

## INVITATION TO BID

**YOU ARE HEREBY INVITED TO BID FOR THE REQUIREMENTS OF THE**

South African Nuclear Energy Corporation SOC Ltd

<b>BID NUMBER:</b>	FBD-SCM-2017-TEN-0017
<b>BID DESCRIPTION:</b>	Request For Proposal For Inclusion In A Panel Of Legal Practitioners And Firms For Necsa and its Subsidiaries To Provide Professional Legal Services For A Period Of Thirty Six (36) Months.
<b>CLOSING DATE:</b>	12 March 2019
<b>CLOSING TIME:</b>	11:00am
<b>BID VALIDITY PERIOD:</b>	90 Days (Commencing the Bid Closing Date)
<b>SITE BRIEFING MEETING:</b>	N/A
<b>SITE ACCESS:</b>	N/A
<b>DELIVERY ADDRESS:</b>	<b>BID DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT:</b> Necsa Gate 3 R104 Elias Motsoaledi Street (Church Street West Ext) Pelindaba Brits Magisterial District Madibeng Municipality North West 0240 Gate 3:S25°47'03.0" E027°56'38.8"
<b>ENQUIRES:</b>	Mr. Buyani Nsibande <b>Email:</b> <a href="mailto:scm@necsa.co.za">scm@necsa.co.za</a> <b>Tel:</b> +27 (0) 12 305 6072 Note: Any clarity seeking question must be sent three working days before closing date.

**THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER SPECIAL CONDITIONS OF CONTRACT.**

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### 1. Introduction

#### 1.1 Company Overview

The South African Nuclear Energy Corporation Limited (Necsa) is a state-owned public company (SOC), registered in terms of the Companies Act, (Act No. 61 of 1973), registration number 2000/003735/06.

The Necsa Group engages in commercial business mainly through its wholly-owned commercial subsidiaries: NTP Radioisotopes SOC Ltd (NTP), which is responsible for a range of radiation-based products and services for healthcare, life sciences and industry, and Pelchem SOC Ltd (Pelchem), which supplies fluorine and fluorine-based products. Both subsidiaries, together with their subsidiaries, supply local and global markets, earning valuable foreign exchange for South Africa and are among the best in their field in their respective world markets.

Necsa's safety, health, environment and quality policies provides for top management commitment to compliance with regulatory requirements of ISO 14001, OHSAS 18001 and RD 0034 (Quality and Safety Management Requirements for Nuclear Installations), ISO 9001 and ISO 17025.

Necsa promotes the science, technology and engineering expertise of South Africa and improves the public understanding of these through regular communications at various forums and outreach programmes to the community. We are a proudly South African company continuously striving, and succeeding in many respects, to be at the edge of science, technology and engineering related to the safe use of nuclear knowledge to improve our world.

### 2. PURPOSE OF INVITATION OF BID

Necsa is seeking to establish a Panel of Legal Practitioners (herein referred to as "Service Provider/s") to provide legal services to Necsa and its subsidiaries on specific assignments on a needs basis.

The purpose of this document is to call proposals by legal practitioners to be included in a panel to render legal services to Necsa and its subsidiaries on a needs and rotational basis.

Suitable Service Providers, of good standing with the relevant Law Society, are requested to submit proposals to provide legal services as described in Section 3 below.

The successful bidders will not be entitled to a retainer fee.

**3. SCOPE OF WORK**

The successful Service Providers will be appointed to a Panel of Legal Practitioners and will be required to provide general and specific legal services to Necsa and its subsidiaries, on a needs and rotational basis, in the following areas of law and legal practice:

- Corporate Law;
- Commercial Law;
- Administrative Law (including Regulatory);
- Labour Law (including CCMA representation and disciplinary proceedings);
- Intellectual Property Law;
- Competition Law;
- Engineering, Building & Construction law;
- Litigation (including Debt Collection).

The scope of services and respective deliverables required from the Service Provider will be outlined more specifically in the letters of instructions to the Service Provider, as and when the services are required. However, the nature of the services and the deliverables will generally include, but will not be limited to, the following:

<b>Corporate Law</b>
<ul style="list-style-type: none"> <li>- Providing legal opinions and advice on a wide-range of subject matters pertaining to Necsa and its subsidiaries, including in view of the Companies Act, the Public Finance Management Act and other related legislation</li> <li>- Mergers &amp; Acquisitions</li> <li>- transaction structuring</li> <li>- corporate governance related matters</li> </ul>
<b>Administrative Law (including Regulatory)</b>

- Reviews of administrative decisions of various types (including regulatory decisions and other exercises of public power)
- Launching urgent applications to compel or prohibit administrative action of various types
- Challenging policy or other legislative decisions taken outside the scope of an administrator's powers
- Advisory on Promotion of Access to Information Act
- Constitutional Litigation
- Public procurement and public private partnerships (PPPs)
- Regulatory compliance

#### Labour Law

- Employment agreements, and policies and procedures
- General employment advice
- Health and safety legislation advice
- Litigation and private dispute resolution (mediation and arbitration)
- Regulatory advice
- Workplace employment equity and discrimination issues
- Representation at the CCMA, Labour Courts and other Forums
- Workplace training
- Advising and representing Necsa and its subsidiaries in employee relations matters which may include, representations at the CCMA, Labour Court and Labour Appeal Court
- Handling of disciplinary actions and proceedings

#### Intellectual Property Law

- Enforcement of statutory IP including trademarks, copyright, patent rights
- Conducting IP Audits and Due diligence
- Domain name protection, administration and disputes
- Anti-counterfeiting advice and actions
- Advice in respect of IP related transactions such as IP licensing and assignment, technology transfer, research collaborations, research and/or technology development funding agreements
- Advice and other services related to the protection and management of non-registered/registrable IP such as know-how, confidential information, including business related information, and providing advice in relation to various mechanisms for the protection of non-registered/registrable IP, including restraint of trade, confidentiality agreements
- Advice in respect of product design and branding protection
- Constitutional and administrative law aspects of IP Litigation and dispute resolution in relation to a diversity of IP issues

### Competition Law

- Mergers
  - Preparing and submitting merger approval applications to the -Competition Commission and Competition Tribunal
  - Merger control compliance advice
- Investigations and referrals
  - Complaints relating to anti-competitive conduct, including appearances before the Competition Commission and Competition Tribunal in interim relief, intervention, defence and appeal proceedings
- Compliance
  - Competition law due diligence investigations and audits
  - Exemption applications
  - General advice on compliance with South African and international competition laws

**Litigation**

- Advising and representing Necsa and its subsidiaries on any litigious matter that may be brought against or initiated by Necsa or its subsidiaries in the execution of its mandate, protection of its business interests and goodwill and/or acting in the public interest, including:
  - Commercial and labour litigation
  - Dispute Resolution
  - Mediate and arbitration
  - Drafting of pleadings
  - Representations in Courts and other Forums
  - Drafting and taxing/defending legal cost billing
  - Debt Collection and any litigation arising therefrom

**Commercial Law**

- Reviewing, vetting, and/or drafting agreements, any legal documents and/or correspondence relating to the business of Necsa and its subsidiaries;
- Advising on legal implications and considerations arising from contractual arrangements in commercial transactions, or legal consideration to take into consideration in commercial transaction
- Providing legal opinions and advice on a commercial matters pertaining to the business and mandate of Necsa and its subsidiaries

**Building & Construction law (including NEC related experience)**

- Contract vetting, reviews and drafting
- Advising on legal implications for and considerations in related transactions

**4. CONDITIONS OF TENDER**

- Only legal practices established in accordance with the provisions of the attorneys Act, 1979 (Act No. 53 of 1979 as amended) will be considered for this tender.
- A contract will be signed with each Service Provider appointed to the panel.
- The Service Provider will be required to sign confidentiality and indemnity agreements with Necsa and its subsidiaries.
- The cost of every assignment will be negotiated with the relevant tendering panel members and a letter of appointment will be issued for each assignment awarded.
- Panel members are not guaranteed any work under this tender proposal.
- The basis of engaging firms of attorneys will be on an assignment basis.
- Necsa and its subsidiaries may, at its sole discretion award an assignment or any part thereof to more than one panel member.

- Necsa and its subsidiaries may at its own discretion vary an instruction to include more or less work.
- The firms of attorneys may not cede or assign any part of its agreement with Necsa and its subsidiaries nor subcontract any part of the work assigned to them without the prior written authorization of Necsa and its subsidiaries.
- Failure to comply with any condition of this tender will invalidate respective tender proposal.
- The contract period for this tender is 36 months.
- Where necessary, assignments awarded in the last three months of the contract period will be allowed to continue after expiry of this contract period

## 5. SUPPLIER DUE DILIGENCE

Necsa and its subsidiaries reserves the right to conduct supplier due diligence prior to inclusion in the panel or at any time during the contract period. This may include site visits.

Short-listed legal professionals may be invited to make presentations at their own cost.

### 5.1 Specification / Technical Requirements

5.1.1 The Service Provider must have competence in one or more of the below-mentioned areas of law and legal practice (CV's of the legal professionals who will be conducting the work must be provided):

- Corporate Law
- Commercial Law;
- Administrative Law (including regulatory);
- Labour Law (including CCMA representation and disciplinary proceedings);
- Intellectual Property Law;
- Competition Law;
- Environmental Law;
- Engineering, Building & Construction law;
- Litigation (including Debt Collection).

5.1.2 The Service Provider must be of good standing with the relevant Law Society. A letter from the relevant Law Society confirming good standing and a certified copy of the Fidelity Fund Certificate are required.

5.1.3 In respect of every area of law for which the Service Provider is bidding, the legal professional, or in the case of a team of legal professionals, the lead legal professional:

- must be an admitted attorney of the High Court of South Africa;
- must not be disqualified from providing legal services in general or the envisaged services in terms of the Attorneys Act;
- must not be in any manner prevented from providing envisaged legal services at the time of appointment, provided that thereafter the Service Provide will notify Necsa and its subsidiaries when such a prohibition arises in good time to allow Necsa and its subsidiaries to consider the prohibition and seek alternative solutions to ensure that its requirements for legal



services are met.

5.1.4 The Service Provider must submit a detailed proposal, which must include the following:

- The area(s) of law in respect of which the Service Provider is bidding;
- CV's of legal professionals envisaged to render the services the identified area of law, including their admission status, field of legal practice, years of experience in that field and hourly professional rates;
- In respect of each area of law for which the Service Provider is bidding, the minimum required number of verifiable references for legal services rendered in that area of law, as stated in Section 2.2 below (including client name, contact person, address, telephone, and email address), and a summary of the legal services rendered for that client.

## 6. CATEGORIES OF SERVICE PROVIDERS

Necsa aims to promote broad based economic transformation and the development of small and medium black owned law firms. Therefore, provision has been made for two categories of Services Providers to be appointed under this Bid as indicated in the table below.

**The bidder must indicate in their bid documents which category they are bidding for.**

Successful Service Providers will be appointed under one of the following Categories:

Category 1	Minimum Requirements
	<ul style="list-style-type: none"> <li>• Level 1 EME or QSE</li> <li>• At least one (1) year post admission experience of the legal practitioner or, in the case of a team of legal practitioners, the lead legal practitioner in relevant area of law</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>• At least eight (8) years' post admission experience of the legal practitioner or, in the case of a team of legal practitioners, the lead legal practitioner in relevant area of law</li> </ul>

Successful Service Providers will be appointed to the Panel of Legal Practitioners, which will be categorised according to the areas of laws mentioned in Section 3 above.

### 6.1 Bill of Quantities

The rate of each resource must be provided as per the table below. Where rates differ according to the area of law, please include the respective rates. Kindly include any other level that is applicable but not be listed below.

Resource / Professional	Rate per Hour
-------------------------	---------------

Site Attorney	
Personal Assistant	
Site	
Associate	

- 6.1.1 The amount invoiced by the Service Provider will be the total amount on completion and acceptance of all deliverables as defined in the instructions. The Service Provider shall provide a detailed breakdown of all activities in response to an instruction clearly specifying the deliverables, cost breakdown, start- and end dates for the different identified activities.
- 6.1.2 Hourly labour rates shall include all charges and overheads associated with labour, e.g. bonus, overtime or other incentive payments necessary to attract and retain sufficient workforce during the contract period. It shall include daily allowances, fares, transport, subsistence allowances, condition money, national insurance, sick pay and leave, industrial training levy, redundancy payment contribution, provision for protective clothing-tools-and-equipment.
- 6.1.3 Travelling disbursements and any other disbursements will be claimed as per agreed rate with Necsa and its subsidiaries during contracting.

**6.2 Project Plan and Schedule**

- 6.2.1 The bidder may be required to provide a project plan and schedule based on estimated delivery periods. The requestor may indicate preferences for start and end dates or duration of the contract.
- 6.2.2 The final delivery date, start and end dates or duration will be negotiated and fixed once the contract is awarded.

**6.3 Applicable Necsa Policies**

- 6.3.1 The following Necsa policies must be adhered to:

NS-0100	General Safety, Health and Environmental Policy.
NS-0102	Alcohol and Drug Policy.
EM-2017-PRO-0001	Procedure for Necsa's Supply Chain Management Process.

**7. APPLICABLE NECSA PROCEDURES**

**7.1 Requirements to Access Necsa Site**

- 7.1.1 As Necsa site is a National Key Point access for tenderers are restricted to enter the site and the building where the briefing session will be held only.
- 7.1.2 Access to any other area will only be allowed when escorted by Necsa staff that is conversant in the security and safety requirements and conditions of the specific area.
- 7.1.3 The Necsa Contact Person for this bid will make arrangements for site access for all bidders that submitted their expression of interest accompanied by the following information, which shall be verified on the provision of a South African Identification

Document or Driver's License:

	Names and surname
	Passport number
	Home or work telephone number
	Emergency contact name and phone number
	Vehicle registration number

7.1.4 In the case of foreign citizens, whether visitors to South Africa or residents in the country, a copy or scan of the passport must be submitted at least two (2) weeks before the date required to enter on the Necsa site.

7.1.5 Nobody will be allowed to enter the site if they are not in possession of the above identification documents.

**7.2 Emergencies, Incidents, Accidents**

7.2.1 Necsa maintains an Emergency Control Centre, a Fire Brigade and Paramedics with a fully equipped ambulance, an on-site Medical Clinic with doctors and nursing staff and several highly trained response personnel.

7.2.2 The Emergency Control Centre and emergency response personnel are on call 24/7 and equipped to handle any emergencies foreseen.

7.2.3 If any emergency situation, incident, accident or injury should occur they Emergency Control Centre should be contacted at extension 3333 or 012 305 3333.

7.2.4 Emergency exercises and site alarm tests are conducted from time to time to ensure full preparedness of all Necsa staff. The site wide announcement will clearly state this is an exercise/test.

7.2.5 Everyone, including visitors, are required to follow emergency instructions. Your site host will explain the details during the compulsory briefing session.

**7.3 Necsa Health, Safety and Environmental Requirements**

7.3.1 The bidder shall submit its company Health, Safety and Environmental (SHE) Policy with the bid. It shall reflect the intention to submit a SHE Plan in relation to the work that will be performed.

**7.4 Necsa Requirements for Quality**

7.4.1 The bidder shall submit its company Quality Policy with its bid. It shall reflect the intention to submit a Quality Plan for ensuring all deliverables comply with the bid specifications.

**7.5 Necsa Requirements for Project SHEQ**

7.5.1 Necsa's SHEQ Project Approval Process prescribes that all planned projects or project phases be assessed for compliance with Necsa/s SHEQ requirements (SHEQ-INS-0823).

**7.6 Confidentiality**

7.6.1 Bidders shall handle the contents of this document as confidential and private and may not disclose it to a third party or publish in any way whatsoever.

7.6.2 The signing of Necsa's Confidentiality agreement will only be required if information of a confidential nature are provided to the bidders.

7.6.3 Normally this is only required on entering into the contract, which is not part of the bid specification.

## SECTION 2

### 1. INSTRUCTION TO BIDDERS

#### 1.1 General

1.1.1 Bidders must familiarise themselves with and comply with the mandatory requirements and ensure their availability for site visits and presentations, as required, on the appropriate dates.

#### 1.2 Bidder Information

1.2.1 The required information on the bidder must be completed as stipulated in Paragraph 7. Failure to do so may result in disqualification.

1.2.2 The successful bidder shall demonstrate to Necsa that adequate pre-employment screening, including security screening, was performed on their employees/sub-contractors (staff).

1.2.3 The pre-employment screening shall as a minimum be able to:

1.2.3.1 Authenticate that staff are who they claim to be;

1.2.3.2 Confirm that staff have a right to work in the RSA;

1.2.3.3 Obtain written declaration from staff of any criminal record; and

1.2.3.4 Confirm that staff possesses the relevant qualifications to undertake the duties effectively and safely.

1.2.4 The successful bidder shall deploy competent staff, supervision and labour who are appropriately experienced and trained for the work they are to undertake.

1.2.5 Necsa and its representatives may seek formal assurance to this effect (including a formal audit) at any time during the contract period.

#### 1.3 Consortium

1.3.1 Bidders forming part of a Consortium must submit with their bid a copy of their Consortium agreement in a separate attachment. This must clearly indicate:

1.3.1.1 The form of agreement;

1.3.1.2 The respective roles and responsibilities of the members;

1.3.1.3 The identity of the lead company which will have the overall project responsibility;

1.3.1.4 The name and address of the officer acting as the single point of contact for all communications between NECSA and the tenderers. He shall be fully empowered to act on behalf of all members; and

1.3.1.5 The member's agreement to be jointly and severally liable to NECSA for the performance of the contract.

#### 1.4 Sub-contracting

1.4.1 Bidders must detail any work to be sub-contracted, and the proposed sub-contractor(s) to be used.

1.4.2 Necsa reserves the right to reject the use of any of the bidder's proposed subcontractors and any subcontractor proposed during the contract term.

1.4.3 Bidders are advised that Necsa will not respond to any direct approach from potential sub-contractors for details in respect of any particular item in this bid.

## 1.5 **Necsa's Bidding Rights**

1.5.1 Necsa reserves the right to:

1.5.1.1 Extend the closing date;

1.5.1.2 Verify any information contained in a proposal;

1.5.1.3 Request documentary proof regarding any bid issue;

1.5.1.4 Give preference to locally manufactured goods or locally sourced services;

1.5.1.5 Issue follow-up or supplementary questions during the response period or after receipt of tenders;

1.5.1.6 Make known to all bidders any questions submitted by a bidder including commercial and technical clarifications, together with the answers given to any individual bidder, if it is considered to be relevant to the tender; and

1.5.1.7 Cancel or withdraw this request for tender as a whole or in part.

1.5.2 Evaluating Authorities' part of the evaluation process NECSA may require bidders to arrange and/or participate in one or more of the following:

1.5.2.1 Interviews with, or written references from, nominated reference;

1.5.2.2 Reference site visits to the location(s) of nominated reference;

1.5.2.3 Interviews with bidder personnel who would be involved in the contract execution (day-to-day operations of the site);

1.5.3 Negotiations with the bidders.

1.5.4 Appoint one bidder or more than one bidder where necessary

## 1.6 **Bidding Process**

1.6.1 Bidders must familiarise themselves with and comply with the procurement timetable and ensure their availability for the site visit and presentations, as required, on the appropriate dates. Necsa is unlikely to be able to offer much flexibility to this timetable.

1.6.2 Bidders are required to:

1.6.2.1 Respond in the English language;

1.6.2.2 A cover letter on the bidders company letterhead with clear reference to the bid of interest should accompany both the technical and pricing proposals;

1.6.2.3 All copies of the tender response must have signatures on the Declaration of Compliance to the Necsa Contact Person;

1.6.2.4 Ensure that all document attachments are clearly marked and bound in a clear, logical and well-marked format with a table on context ensuring ease of finding individual documents or sections; and

1.6.2.5 The original document must be signed in black ink by an authorised person, agent or representative and each and every page of the bidding documents shall contain the initials of the same signatory.

- 1.6.3 All costing and information must be typed and signed by the bidder, no hand written costing/pricing will be accepted.
- 1.6.4 All bids in this regard shall be accepted if they have been placed by the closing date stipulated. **Late bid submissions will not be considered.**

**1.7 Bid Submission Requirements**

1.7.1 Bidders must submit their responses and all supporting documents in properly labelled and sealed envelopes clearly as follows:

1.7.1.1 Technical Proposal – Envelope One must include:

	three (3) hard copies (one (1) original and two (2) copies) and one (1) electronic copy (on disk or memory stick).
	<b>Additional information must be included in Envelope One.</b>

1.7.1.2 Pricing Proposal – Envelope Two must include:

	two (2) hard copies (one (1) original and one (1) copy) and one (1) electronic copy (on disk or memory stick).
	<b>Additional returnable documents must be included in Envelope Two.</b>

1.7.2 No proposal shall be accepted by Necsa if submitted in any manner other than as prescribed above.

**2. ELIGIBILITY REQUIREMENTS**

**2.1 Pre-qualification Criteria**

Non-compliance to the following pre-qualification criteria will result in automatic disqualification:

Requirement	No
Company information (Paragraph 7)	
Final good standing letter from SARS (Tax clearance) OR a letter from SARS with PIN number issued for TAX compliance status.	
Category of Service Providers being bidden for (i.e. Category 1 or 2. See Subsection 6 in Section 1)	
Professionals (Attorneys) of Law	
Professional qualification compliance (as of section 1 , paragraph 5.1)	
Signature of legal professional rendering the services	
Available references	
Letter from relevant Law Society confirming Good Standing & a certified copy of the Fidelity Fund Certificate	
<b>Category 1:</b> <ul style="list-style-type: none"> <li>• Level 1 EME or QSE.</li> <li>• At least one (1) year post admission experience by the lead legal professional in the relevant area of law.</li> </ul>	

least one (1) year post admission experience or more of the legal practitioner or, in the case of a team of legal practitioners, the lead legal practitioner in relevant area of law	Less than 1 year = 0
<b>Track Record</b>	<b>Maximum Score =50</b>
least two or more verifiable references for legal services rendered in the area of law being applied for (including client name, contact person, address, telephone, and email address), and a summary of the legal services rendered for that client.	6 and more references=50 4-5 references = 40 2-3 references = 30 Less than 2 references = 0

<b>Expertise</b>	<b>Maximum Score = 50</b>
At least eight (8) years' post admission experience or more of the legal practitioner or, in the case of a team of legal practitioners, the lead legal practitioner in relevant area of law	8 years and above = 50 Less than 8 years =0
<b>Track Record</b>	<b>Maximum Score = 50</b>
At least five (5) verifiable references for legal services rendered in that area of law (including client name, contact person, address, telephone, and email address), and a summary of the legal services rendered for that client.	More than 12 references = 50 8-12 references= 40 5-7 references = 30 Less than 5 references =0

**Note: Bidders that score <80 out of a 100 in respect of Technical / Functional Evaluation Criteria will be regarded as submitting a non-responsive bid and will not be evaluated further.**

## 2.2 Tenders to be evaluated on functionality (B-BBEE and Price Evaluation Criteria)

- 2.2.1 An organ of state must state in the tender documents if the tender will be evaluated on functionality.
- 2.2.2 The evaluation criteria for measuring functionality must be objective.
- 2.2.3 The tender documents must specify –
  - (a) The evaluation criteria for measuring functionality;
  - (b) The points for each criteria, if any, each sub-criterion; and
  - (c) The minimum qualifying score for functionality.
- 2.2.4 The minimum qualifying score for functionality for a tender to be considered further –
  - (a) Must be determined separately for each tender; and



(b) May not be so –

- (i) Low that it may jeopardise the quality of the required goods or services; or
- (ii) High that it is unreasonably restrictive.

2.2.5 Points scored for functionality must be rounded off to the nearest two decimal places.

2.2.6 A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.

2.2.7 Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

**2.3 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million**

5.4.1 The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

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

Where-

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

5.4.2 The following table must be used to calculate the score out of 20 for B-BBEE:

BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 5.4.3 A tenderer must submit proof of its B-BBEE status level of contributor.
- 5.4.4 A tenderer failing to submit proof of B-BBEE status level non-compliant contributor to B-BBEE may not be disqualified, but –
- a) May only score points out of 80 for price; and
  - b) Score 0 points out of 20 for B-BBEE.
- 5.4.5 A tenderer may not be awarded points for B-BBEE Status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- 5.4.6 The points scored by a tenderer for B-BBEE in terms of sub regulation (2) must be added to the points scored for price under sub regulation (1).
- 5.4.7 The points scored must be rounded off to the nearest two decimal places.
- 5.4.8 Subject to sub regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- 5.4.9 If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.
- a) The organs of state may –
    - i. Negotiated a market-related price with the tenderer scoring the highest points or cancel the tender;
    - ii. If the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
    - iii. If the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
  - b) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

## **5.5 90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

- 5.5.1 The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where –

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

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

5.5.2 The following table must be used to calculate the points out of 10 for BBEE.

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliance contributor	0

5.5.3 A tenderer must submit proof of its B-BBEE status level of contributor

5.5.4 A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor of B-BBEE may not be disqualified, but –

- a) May only score points out of 90 for price; and
- b) Scores 0 points out of 10 for B-BBEE.

5.5.5 A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

5.5.6 The points scored by a tenderer for B-BBEE contribution in terms of sub regulation (2) must be added to the points scored for price under sub regulation (1).

5.5.7 The points scored must be rounded off to the nearest two decimal places.

5.5.8 Subject to sub regulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

5.5.9 If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.

a) The organs of state may –

- i. Negotiate a market-related price with the tenderer scoring the highest points or cancel the tender.
- ii. If the tenderer does not agreed to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender.
- iii. If the tenderer scoring the second highest points does not agreed to a

market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

- b) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

## SECTION 3

### 1. RETURNABLE DOCUMENTS CHECKLIST

Please indicate that all mandatory documents are included in this bid by ticking the boxes in the checklist below. Responses received without all required documents will be considered invalid. Please also indicate where additional documents have been submitted to the main tender response.

#### 1.1 Mandatory Documents

- 1.1.1  Bidder's Information (Paragraph 7)
- 1.1.2  Original good standing letter from SARS (Tax clearance) OR a letter from SARS with PIN number issued for TAX compliance status.
- 1.1.3  If a Consortium, Joint Venture or Sub-contractor, a valid Tax Clearance Certificate for each member.
- 1.1.4  CSD (Central Supplier Database) Summary report.
- 1.1.5  Proof of Valid Registration / Affiliation to a recognised body
- 1.1.6  Valid B-BBEE Certificate (Sworn Affidavit for SMEs and QSEs or SANAS approved), Share Certificate, Company Registration Certificate.
- 1.1.7  Letter from relevant Law Society confirming Good Standing & a certified copy of the Fidelity Fund Certificate

#### 1.2 Price

- 1.2.1  Price Breakdown.

Type of employment contract	% charged on CTC for placement
Permanent Placement (including Fixed Term Contracts exceeding 12 months)	
Term Contract (3-12 months)	
Temporary Placement (up to 3 months only) invoiced costs	
Headhunting Services for mainly Executive and Senior Management Roles	

1.3 **Compliance Documents**

- 1.3.1  SBD 1 Invitation to Bid.
- 1.3.2  SBD 3.3 Pricing Schedule – Professional Services.
- 1.3.3  SBD 4 Declaration of Interest.
- 1.3.4  SBD 6.1 Preference points claim form in terms of the preferential procurement regulations 2017.
- 1.3.5  SBD 6.2 Declaration Certificate for Local Production and Content for Designated Sectors.
- 1.3.6  SBD 7.2 Contract Form – Rendering of Services.
- 1.3.7  SBD 8 Declaration of Bidder's Past Supply Chain Management Practices.
- 1.3.8  SBD 9 Certificate of Independent Bid Determination.
- 1.3.9  Necsa Terms and Conditions of Contract.
- 1.3.10  Necsa Confidentiality Agreement.
- 1.3.11  Necsa Alcohol and Drug Control Policy.
- 1.3.12  Necsa Safety, Health and Environmental Policy.

**2. BIDDER INFORMATION**

**A.1. The following information must be completed. Failure to do so may result in disqualification.**

<b>BIDDER INFORMATION</b>	
Bidder Name:	
Registration Number:	
VAT Registration Number:	
Bidding Structure (Individual, Joint Venture, Consortium, Sub-contractors)	
Contact Person:	
Telephone Number:	
Fax Number:	
Email Address:	
Postal Address:	
Physical Address:	

<b>HAS A TAX CLEARANCE AND PIN BEEN SUBMITTED?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<b>HAS A VALID BBBEE CERTIFICATE BEEN SUBMITTED?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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**A.2. If bidding as a Joint Venture, Consortium or Sub-Contractors, complete the following company information.**

<b>Name of Company (1):</b>	
Registration Number:	
VAT Registration Number:	
Contact Person:	
Telephone Number:	

Fax Number:	
Email Address:	
Postal Address:	
Physical Address:	

<b>HAS A TAX CLEARANCE AND PIN BEEN SUBMITTED?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<b>HAS A VALID BBBEE CERTIFICATE BEEN SUBMITTED?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<b>Name of Company (2):</b>	
Registration Number:	
VAT Registration Number:	
Contact Person:	
Telephone Number:	
Fax Number:	
Email Address:	
Postal Address:	
Physical Address:	

<b>HAS A TAX CLEARANCE AND PIN BEEN SUBMITTED?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<b>HAS A VALID BBBEE CERTIFICATE BEEN SUBMITTED?</b>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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<b>Name of Company (3):</b>	
Registration Number:	
VAT Registration Number:	
Contact Person:	
Telephone Number:	



Fax Number:	
Email Address:	
Postal Address:	
Physical Address:	

<b>HAS A TAX CLEARANCE AND PIN BEEN SUBMITTED?</b>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<b>HAS A VALID BBBEE CERTIFICATE BEEN SUBMITTED?</b>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b>	<input type="checkbox"/>
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<b>IF YES, PLEASE INDICATE THE EXPIRY DATE</b>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
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<p>I CERTIFY THAT THE INFORMATION PROVIDED ON THIS FORM IS TRUE AND CORRECT.          I FURTHER ACCEPT THAT, IN ADDITION TO CANCELLATION OF CONTRACT, ACTION MAY BE TAKEN AGAINST ME SHOULD THIS DECLARATION PROVE TO BE FALSE.</p>	
<p>_____  <b>SIGNATURE OF BIDDER (DULY AUTHORISED)</b></p>	<p>_____  <b>DATE</b></p>
<p>_____  <b>CAPACITY UNDER WHICH THIS BID IS SIGNED</b></p>	