

REQUEST FOR PROPOSAL [RFP] No TNPA/2023/11/0015/49564/RFP

DESCRIPTION: ESTABLISHMENT OF AN APPROVED PANEL OF SERVICE PROVIDERS TO BE APPOINTED AS OPERATOR(S) OF LAST RESORT OF TNPA PORT TERMINAL/FACILITY OPERATIONS FOR A PERIOD OF THREE (3) YEARS AS AND WHEN REQUIRED, AS A TRANSITIONAL MECHANISM UNTIL NEW TERMINAL OPERATOR(S) ARE APPOINTED THROUGH THE SECTION 56 PROCESS

BRIEFING NOTE 2 OF 2

Questions Posed After Briefing Session	
Question	Answer
1. Request for closing date extension.	The closing date has been extended to 26 February 2024 at 16h00 . Please refer to Addendum no.1. The cut-off date for submission of enquiries is 19 February 2024 at 16h00. Bid submissions must be uploaded on the Transnet e-Tender Submission Portal ((transnetetenders.azurewebsites.net). Emailed submission(s) will not be accepted. Bidder must ensure that the bid is uploaded timeously onto the system. Late bid(s) will not be accepted for consideration.
2. Not all companies are required by law to be audited. What if you have financial statements but not audited, can you submit those financial statements?	The bidding entity must submit three (3) years latest <u>audited</u> financial statements, unaudited financial statements will not be considered.
3. Is the tender open to forensic engineers who carry out failure analysis in a marine environment?	The bid seeks to establish a Panel of Terminal Operators for utilization as and when required for TNPA port terminals/facilities operations. Refer to the technical evaluation criteria with the requirements that must be met by bidders, more detail is embedded in the RFP.
4. It is evident in the RFP document that foreign respondents / suppliers are allowed to participate in this RFP. Furthermore, we understand that a "Valid COIDA Letter of Good Standing with Department of Employment and Labour" is a requirement of the RFP. Please clarify whether a foreign respondent (with no current operations or presence in South Africa) is required to submit this requirement. As we understand it, only established South	The Mandatory returnable document " <i>Valid COIDA Letter of Good Standing with Department of Employment and Labour</i> ", has been retracted as a mandatory returnable document of this RFP. Refer to Addendum no.1

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African entities can obtain such a document. Otherwise, please clarify how a foreign respondent is expected to participate in this RFP given this requirement.	
5. Please confirm if foreign entities are exempt from providing the COIDA Letter of Good Standing with Department of Employment and Labour.	The Mandatory returnable document " <i>Valid COIDA Letter of Good Standing with Department of Employment and Labour</i> ", has been retracted as a mandatory returnable document of this RFP. Refer to Addendum no.1. However, Foreign companies will not be exempted from submitting a valid COIDA Letter of Good Standing with Department of Employment and Labour in the event that the foreign entity is awarded business post establishment of the panel.
6. Furthermore, we understand that a "Valid B-BBEE Certificate or Sworn Affidavit as per DTIC Guidelines" is a requirement of the RFP. Again, please clarify whether a foreign respondent (with no current operations or presence in South Africa) is required to submit this requirement. As we understand it, the process of a foreign entity itself undergoing B-BBEE verification to get B-BBEE certificate can take upwards of two to three months.	The B-BBEE Certificate or Sworn- Affidavit is not a Mandatory requirement for this RFP. However, will be required at the second phase when Requests for Quotations/Proposals (RFx) are issued to service providers appointed to the panel. Non submission of a B-BBEE Certificate or Sworn Affidavit in Phase 2 will not disqualify a bidder, but a score of zero will be allocated on the specific goal for B-BBEE Status Level of Contributor.
7. Please confirm if we require a B-BBEE rating letter (or sworn affidavit) to be submitted at this stage in the process? We understand that in Phase 2, we may need to submit a proposal which among others will compete against other bidders on preference (B-BBEE) > would we be able to win a Phase 2 RFP in case we are not B-BBEE accredited?	The Valid B-BBEE certificate or Sworn Affidavit as per DTIC guidelines is part of the essential documents to be submitted with this RFP document and will not be used for scoring. Therefore, a B-BBEE rating letter is acceptable at this stage. Non submission of a B-BBEE Certificate or Sworn Affidavit in Phase 2 will not disqualify a bidder, but a score of zero will be allocated on the specific goal for B-BBEE Status Level of Contributor.
8. Pursuant to RFP Section 4 subsection 6 (page 19 of 34), respondents must elaborate on measures put in place, which would mitigate the risk to Transnet of non-performance around quality of services delivered,	Bidders to provide assurance of their compliance to Occupational Health & Safety ACT and The Railway Safety Regulator Act (RSR Act). The bidder will need to have a readily available RSR Permit as per Railway Safety Regular

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continuity of service, compliance with occupational health and safety act, compliance with national railway safety regulator act. Please can you clarify more concretely what it is that is expected in this section; should we describe our way of working in more detail, what kind of compliance programs we have in place etc.?	Act if necessary and comply with all requirements. Comply with all OHS ACT requirements with an indication of their current health and safety compliance obligations which will be determined by their operations e.g. Health and Safety Legal Compliance Register. In addition, Bidders are to provide control measure for quality assurance and compliance to the specification of works required.
9. For this submission, do we need to complete Annexure B: Master Agreement. If yes, what information do we need to fill in?	The document is provided for review at this stage of the RFP process.
10. In relation to the scope of service, can a bidder submit "interest" to quote only for Item: 2.1.3.IV, and regarding only all types of containers handling equipment. (Excluding the civil infrastructure part of that line). (Please attached doc.) As we are OEM for these types of equipment, we can concentrate our capacities to do repairs, modifications, supply of spares and recommissioning of container handling equipment.	The bid is calling for Terminal Operators who will perform all items/activities listed in the scope of work and not only parts of terminal operations and such the registration of logging of an interest will not suffice.
11. When the list of Interim Operators is complete, will the Operators have access to conditions of operating licence in the Port System that may trigger a cancellation in terms of Section 62 (1) of the National Ports Act	A specification on the roles and responsibilities will be prepared as part of phase 2 i.e., when TNPA needs to make an appointment from the panel of terminal operators.
12. Will the TOLs and TOAs that are currently expired and on month to month be made available to the selected panel member to quote for their operations and facilitate the TNPA to be compliant with the Act	See response to question 11 in the row above.
13. What is the guiding minimum and maximum years of interim operations before TNPA appoints another Operator in terms of Section 56 of the National Ports Act	The panel appointment will subsist for a period of 3 years and should an operator be appointed from the panel such appointment shall not exceed a period of 5 years.
14. At what frequency will TNPA renew the list of the Panel member companies? Will this be every 3 years?	The RFP specified that the panel will be for a period of 3 years, thereafter, TNPA reserves the right to issue another RFP for the establishment of a panel.

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<p>15. Valid COIDA Certificate: As outlined in Clause 5.2, Step Two: Test for Substantive Responsiveness to RFP, there is a requirement regarding the submission of a valid COIDA Letter of Good Standing with the Department of Employment and Labor. It's important to note that as an international investor, we currently do not have operations in South Africa and do not employ anyone there. Drawing from our experience with the Durban tender, we propose a similar approach where we submitted an undertaking to apply for valid local licenses and certificates once a local Special Purpose Vehicle (SPV) is incorporated. Given these circumstances, we kindly request the relaxation of this clause for esteemed international container terminal operators like us, who lack a current presence in South Africa. We are prepared to submit a formal undertaking to comply with this requirement when appropriate.</p>	<p>Refer to addendum no.1</p>
<p>16. Associate/ Related Company Credentials: It is crucial to acknowledge that, for global container terminal operators like us, the Bidder is distinct from the operating entities within the group, each operating under its own concession agreement with the relevant port authority or government. The written response following the non-compulsory briefing suggests the formation of a joint venture (JV) between the holding entity and the operating entity. However, this may pose challenges as it is often not permitted under the concession agreements of the operating entity. To align with industry norms, where Bidders typically rely on the experience of sister/related companies or those owned by common shareholders, we kindly request TNPA to consider the use of holding/investment platforms for bidding on international projects while leveraging the experience of their sister operating entities.</p>	<p>Bidders who have group structures where a particular subsidiary/associate/related company has specialised experience and expertise with the handling of a particular commodity must submit a response per commodity in the name of such a subsidiary/associate/related company.</p> <p>The nature of the appointment and the scope of works to be carried out is dependent on the nature and extent of non-conformance.</p> <p>The use of holding or investment platforms does not enable the equitable evaluation of the responses to establish the panel and is as such not encouraged.</p>