programme advised on cannot be split to be reflected in Annexure A as separate Projects - a Programme must be reflected as a single Project and will not be double counted if split.)</i></p>	<p>Minimum of three projects .</p> <p>3-4 Projects = 5%</p> <p>&gt;5 Projects = 10%</p>
<p>5. Proven experience preparing for and implementing <b>Commercial and Financial Close</b> activities for project finance projects.</p>	<p>The Bidder must provide a summary and details of at least <b>three projects</b> that reached <b>commercial and financial close</b>. Information provided should include but not limited to period of involvement, responsibility, scope of work, team members involved.</p> <p><i>(Please complete project list template attached as Annexure A.</i></p>	<p>Minimum of 3 Projects.</p> <p>3-4 Project = 5%</p> <p>&gt;5 Projects = 10%</p>

Eligibility Criteria	Evidence to be provided	Weighting/Score
<p>6. Relevant experience in providing Financial Advisory services, conducting evaluations and in undertaking closing activities must reflected in <b>Reference Letters</b> to be provided as follows:</p> <p>Team Lead – at least 3 Reference Letters.</p> <p>Team Members – At least 2 reference letters for each team member.</p>	<p><b>Provide at least 3 Reference Letters</b> for the Team Lead and a minimum of 2 Reference Letter per Team member.</p> <p>Reference letters shall include.</p> <p>Description of the project, name of the team member, roles of he/she played in the project and the status of the project.</p> <p>Reference letters must be on a client letter head and dully signed.</p> <p><b><i>(Reference letters that do not meet all items mentioned above will not be considered.)</i></b></p>	<p>Team Lead =1-2 Reference Letters = 3%</p> <p>3 and more Reference Letters = 5%.</p> <p>Team Member =1 Reference Letters per Team Member =2%</p> <p>2 or more Reference Letter per Team Member = 5%</p>
<b>Total</b>		<b>70/100%</b>

Only proposals that meet the threshold of 70% will proceed to the next stage, which is the evaluation on price and preference point basis