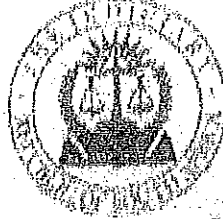


REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 12908/2017

In the matter between:

ALSTOM S&E AFRICA (PTY) LTD
t/a GE STEAM POWER SYSTEMS
("Alstom")

Applicant

MURRAY & ROBERTS/SHANGHAI
ELECTRIC CONSORTIUM
("Murray & Roberts")

First Intervening Applicant

MURRAY & ROBERTS LIMITED t/a
MURRAY & ROBERTS POWER & ENERGY

Second Intervening Applicant

SHANGHAI ELECTRIC GROUP COMPANY
LIMITED

Third Intervening Applicant

And

ESKOM HOLDINGS SOC LIMITED
("Eskom")

First Respondent

DONGFANG ELECTRIC CORPORATION LIMITED
("Dongfang")

Second Respondent

RAFAKO SA

Sixth Respondent

DRAFT ORDER

Having heard counsel for the Applicants and the Respondent it is hereby
ordered that:

- 1 The Intervening application is hereby granted. The First, Second and Third intervening applicants are hereby joined as co-applicants to Alstom.
- 2 Pending the final determination of the relief sought in Part B of this application and Part B of the intervening application, the First and Second Respondents are interdicted from taking any steps to implement or execute any contract pursuant to the award of the tender advertised under Request For Proposal (RFP) Corp 3571 pertaining to the manufacturing, factory acceptance testing, procurement shipping and delivery to site, installation, testing and commissioning of the pulverised coal fired boiler as part of the return to service of unit 3 at Duvha Power Station (the tender)
- 3 The First Respondent is ordered to pay the taxed party and party costs of the application as well as the intervening application which costs shall include the costs of two (2) counsel.

DATED at JOHANNESBURG on this the 30th day of JUNE 2017


M A MAKUME
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION JOHANNESBURG



Terms of Reference (32-606)

Office of the Group
Company Secretary

BN2
32

Title: **Board Tender Committee**

Document Identifier: **240-XXXXXXX**

Alternative Reference NA
Number:

Area of Applicability: **Eskom Holdings SOC Ltd**

Functional Area: **Corporate Governance**

Revision: **1**

Total Pages: **15**

Next Review Date: **10-2017**

Disclosure
Classification: **Public**

Compiled by:

Supported by:

Authorized by:

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Z Khoza

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Group Company
Secretary

Chair of the Board
Tender Committee

Chair of Board

Date:

Date:

Date:

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3. SECTION 3

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SOC Ltd, Reg No 2002/015527/30.

1. SECTION 1**1.1. Purpose**

The purpose of the Terms of Reference is to define and formalise the composition, role and responsibilities, authority and governance processes of the Committee.

1.2. Applicability

This document area of applicability is Eskom Holdings (SOC) Ltd.

1.3. Definitions and Abbreviations**1.3.1. Definitions**

Board	The board of directors of Eskom from time to time
Business Day	Any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa
Companies Act	Companies Act, 71 of 2008, as amended and including its regulations
DoA	Eskom's delegation of authority policy (240-62072907)
Eskom	Eskom Holdings SOC Ltd
King IV	King IV Report on Corporate Governance for South Africa, 2016
King IV Code	Part 5 of the King IV Report on Corporate Governance for South Africa, 2016
Mol	Eskom's Memorandum of Incorporation (240-65347859)
PFMA	The Public Finance Management Act, 1 of 1999, as amended and including its regulations

1.3.2. Abbreviations

GCE	Group Chief Executive
GCFO	Group Chief Financial Officer

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BTC	Board Tender Committee
-----	------------------------

1.4. Normative/Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

1.4.1. Normative

a.	Companies Act
b.	DoA
c.	Mol
d.	PFMA
e.	Shareholder's Compact
f.	King IV
g.	Information Security Policy 32-85
h.	Procedure for the handling of Classified Items

1.4.2. Informative

a.	ISO 9001:2008
-----------	---------------

1.5. Information Security

The Committee shall, in carrying out its roles and responsibilities in accordance with the Terms of Reference, take note of the Eskom Information Security Policy. Information resources are Eskom business critical assets requiring a high level of protection. Sufficient measures commensurate with the risk must be taken to protect these information resources against accidental or unauthorised modifications, disclosure and/or destruction, as well as to assure the confidentiality integrity and availability of Eskom's information resources.

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2. SECTION 2

2.1. Constitution of Committee

The Board Tender Committee ("Committee") is a Committee of the Board, and has been established to assist the Board in its responsibility in making commercial process decisions to the benefit of Eskom.

The Committee shall carry out its roles and responsibilities and exercise its delegated authority as determined by the Board and reflected in these Terms of Reference, subject to the provisions of the Companies Act, the PFMA, the DoA, the Mol, the Shareholder's Compact, and any other applicable legislation or Eskom policies/procedures as determined by the Board ("the governance framework").

To the extent that there is a conflict between the governing framework and these Terms of Reference, the governing framework shall take precedence and these Terms of Reference shall be amended to remove the conflict.

The duties and responsibilities of the members of the Committee are in addition to those as members of the Board. The deliberations of the Committee do not reduce the individual and collective responsibilities of Directors with regard to their fiduciary duties and responsibilities and they must continue to exercise due care and judgment in accordance with their statutory obligations.

The Committee shall, in fulfilling its mandate, apply the relevant King Code principles and explain the practices that demonstrate the application of these principles.

2.2. Composition of the Committee

2.2.1. The Committee shall comprise at least 3 (three) Directors, the majority of whom shall be independent, non-executive Directors.

2.2.2. The Board shall appoint the members of the Committee, including the Chair thereof.

2.2.3. The tenure of members of the Committee is at the discretion of the Board.

2.2.4. The Board shall have the power at any time to remove any members from the Committee, and to fill any vacancies created by such removal.

2.3. Committee Support Structure

2.3.1. The Committee, in consultation with the GCE, shall identify officials who shall assist the Committee in an advisory capacity and who shall be

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expected to attend meetings of the Committee unless otherwise required by the Committee.

- 2.3.2. The Committee, in consultation with the GCE, shall appoint a Senior Eskom Executive as the co-ordinating official.
- 2.3.3. The co-ordinating official of the Committee shall:
- 2.3.3.1. provide assistance to the Office of the Group Company Secretary in drawing up meeting agendas and preparing the necessary documentation.
 - 2.3.3.2. review the minutes of meetings for correctness prior to circulation to members.
 - 2.3.3.3. ensure that all action items from each meeting are appropriately addressed.
 - 2.3.3.4. ensure that all actions emanating from resolutions passed by the Committee are actioned and managed accordingly.
 - 2.3.3.5. sign-off on all submission packs to the Committee.
- 2.3.4. Officials shall not form part of the quorum and shall not have any voting powers.
- 2.3.5. The Committee, in consultation with the GCE, shall have the power at any time to remove any officials appointed in terms of clause 2.3.3 above from the Committee.
- 2.3.6. The Committee, in consultation with the GCE shall annually review and identify officials who will be required to attend the Committee meetings.
- 2.3.7. Experts, consultants and/or advisors may be appointed from time to time to assist the Committee in fulfilling its mandate and shall be invited to attend meetings of the Committee with the consent of the Chair and on recommendation by the relevant official. Where reasonably possible and deemed necessary, international nuclear experts should be invited to attend meetings when the Committee discusses nuclear issues.
- 2.3.8. The costs of appointment and/or attendance of such experts, consultants or advisors shall be borne by the appropriate business unit, and failing clarity in this regard, this matter shall be determined by the GCE. Experts, advisors or consultants appointed in terms hereof shall not be members of the Committee and shall not be considered for quorum purposes.
- 2.3.9. Any Board member who is not a member of the Committee may attend the Committee meeting as an observer, however the Board member is not entitled to participate without the consent of the Chair and does not have a

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vote.

2.4. Authority of Committee

2.4.1. The Committee acts in terms of the responsibilities delegated to it by the Board as recorded in these terms of reference.

2.4.2. The Committee is authorised to:

2.4.2.1. Require from any Director or Prescribed Officer any information or explanation necessary for the performance of the Committee's functions.

2.4.2.2. Request from any employee of the Company any information or explanation necessary for the performance of the Committee's functions.

2.4.2.3. Investigate any activity within its terms of reference, which shall be borne by the business unit to which it relates, and failing clarity in this regard, this matter shall be determined by the General Manager Corporate Strategy and Planning.

2.4.2.4. Obtain independent professional and legal advice, as it considers necessary to carry out its duties, and report promptly to Board on advice made in this regard. The Committee has reasonable access to the Company's records, facilities, employees and any other resources necessary to discharge its duties and responsibilities subject to the Board approved process.

2.4.2.5. Approve tenders and contracts with a value from R750m up to Investment decision or Budget. This includes acquisition and disposal of movable and immovable property, operational expenditure and the provision and acquisition of services.

2.5. Meeting Procedure

2.5.1. Meetings

2.5.1.1. The Committee shall hold sufficient scheduled meetings to discharge all its duties as set out in these terms of reference, subject to at least one meeting every quarter.

2.5.1.2. Meetings, in addition to those scheduled, may be convened by the Chair of the Committee or at the request of a member, with the approval of the Chair.

2.5.1.3. The meetings of the Committee may be held in person, or by electronic communication as circumstances might require, provided that the required quorum is met.

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- 2.5.1.4. Reasonable notice of meetings and the business to be conducted shall be given to members and officials of the Committee, even those for the time being absent from the Republic of South Africa.

2.5.2. Quorum

- 2.5.2.1. The quorum for meetings shall be a majority of members present, in person or by electronic communication facility, throughout the meeting.
- 2.5.2.2. Where a member declares an interest and is recused from the meeting, the meeting remains quorate during his/her absence.
- 2.5.2.3. In the absence of a quorum and subject to the discretion of the Chair, the meeting can either be postponed to a later date or can proceed as an informal meeting with all resolutions required to be taken at the meeting being formally approved by way of a Round Robin Resolution (RRR).
- 2.5.2.4. No resolutions tabled for approval by the Committee at a meeting which is not quorate will be implemented until formally approved at the postponed meeting or via RRR as contemplated in clause 2.5.2.3.
- 2.5.2.5. The RRR circulated in terms of clause 2.5.2.3 requires unanimous approval, in the absence of which a special meeting of the Committee will be convened in order for the matter to be discussed and formally approved during such special meeting.

2.5.3. Agenda

- 2.5.3.1. The Committee must develop an annual agenda plan to ensure that all matters within its terms of reference are covered by the agendas of the meetings planned for the year.
- 2.5.3.2. The number, timing and length of meetings and the agendas are to be determined in accordance with the annual agenda plan.
- 2.5.3.3. The Chair of the Committee may meet with the Office of the Group Company Secretary and officials prior to the meeting to discuss important issues and agree on the agenda.
- 2.5.3.4. Prior to every meeting, the agenda must be signed-off by the co-ordinating official.
- 2.5.3.5. Agenda items not forming part of the annual agenda plan may only be included with the approval of the co-ordinating official.

2.5.4. Attendance

- 2.5.4.1. Committee members must attend all scheduled meetings of the

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Committee, including meetings called on an ad hoc basis for special matters, unless an apology, with reasons, has been submitted to the Chair of the Committee or the Office of the Group Company Secretary.

2.5.4.2. If the Chair is absent from a meeting, any other member may act as Chair for that meeting, as agreed by those present, or as nominated by the Chair.

2.5.4.3. No member shall be entitled to appoint an alternate in his/her stead.

2.5.4.4. Members shall be fully prepared for meetings to provide appropriate and constructive input on matters under consideration.

2.5.5. Meeting and Written Resolutions

2.5.5.1. A decision carried by the majority of members present at a meeting, voting in favour of a decision, shall be a decision of the Committee. In the case of an equality of votes, the Chair shall not have a second or casting vote.

2.5.5.2. The Committee may in the event of a deadlock refer the matter to the Board for a decision.

2.5.5.3. No official shall have a vote at meetings of the committee.

2.5.5.4. In the case of round robin approvals, a resolution in writing, including those submitted electronically, approved by 75% of members within 10 (ten) Business Days after the resolution was submitted to them, shall be valid and effective as if it had been passed at a meeting of the Committee duly called and constituted, provided that each member has received notice of the round robin resolution.

2.5.5.5. Where the round robin resolution referred to in term 2.5.5.4 above is approved by the members electronically, the original signed resolution must be returned to the Office of the Group Company Secretary as soon as possible for retention in terms of the Companies Act.

2.5.5.6. Such a round robin resolution and approval shall be tabled at the next meeting for noting.

2.5.5.7. Every member of the Committee, even those for the time being absent from the Republic of South Africa, shall receive notice of the resolution to be voted on in writing.

2.5.5.8. In the event of a member not being able to sign and return the signed round robin resolution within the period prescribed above, confirmation of approval of the resolution may be provided in writing and in electronic format and the resolution there after signed by the said member as soon as reasonably possible.

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2.5.5.9. A round robin resolution shall be deemed to have been passed on the latest date on which it was signed or approved in writing by way of electronic means as envisaged above by the requisite number of members as provided for in paragraph 2.5.5.4 above.

2.5.6. Minutes

2.5.6.1. Minutes of meetings shall be completed by the Office of the Group Company Secretary within ten (10) Business Days after the meeting for review by the co-ordinating official where after it shall be circulated to members for comment.

2.5.6.2. The minutes must be verified by the Committee at its next scheduled meeting or via electronic communication and may thereafter be signed by the Chair of the Committee.

2.5.7. Reporting

2.5.7.1. A written report on the matters considered and decisions taken by the Committee shall be submitted to the next Board meeting.

2.5.7.2. The Chair of the Committee (or in his/her absence another member of the Committee) may highlight issues in the report for the attention of the Board.

2.5.7.1. A report of the Committee's activities shall be included annually in the Integrated Report as per the King IV Code guidance.

2.6. Evaluation of Performance

An evaluation of performance and effectiveness of the Committee, as well as individual Directors will be reviewed as necessitated by changes in the governance framework and as directed by the Board.¹

2.7. Revisions

Date	Rev	Remarks
May 2015	0	Annual Review
February 2017	1	Template revised based on Governance Committee requirements for Committee templates

¹ Requirement as per King IV is biennially. DPE requirement is annually.

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2.8. Development Team

This document was influenced and supported by the following:

Name	Division Represented

2.9. Approval of Terms of Reference

The Terms of Reference shall be approved by the Board on the recommendation of the Committee, shall be reviewed on an annual basis and may, from time to time, be amended as required.

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3. SECTION 3

3.1. Role of the Committee

The role of the Committee is to assist the Board in making commercial process decisions to the benefit of Eskom.

3.2. Responsibilities of the Committee

The Committee is responsible for:

- 3.2.1. approve tenders and the awarding of contracts up to the maximum of the investment decision /budget;
- 3.2.2. approve procurement strategies for projects inception;
- 3.2.3. approve procurement strategies for specific transactions from R750m up to Investment decision or Budget;
- 3.2.4. ensure that all the above are done to ensure fair, equitable, transparent, cost-effective and competitive procurement processes;
- 3.2.5. ensure that Eskom's procurement strategies promote transformation with regard to BEE and SD&L;
- 3.2.6. ensure that Eskom uses the infrastructure spend to transform and create employment opportunities and to ensure that Eskom sustains and maintains continued supply of electricity;
- 3.2.7. act as the oversight authority in the formulation of strategy and on-going performance monitoring and tracking of Group Commercial through relevant dashboards;
- 3.2.8. implement higher SD&L targets at the lower transactional levels where barriers to entry for BO, BWO and BYO entities are more significant, including the use of targeted competitive selection where necessary, in order to ensure achievement of the overall Eskom SD&L targets as set out in the Eskom Corporate Plan and in the Eskom Competitive Supplier Development Plan;
- 3.2.9. ensure inclusion of provisions in the standard conditions of tender which enable Eskom to reserve its right not to award a particular tender to the highest ranked or highest scoring tenderer and/or to not award it at all, in order to ensure that it is able to leverage and maximise the socio-economic and developmental objectives that are enshrined in various government policies such as the Industrial Policy Action Plan and the New Growth Plan and aligned with the set corporate targets, provided that:

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- 3.2.9.1. the evaluation factors to be considered in the exercising of this right is clearly set out in the tender invitation for proposals; and
- 3.2.9.2. do not include factors that were already considered in full or in part of the main stream evaluation factors or first phase of the evaluation.
- 3.2.10. ensure oversight of contract modifications and condonations to ensure that these are stringently managed; and
- 3.2.11. ensure oversight on the governance structure of the Land & Rights Committee together with the Property and Asset Disposals.

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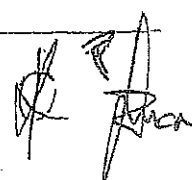
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 Eskom	Request for Proposal (RFP)	Unique Identifier	240-114238630
		Revision	Rev 0
		Revision Date	July 2019
		Group Technology and Commercial	
		Enquiry no	CORP 3571

ESKOM HOLDINGS SOC LTD
REQUEST FOR PROPOSAL (RFP) CORP 3571
FOR

The manufacturing, factory acceptance testing, procurement, shipping and delivery to Site, installation, testing and commissioning of a pulverized coal fired boiler as part of the return to service of Unit 3 at Duvha Power Station.

RFP number	CORP 3571
Issue date	17 August 2016
Closing date and time of Tender Submission	1 November at 10h00
Closing date and time for clarification questions	27 October 2016 at 10h00
Tender validity period	Eight (8) weeks from the closing date and time
Eskom to issue Conditions of Contract	31 August 2016
Eskom to issue Technical Proposal Design	<ul style="list-style-type: none"> Partial technical information by 31 August 2016 Completed technical information by 30 September 2016
Site visits at Duvha Power Station	<ul style="list-style-type: none"> 12 September 2016 05 October 2016
Clarification meetings	<ul style="list-style-type: none"> 13 September 2016, 09h30, Eskom Megawatt Park, 1 Maxwell Drive, Sunninghill, Sandton, Johannesburg 06 October 2016, 09h30, Eskom Megawatt Park, 1 Maxwell Drive, Sunninghill, Sandton
Tenders are to be delivered to the following address on the stipulated closing date and time:	Eskom Megawatt Park 1 Maxwell Drive, Sunninghill, Sandton Tender Office (Opposite Main Reception) Johannesburg



	Request for Proposal (RFP)	
	Unique Identifier	240-114238630
	Revision	Rev 0
	Revision Date	July 2019
	Group Technology and Commercial	
	Enquiry no	CORP 3571

Request for Proposal CORP 3571

Eskom Holdings SOC Ltd (hereinafter "Eskom") invites you to submit a *proposal* for the Manufacturing, Factory Acceptance Testing, Procurement, Shipping and Delivery to Site, Installation, Testing and Commissioning of a pulverized coal fired boiler as part of the return to service of Unit 3 at Duvha Power Station.

The enquiry documents are supplied to you on the following basis:

- Free of charge

Eskom has delegated the responsibility for this tender to the Eskom *Representative* whose name and contact details are set out in the Tender Data. A submission of a proposal by you in response to this RFP will be deemed as your acceptance of the Eskom Standard Conditions of Tender (to be accessed via www.eskom.co.za).

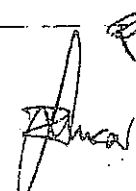
Queries relating to these RFP documents may be addressed to the Eskom *Representative*.


Yours faithfully



Charles Kalima
General Manager (Acting): Eskom Commercial-Commodity Sourcing

Date: 18.08.2016



 Eskom	Request for Proposal (RFP)	Unique Identifier	240-114238630
		Revision	Rev 0
		Revision Date	July 2019
		Group Technology and Commercial	
		Enquiry no	CORP 3571

Contents of Request for Proposal CORP 3571 documents are as follows

1. Request for Proposal (RFP CORP 3571)

- 1.1 Conditions of Tendering (refer to www.eskom.co.za for this document that suppliers are required to download and read)
- 1.2 Tender Data
- 1.3 Commercial Tender returnables

2. Evaluation process and criteria

- 2.1 Basic Compliance
- 2.2 Mandatory tender returnables
- 2.3 Functionality
- 2.4 Financial evaluation
- 2.5 Price and preference scoring
- 2.6 Objective criteria

3. Condition of contract

- 3.1 To be issued by 31 August 2016


4. Scope of work/Works Information/Employers Requirements

- 4.1 Partial technical information to be issued by 31 August 2016.
- 4.2 Completed technical information to be issued by 30 September 2016.

5. Pricing data

- 5.1 Pricing data or requirements to be issued by 30 September 2016.



 Eskom	Request for Proposal (RFP)	Unique Identifier	240-114238630
		Revision	Rev 0
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		Group Technology and Commercial	
		Enquiry no	CORP 3571

6. Annexures


Number	Description	Annexure	Attached (Y/N)	Page no.
6.1	Acknowledgement form	Annexure A	Y	26
6.2	Tenderer's particulars	Annexure B	Y	29
6.3	Integrity Declaration Form (refer to www.eskom.co.za for the Supplier Integrity Pact that suppliers are required to download and read)	Annexure C	Y	32

1.2. TENDER DATA

The Tender Data makes several references to the Eskom Standard Conditions of Tender (refer to www.eskom.co.za for this document that suppliers are required to download and read). The clauses that apply specifically to this RFP are referenced hereunder. The "Tender Data" shall take precedence over the Standard Conditions of Tender in the event of any ambiguity or inconsistency between the two documents.


Clause Number from Standard Conditions of Tender	Tender Data
1.1 Parties	<p>The Employer is Eskom Holdings SOC Ltd</p> <p>The Eskom Representative is: Name: Thami Mnguni Tel: +27 11 800 5873 E-mail: mnguni@eskom.co.za</p>
1.1 Eligible tenders	<p>Tenderers are deemed ineligible to submit a proposal if</p> <ul style="list-style-type: none"> Tenderers have the nationality of a country on any international sanctions list. A tenderer shall be deemed to have the nationality of a country if the tenderer is a national or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.

[Handwritten signature]

 Eskom	Request for Proposal (RFP)	Unique Identifier	240-114238630
		Revision	Rev 0
		Revision Date	July 2019
		Group Technology and Commercial	
		Enquiry no	CORP 3571


	<ul style="list-style-type: none"> • Tenderers submit more than one proposal either individually or as a partner in a joint venture (JV) or consortium • Proposals submitted by a JV or consortium where the JV/consortium agreement does not explicitly state that the parties of the JV or consortium shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. • A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this RFP process, if : <ul style="list-style-type: none"> (a) they have a controlling partner in common; or (b) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the tender/proposal of another Tenderer, or influence the decisions of the Employer regarding this bidding process; • Tenders signed by non-authorised persons. • Tenderers need to be registered with National Treasury's Central Supplier Database. <p>Ineligible tenderers will be disqualified.</p>
1.3 Enquiry documents	<p>The RFP number is : CORP 3571</p> <p>See the content list above for the enquiry documents.</p>
1.4 Type of Invitation to Tender/RFP	<p>This RFP is:</p> <ul style="list-style-type: none"> • An Open Invitation to tender
1.6 Eskom's right to accept /reject a tender	<p>The tender shall be for the whole of the contract.</p>

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2.2 - 2.5 Tender Submission Information	<p>The deadline for <i>RFP</i> submission is : Date: 01 November 2016 Time: 10h00</p> <p>Late Tenders will not be accepted</p> <p>Addressed: Tenders are to be submitted to the Eskom <i>tender box</i> at the following physical address:</p> <p>THE TENDER OFFICE Eskom Megawatt Park 1 Maxwell Drive, Sunninghill, Sandton Tender Office (Opposite Main Reception) Johannesburg</p>												
2.8 Mandatory tender returnables	See below list of Tender Returnables, some of these are mandatory at the Tender deadline, and others required later.												
2.9 Copy of original tender	The tenderer shall submit original tender, plus 3 copies that are identical to the original tender and two soft copies e.g. a CD or memory stick/USB that is also identical to the original copy.												
2.13 Tender Validity Period	The tender validity period is eight (8) weeks												
2.17 Site/clarification meetings	<p>A clarification meeting and site visit with representatives of the <i>Employer</i> will take place as follows:</p> <table><tr><th>Item</th><th>Site visit</th><th>Clarification</th></tr><tr><td>Date</td><td>12 September 2016 and 05 October 2016</td><td>13 September 2016 and 06 October 2016</td></tr><tr><td>Time</td><td>09h30</td><td>09h30</td></tr><tr><td>Venue</td><td>Duvha Power Station*</td><td>Eskom Megawatt Park, 1 Maxwell Drive, Sunninghill, Sandton, Johannesburg</td></tr></table> <p>Note: *Old Belthal Road, Emalahleni, 1034 <i>Tenderers</i> must confirm their intention to attend with the Eskom <i>Representative</i> stating the name, position, car registration, ID number and contact details of each proposed attendee.</p>	Item	Site visit	Clarification	Date	12 September 2016 and 05 October 2016	13 September 2016 and 06 October 2016	Time	09h30	09h30	Venue	Duvha Power Station*	Eskom Megawatt Park, 1 Maxwell Drive, Sunninghill, Sandton, Johannesburg
Item	Site visit	Clarification											
Date	12 September 2016 and 05 October 2016	13 September 2016 and 06 October 2016											
Time	09h30	09h30											
Venue	Duvha Power Station*	Eskom Megawatt Park, 1 Maxwell Drive, Sunninghill, Sandton, Johannesburg											
2.18 Clarification on enquiry documents	The tenderer will notify the <i>Employer</i> of any clarifications required before the closing time for clarification queries, which is 5 days before the tender submission (closing date).												
2.22 Conditions of contract	The conditions of contract will be forwarded by 31 August 2016 .												
2.24 Alternative tenders	Alternative tenders are not allowed .												
2.31 Provision of security for performance	Will be detailed in the Conditions of contract.												



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3.17 Evaluation of price	<p>Prices will be evaluated as follows:</p> <ul style="list-style-type: none"> • Making the specified correction for arithmetical errors • Excluding contingencies in any bill of quantities or activity schedule. • Making an adjustment based on the application of the quantitative information entered by tenderers in the Contract Data provided by the Contractor to provisional amounts assessed by Eskom's Representative. Conditions of Contract detailing all the may be included in the tender returnables for this purpose. • Making an appropriate adjustment for any other acceptable variations, deviations, loss evaluation or alternative tenders submitted. • Making a comparison of the Nett Present Value of each adjusted tender based on the tendered programme (if provided) and prices, on the estimated effect of Price Adjustment Factors and rate of exchange fluctuations (if applicable) and on other evaluation parameters relating to uncertainty and risk.
3.18 Scoring of Prices	Prices will be scored out of 90.
3.19 Scoring of B-BBEE	B-BBEE status will be scored out of 10 in accordance with PPPFA.
3.20 Ranking of suppliers	Suppliers will be ranked by applying the preferential point scoring based on the 90/10 principle.
3.21 Objective criteria	<p>The following will be objective criteria:</p> <ol style="list-style-type: none"> 1. SHEQ requirements. 2. SD&L requirements (minimum threshold of 60% must be achieved before contract award).

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1.3 TENDER RETURNABLES (refer to 2.7 & 3.12 above)

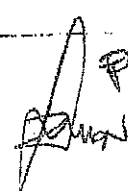
The tenderer must submit the returnables set out hereunder as part of its tender. (Mandatory returnables are indicated by a tick (✓), and if they are not submitted by tender deadline, the tenders will be disqualified from further evaluation).

No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
1.	Contractor's Nominated Account details (details for both foreign and local payments and where applicable CFC account details for foreign currency paid into a local bank account).		✓
2.	Details of at least two entities or institutions which the Contractor intends to use to issue the Performance Security (as per Sub-Clause of the Conditions of Contract) and any other bonds provided for in the conditions of contract.		✓
3.	Parent Company Guarantee		✓
4.	Organogram indicating the tenderers proposed structure for the execution of the Works and Identified key personnel (if any) together with relevant curriculum vitae of such personnel. Organogram should clearly indicate site based staff and off-site based staff (indicating local and overseas staff).		✓
5.	Schedule of proposed subcontractors Section 1.7		✓
6.	Your corporate governance policy (and for joint ventures, the Corporate Governance Policy of each member is required).		✓
7.	Original SARS Tax Clearance certificate (IRP20).		✓
8.	Certified Copy of the VAT registration certificate (VAT 103) if the tenderer qualifies as a VAT vendor. Tenderers should note that The Employer will only pay VAT against presentation of a valid tax invoice and to the extent that VAT is payable in connection with the Works		✓



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No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
9.	Completed set of the Supplier Tax Evaluation Pack for Service Providers, which includes Evaluation Pack A, Questionnaire and Appendices.		√
10.	A completed copy of the Foreign Procurement Importation Information/Requirements Sheet.		√
11.	To the extent that you fall within the definition of a "designated Employer" as contemplated in the Employment Equity Act 55 of 1998, you are required to furnish The Employer with proof of compliance with the Employment Equity Act, including proof of submission of the Employment Equity report to the Department of Labour.		√
12.	Original B-BBEE Recognition Level Verification Certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or an Accounting Officer as contemplated in the CCA. (Supplier will not be disqualified if the B-BBEE certificate is not available at tender close).	√	√
13.	A trust, consortium or joint venture will qualify for points for the B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate; and	√	√
	• A trust, consortium or joint venture will qualify for points for the B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated scorecard as if they were a group structure.	√	√
	• An original certificate of good standing, or proof of application, issued by the Fund, or a licensed compensation insurer		√
14.	Audited Financial Statements for the last two financial years that are written in English, or to the extent that such statements are not available, for the last two years that are available;	√	√
15.	Tenderers to note that in the case of a joint venture or special purpose vehicle (SPV) especially formed for this tender or in the last twelve months, Audited Financial Statements of each member are required.	√	√






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	• The Employer Vendor Data Base number or proof of application for registration.		√
16.	If the Contractor constitutes (under applicable laws) a joint venture, consortium or other unincorporated grouping of two or more persons:		
17.	Written confirmation that these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract;		√
	• these persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons;		√
	• the Contractor shall not alter its composition or legal status without prior consent of the Employer;		√
	• that they accept, without qualification, the provisions of Sub-Clause 1.14 of the Conditions of Contract;		√
	• a copy of the joint venture agreement entered into between the members;		√
	• a list of all directors of each member;		√
	• an organogram detailing the group or company structure in respect of each member;		√
	• details of each member's share in the joint venture including details of each member's role and effective participation for the purpose of the Works; and		√
	• details of each member's share in the joint venture including details of Corporate Governance Policy of the Contractor (and for joint ventures, the Corporate Governance Policy of each member is required)		√
	• Valid certificate or proof of CIDB (Construction Industry Development Board) Registration, in a Grade 9 designation.		√
18.	Companies who tender as a joint venture must all submit proof of registration or proof of application for registration with the CIDB as a tender returnable and demonstrate that the requirements of Regulation 25(5) are met.		√
	• Tenderer's proposed Local Production and Content Declaration (Annex C) and information which the Employer may reasonably request which satisfies the Employer that local production and content targets will be achieved	√	√
19.	Tenderer's proposed targets for Local to Site procurement	√	√

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No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
20.	Tenderer's proposed targets for Designated Sectors non-negotiable	√	√
21.	The following documents are returnable with regards to designated commodities: <ul style="list-style-type: none"> • Annex C - Local Content Declaration; • Annex D - Imported Content Declaration; and • Annex E - Local Content Declaration 		√
22.	Insurance quotations from the lead insurer in respect of the following Insurances: <ul style="list-style-type: none"> • Contractors All Risk / Erection All Risks Insurance; • Public Liability Insurance; • SASRIA / Riot Insurance; • Contractor's Equipment Insurance; • Marine/transit Insurance; and • Other Insurances Copies of the draft wording applicable to the following Insurances must also be provided: <ul style="list-style-type: none"> • Contractors All Risk / Erection All Risks Insurance; • Public Liability Insurance; and • Marine/transit Insurance 		√
23.	Declaration Form	√	√
24.	Conflict of Interest Form	√	√
25.	Non-disclosure agreement	√	√




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Part 2 - Technical Documents:			
No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
26.	All information required for The Employer to consider the matters such as; Eskom will inter alia, consider (and require you to demonstrate and provide proof) whether:	√	√
27.	you have the technical capability to execute the Works; and	√	√
	<ul style="list-style-type: none"> you have the capacity to execute the Works with due regard to your available resources and your other actual and planned commitments. 	√	√
	A programme for the Works (level 3, critical path method in Primavera P6.8.2 format), together with a resource usage histogram including: <ul style="list-style-type: none"> Contractor Document Submittal Schedule (CDSS) as in Section 3 of the Employer's Requirements; including but not limited to all the documents listed in the 'Schedule of Submittals' XER file; S-Curve ES-LF; Cost loaded programme; Basis of Schedule Report 	√	√
28.	Technical Qualifications and Deviations Schedule (if applicable);	√	√
29.	Proposed Planner/Schedulers qualifications	√	√
30.	Proposed number of persons to be authorised as Responsible Persons.	√	√
31.	All other completed schedules and other information required to be submitted will be highlighted on 31 August 2016 and firmed-up on 30 September 2016. The additional documents will be issued under section 3 [Employers Requirements] and/or section 4 [Employer's Policies and Procedures].	√	√




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Part 3: Financial			
No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
32.	All completed Financial schedules and other information required to be submitted will be issued under section 5 [Pricing Schedules and Financial Information to be issued on 30 September 2016]. Financial schedules includes but not limited:	√	√
	<ul style="list-style-type: none"> Pricing Schedules and Schedule of Payments with completed data for adjustments for changes in Cost (Price Adjustment Formula), Forecast Rate of Payment (FRP), Rate of Exchange (ROE) and PS5 Schedule. 	√	√
	<ul style="list-style-type: none"> Milestone payments schedule with qualitative deliverables per discipline as per Milestone payments template 	√	√
	<ul style="list-style-type: none"> Form CPA (IG) Rev 28 	√	√
	<ul style="list-style-type: none"> Detailed life cycle costing (LCC) for proposed design solution including but not limited to: <ul style="list-style-type: none"> - total cost of ownership - asset acquisition costs - operation and maintenance costs - future improvement costs - probabilistic costs (costs of failure, repairs, spare parts, downtime etc) - cash flow projections - Net Present Value (NPV) and Internal Rate of return (IRR) calculations - proof of O&M data from similar type designs 	√	√



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Part 4 – Safety Health & Environment (SHE)			
No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
33.	Loss Time Injury Incident Rate (LTIR) (or other). Number of cases with medical attention and number of fatalities for the last 5 years. Provide the following details:		
	• Employee hours worked (used in the calculation in the calculation of LTIR)		√
	• Trend for the LTIR (or other) figure over 5 years		√
34.	Number of loss time injury (OHS Act Section 24(a) incidents including Occupational Diseases) for the last 5 years		√
35.	Health and Safety Plan (include relevant policies, organogram, equipment, machinery, major incidents and vehicles to be utilised in this project)		√
36.	Environmental Management System compliance certificate as applicable, Environmental performance for the last three years		√
37.	Costing for Safety Health & Environment as specific line items (not hidden in the technical costing of this project)		√
38.	A signed copy of the SHEQ Policy	√	√
39.	Competencies Certificates of all employees & SHE Management Representative (as per organogram)		√
40.	A sample of method statements for key activities taking note of engineering and SHE requirements. Method statements to also include activities to be performed in all phases of the project (Site establishment, Demolition of the plant, Construction of the plant & Commissioning of the plant)	√	√
41.	Baseline Risk assessment with monitoring plan, review plan and rating matrix	√	√
42.	Any SHE Management System Certificate from a recognized accredited body, e.g. OHSAS 18001		√



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No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
43.	Valid Letter of Good Standing-registration with the Compensation Commissioner (COID) or a licensed mutual company or an equivalent thereof (for international bidders)	√	√
44.	Historical information (less than 2 years): Annexure 1 Incident report Sample of corrective and preventive action reports Internal or External Audits reports (Safety, Health and Environmental)	√	√
45.	How will the Company communicate with and interface between the client, subcontractors and all responsible stakeholders during the execution of the contract?		√
46.	Process for the completion of the man-job specifications (risk-based) for each employee (including temporary / casual and labour broker persons) that is specific the: individuals, positions that they occupy, work environment and tasks that they perform. (This has to be converted from generic to scope-of-work-specific on contract award.)		√
47.	Proof of Registration of the appointed Construction Health and Safety Officer (CHSO) with the South African Council for the Project and Construction Management Professions (SACPCMP) with proof of necessary competencies and resources		√
48.	Latest structure / organogram of the SHE Department and abridged qualifications of persons including SACPCMP registration CV's of Key personnel (SHE competency to be included)	√	√
Part 5 - Quality			
49.	A copy of a valid ISO 9001:2008 certificate (Or latest applicable revision)	√	√
50.	The contractor shall complete and sign Appendix A (Enquiry / Contract/Quality Requirements)	√	√
51.	The contractor shall complete and sign Appendix B (Quality Requirements for quality management ISO series)	√	√






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No	The tenderer must complete and return the following documents.	Mandatory for evaluation	Mandatory for contract award
52.	Copies of the signed quality policy statement, a quality manual and the mandatory QMS procedures as per ISO 9001:2008	√	√
53.	A copy of the latest organisational structure indicating the quality functions (Quality Assurance and Control, QA and QC within the organisation)	√	√
54.	CVs and qualifications of the Quality Representative and those of the site Quality Assurance and Control Officer (QA and QC)	√	√
55.	A draft PQP or a sample of the PQP for a similar project carried out within the past two years. The PQP shall contain the information as addressed in Annexure C of the Project Quality Requirement Specification (240-85067398)	√	√
56.	A sample of a completed Non-conformance report	√	√
57.	A sample of a completed corrective and preventive action report	√	√
58.	A copy of an external audit report conducted on the Contractor within the past two years	√	√
59.	Copies of operational procedure applicable to the contract:	√	√
60.	Management of measurement and monitoring equipment	√	√
	a) Preservation of products	√	√
	b) Procedure for the evaluation, selection and control of suppliers and subcontractors	√	√
	c) Procedure on how the Contractor manages his Sub-Contractor during project execution	√	√
	d) Proof of any accreditations (NDT / NDE / welding procedure / welder qualification) and special processes requiring certification. This can be for a similar job performed within the last two years	√	√

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Attachments			
61.	Annexure A		✓
62.	Annexure B		✓
63.	Annexure C		✓

2.5 FUNCTIONALITY CRITERIA FOR TECHNICAL SCORING

Functionality will be evaluated on a total weight of 100% with a minimum threshold of 70%. The following is an overview of the functionality criteria:

Functionality Criteria	Maximum number of points percentage
Technical (includes Project Controls)	100%
Overall minimum threshold for functionality to proceed to the next phase	70%


The following is a further breakdown of the Functionality criteria:

Functionality Criteria	Maximum number of points percentage
Technical	80%
Project Controls	20%
Total	100%
Overall minimum threshold for functionality to proceed to the next phase	70%

Note: A detailed Functionality criteria will be issued on 30 September 2016.

Tenders which do not meet the overall minimum threshold of 70% will not be evaluated further.



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Step 4 – Local Content and Production

All designated commodities such as, but not limited to, valves, cables and filter bags should be supplied in accordance with the instruction notes issued by the National Treasury and to comply with the local production and content thresholds.

Step 5 – Financial Evaluation

Where applicable a financial evaluation will be conducted by Eskom to further evaluate the financial viability of the tenderer and its ability to meet its contractual obligations for the duration of the contract including a financial analysis, formal treasury evaluation, QS evaluations etc.

Step 6 – Price and Preference

Price points will be calculated out of 90 for price. *Price = Evaluated price, including VAT.* A maximum of 10 points will be allocated to the B-BBEE level contribution. The prices and preference points will be added together to determine the highest scoring tenderer.


Step 7: Objective Criteria

SHEQ Objective criteria applicable in terms of Section 2(1) (d-f) of the PPPFA.

Supplier Tender Submissions for Health, Safety, Environment (SHE) Requirements

Sec	Supplier Tender Submissions for Health, Safety, Environment (SHE) Requirements	Total
1	Letter of good standing	10%
2	SHE policy	10%
3	Latest structure/organogram of the SHE Department and abridged qualifications of persons. <ul style="list-style-type: none"> • SACPCMP registration • CV's of Key personnel (SHE competency to be included) 	10%
4	Safety & Environmental Management Plan	20%
5	Baseline risk assessment with monitoring plan, review plan and rating matrix	20%
6	Method statement	15%
7	Historical Information (Less than 2 years): <ul style="list-style-type: none"> • Annexure 1 incident report • Sample of corrective and preventive action reports • Internal or External Audits reports (Safety, Health and Environmental) 	15%
Total		100%

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Supplier Tender Submissions for Quality Requirements

Category 1: Quality Requirements	Deliverables to be evaluated Indicator = 1	Weights
SECTION A : Quality Management System Requirements ISO 9001:2008 Valid certification of Quality Management System by an ISO accredited body		
	Apply (Yes=1)	
A.1 Product / Service Scoping on ISO 9001 certificate is defined and relevant	1	25%
A.2 Certificate by Approved and Authorized certification authority	1	
A.3 Certification Authority has Recognized International Accreditation	1	
A.4 Validity (expiry date) of certificate	1	
Section A Score		4
SECTION B: Evidence of QMS in operation (Tender Quality Requirements -Ref QM-58 or 240-51544462)		
	Apply (Yes=1)	
B.1 Copy of appointment letter & CV/ resume of a Quality Representative for the project	1	25%
B.2 Signed Organisational structure & Quality dept reporting structure.	1	
B.3 Copy of procedure for control of suppliers & subcontractors	1	
B.4 Copy of an Internal management system audit report (with NCR, corrective &	1	
B.5 Copy of an external management system audit report (with NCR, corrective &	1	
B.6 Copy of Customer satisfaction surveys	1	
B.7 Copy of a Quality Plan (incl ITP's) on previous project < 2yrs	1	
B.8 Historical Information (list) of similar work performed < 2yrs	1	
Section B Score		8
SECTION C: Contract Quality Plan Requirements (Ref QM-58 and 240-109253698) Contract Quality Plan as per Scope of Works (Ref ISO 10005)		
NB!!!! draft Contract/Project Quality Plan has important QA deliverables	Apply (Yes=1)	20%
Section C Score		
SECTION D : Quality Control Plan Requirements (Ref QM-58 Annexure 1 or 240-51544462) QCP/Checklist/ITP (Quality Control Plans) as per Scope of Works (Ref ISO 10005 / 35-39 / 39-71)		
NB!!!! draft QCP/ITP (jobcards) have important QC deliverables	Apply (Yes=1)	20%
Section D Score		
SECTION E : User defined additional Requirements & miscellaneous (Ref QM-58) Customer specific requirements & other standards and required can be listed and evaluated here		
	Apply (Yes=1)	
E.1 Form A is completed and signed.	1	10%
E.2 Copy of proposal and/ or assessment results of any recognised Business Excellent Model	1	
Section E Score		2






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SD&L Objective Criteria

Below are SDL targets that will be negotiated with the suppliers in order to meet Eskom's requirements. Suppliers are required to meet a minimum of 60% SD&L threshold before contract award.

SUPPLIER DEVELOPMENT AND LOCALISATION COMPLIANCE MATRIX FOR SUPPLIERS AND CONTRACTORS				
Criteria	Weight (%)	Total Target (%)	Proposed Target (%)	Total Overall Weighted Score
Local Content to South Africa as a percentage of Contract Value	25.00%	40/00%		0.00%
Local Content Local to Site as a percentage of Contract Value	25.00%	30/00%		0.00%
Procurement from BO as a percentage of Contract Value	25.00%	10/00%		0.00%
Skills Development	25.00%			0.00%
Total Score	100.00%			
Total Supplier Development and Localisation Score				0.00%

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SKILLS DEVELOPMENT COMPLIANCE MATRIX							
Skill Type (Occupation)	OFO Occupational Group	Weight (%)	Target Number of Persons to be Trained (Local to South Africa)	Proposed Number of Persons to be Trained (Local to South Africa)	Target Number of Persons to be Trained (Local to Site)	Proposed Number of Persons to be Trained (Local to Site)	Total Weighted Score
Method 1: Occupation Qualification e.g. Safety Officer		25.00%	50	0	50		0.00%
Method 2: Filters, Rigging, A Class Welders		50.00%	25	0	25		0.00%
Method 3: Candidates-3years diplomas e.g Technicians		25.00%	15	0	15		0.00%
Total		100.00%	90	0	90	0	0.00%


Supplier Development and Localisation Representative

Name: _____

Signature: _____

Date: _____



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Job Creation

Suppliers should mention the number of jobs created and retained as a direct result of the contract. These proposals shall be made in the SD&L Compliance Matrix

New and retained jobs	Commitment
New Jobs	[•] number and Person-Years of Work
Retained Jobs	[•] number and Person-Years of Work*

*For the purposes of this Appendix One-Person-Year of Work is equal to 230 paid working days, including paid training days (in case of paid work), or 230 working days (in case of a learnership).

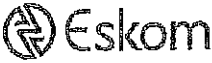
SD&L performance bond

For the duration of the contract, Eskom will retain 5% SD&L performance bond (excluding VAT) payable at the end of each periodic interval as security for the fulfilment by the supplier of its SD&L undertakings, achievements and maintenance of B-BBEE rating at least at a minimum level 4 (four). This 5% SD&L performance bond will be weighted as follows:

Skills development	20%
B-BBEE rating	20%
Local content	20%
Local content to site	20%
Subcontracting	20%

Note: If the supplier has at the end of the contract fulfilled its SD&L obligations, the 5.0% Bond retained shall be reimbursed.



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		Enquiry no	CORP 3571

1.4 Negotiations Process


Upon conclusion of the desktop evaluations, Eskom will short-list the top two suppliers and engage in negotiations.

1.5 Eskom reserves the right to:

- Cancel this tender or any part thereof at any time.
- Modify this tender or any part thereof at any time.
- Exit or terminate the enabling agreement or any part thereof at any time.
- Split the requirements/quantities between the suppliers.
- Accept any tender in part or full at its' own discretion.
- Contact any supplier during the evaluation process, in order to clarify any information, without informing any other supplier.
- Award contracts to one or more Suppliers for the same commodity.
- Audit the contracts from time to time.
- Eskom reserves the right not to evaluate and award tenders that do not comply strictly with this tender document.
- Eskom reserves the right to make a selection solely on the information received in the tenders or to enter into negotiations with any one or more suppliers.
- Eskom reserves the right not to award a tender to the highest scoring tenderer as prescribed in PPPFA.



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	RESOLUTION OF THE BOARD TENDER COMMITTEE ESKOM HOLDINGS SOC LTD	Unique Identifier	221-209
		Document Type	CCGTE
		Revision	0
		Effective Date	July 2015
		Office of the Company Secretary	


RESOLUTION OF THE BOARD TENDER COMMITTEE (BTC) OF ESKOM HOLDINGS SOC LTD

STRICTLY CONFIDENTIAL

Duvha Unit 3 Recovery Project Status Update Report and a Revision of the Mandate to Negotiate and Conclude a contract for the Refurbishment of Duvha 3

1. BACKGROUND:


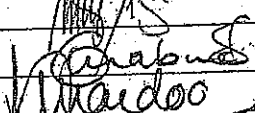
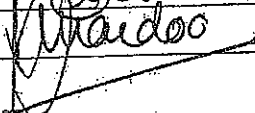
- 1.1 On 1 August 2016, BTC approved a strategy and a mandate to negotiate and conclude a contract for the proposal design and overall engineering (concept, basic and detail) as part of the return to service of Duvha Unit 3 with Steinmuller Engineering GMHB.
- 1.2 The strategy approved on 1 August 2016 also included the issuance of an open tender for procurement and construction contract and to negotiate with the top two short-listed suppliers and conclude a contract.
- 1.3 As per the previous feedback to the board, evaluations were conducted by the Technical and Commercial Team and results audited by KPMG. 4 (four) tenderers met the technical gatekeepers and the other 2 (two) did not meet all technical gatekeeper requirements. These 2 (two) were subsequently disqualified.
- 1.4 The next phase of the evaluations was conducted on functionality i.e. technical including Project Controls and tenderers needed to achieve a threshold of 70% in order to move to the next stage of evaluation, which is price and B-BBEE on a (90/10) principle.
- 1.5 The Technical and Commercial evaluations have been partially completed due to the fact that all (four) suppliers had significant and material exclusions and/or deviations which have a material impact on their tendered price and risk to the project. The team clarified these exclusions and/or deviations through email but it became apparent when the tenderers responded that a face to face interaction is necessary. Hence, pre-negotiation meetings were scheduled with the 4 (four) tenderers from 9 -17 January 2017.
- 1.6 The meetings are currently underway and it is clear that there are certain exclusions and deviations that cannot be fully addressed without negotiating with the supplier and hence this request. It is expected that the negotiations will commence by 19 January 2017 and concluded on or before 28 February 2017. The contract will be awarded to the successful tenderer before 31 March 2017.

	RESOLUTION OF THE BOARD TENDER COMMITTEE ESKOM HOLDINGS SOC LTD	Unique Identifier	221-209
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		Revision	0
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2. IT WAS RESOLVED THAT:



- 2.1 The Duvha Unit 3 Recovery Project Status is noted.
- 2.2 The number of suppliers shortlisted and with whom Eskom is to negotiate and conclude as per the mandate approved by the Board Tender Committee, is amended from 2 (two) to a minimum of 2 (two) up to a maximum of 4 (four).
- 2.3 That the Group Executive: Group Capital Division is authorised with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related thereto.

The resolutions above are approved / not approved:


IFC COMMITTEE MEMBER	APPROVED (Signature)	NOT APPROVED	DATE
Z KHOZA			20/01/2017
C MABUDE			20/01/2017
P NAIDOO			20/01/2017

PLEASE FAX OR E-MAIL THE COMPLETED ROUND ROBIN REQUEST BY NO LATER THAN 12H00 ON MONDAY 23 JANUARY 2017

THE OFFICE OF THE GROUP COMPANY SECRETARY: TEL: +2711 800 4278 / +
EMAIL: maqagumn@eskom.co.za

BMS 10

	Duvha Unit 3 Procurement and Construction Evaluation Report Rev 1	Unique Identifier	240-53463039
		Revision	Rev. 4
		Revision Date	Feb 2019
		Group Technology and Commercial	

To	EXCO- PROCUREMENT SUBCOMMITTEE (EXCOPS) BOARD TENDER COMMITTEE (BTC)			Date	TBC
Business Unit	Group Capital	End-user name	Tshepo Molabe	PR No	TBC
Compiler	Thami Mnguni			Enquiry number	CORP 3571
Buying / Sourcing Department	Commodity Sourcing				
Description	The procurement, fabrication, factory acceptance testing, shipping and delivery to site, construction, testing and commissioning of a pulverized coal fired Boiler for the Duvha Unit 3 Recovery Project				

1. RECOMMENDATION

In accordance with the latest revision of Eskom's Procurement and Supply Chain Management Procedure 32-1034, it is recommended that the negotiations be entered into with Alstom S&E Africa (Pty) Ltd TA GE Steam Power System (GE), Murray & Roberts Shanghai Electric Consortium (MRSEC), and Dongfang Electric Corporation (DEC) for the procurement, fabrication, factory acceptance testing, shipping and delivery to site, construction, testing and commissioning of a pulverized coal fired Boiler for the Duvha Unit 3 Recovery Project. The 3 (three) Tenderers recommended met the technical threshold and upon concluding the negotiations, all 3 (three) Tenderers will be requested to submit their Best and Final Offer (BAFOs) in order to apply the 90/10 and determine the highest points in terms of Preferential Procurement Policy Framework Act No 5 of 2000 (PPPFA).

It is further recommended that Rafako SA (Pty) Limited (Rafako) be excluded from participating in the negotiation process based on their response during pre-negotiation clarifications as captured in the minutes dated 18 January 2017 indicating that they will submit regulatory documents 4 (four) months post contract award and that their tender price is a budget estimate and will be fixed and firmed post contract award. Rafako SA further indicated that they will require at least 6 (six) months to optimize their proposal and the price and 3 (three) months to submit level 3 (three) project schedule.

ERA revision 0 approved at Board Investment and Finance Committee in December 2015 makes provision for a budget of _____ allocated to this scope of work for Procurement and Construction. The ERA was not revised to align to the BTC mandate parameters and based on the market response; the contract will be awarded within the approved ERA budget.

The contract will be for a period of 60 (sixty) months. It is anticipated that the contract will commence on or before 29 March 2017.

It is further recommended that a contingency amount of _____ be approved, which will be utilised in respect of compensation events. The Delegation Consent Form will be submitted with the Feedback Report for final approval based on the negotiated contract value.

The total value for approval will therefore not exceed

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[Signature]



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It is further recommended that the Group Executive for Group Capital Division be authorised, with the power to delegate further, to take all the necessary steps to give effect to the above, including the signing of any agreements, consents or other documentation necessary or related thereto.

NOTE: ON 1 AUGUST 2016, THE BOARD TENDER COMMITTEE (BTC) APPROVED A STRATEGY FOR THE ISSUANCE OF AN OPEN TENDER FOR PROCUREMENT AND CONSTRUCTION CONTRACT AND TO NEGOTIATE WITH THE TOP TWO SHORT-LISTED SUPPLIERS AND CONCLUDE A CONTRACT WITH ONE TENDERER THAT MEETS ESKOM REQUIREMENTS.

ON 20 JANUARY 2017 BTC APPROVED AN AMENDMENT TO THE APPROVED MANDATE TO NEGOTIATE WITH A MINIMUM OF 2 (TWO) UP TO A MAXIMUM OF 4 (FOUR) TENDERERS.

SIGNATORIES

Name	Unique Number	Designation	Signature	Date
Thembokuhle Bhengu	4035305	Middle Commercial Manager		
Marumo Lekoto	3977406	Senior Manager (Acting) Sourcing		
Tshepo Molabe	3975011	Recovery Portfolio Manager		
Charles Kalima	3995510	General Manager Commercial (Acting)		


2. SCOPE OF WORK

The procurement, fabrication, factory acceptance testing, shipping and delivery to site, construction, testing and commissioning of a pulverized coal fired Boiler for the Duvha Unit 3 Recovery Project.

The *Employer*, in partnership with Others, performs the basic and high level detail engineering for the works. The *Contractor* is responsible for the procurement and construction of the boiler at Unit 3, which includes design of components specified on a functional basis by the *Employer*, fabrication detailing of components designed by the *Employer*, procurement, manufacture, delivery to site, construction, erection, quality assurance, supervision, commissioning, startup and handover of the works. The scope of the works is summarized in Table 1 below listed in accordance with the AKZ coding system as applied at Duvha Power Station.

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High Level Scope of works *

AKZ	System	Scope	Supplied by
A – E, M	Electrical Supply & Distribution Systems	Refurbish	Others
H, J, K, L	Control & Instrumentation Systems (Including Field Equipment)	Upgrade	Others
IF	Boiler House Structures – Main Steel Structure	Refurbish	Others
IF	Boiler House Structures – Secondary Steel Structure	Partial Replacement	Contractor
NA	Boiler High Pressure System	Replace	Contractor
NB	Boiler Circulating System (Excluding Circulating Pump & Motor)	Replace	Contractor
	Boiler Circulating Pump & Motor	Refurbish	Others
NC	Boiler Drains & Vents	Replace	Contractor
NE	Boiler Reheat System	Replace	Contractor
NG	Boiler Air Supply System (Combustion Air) – Ducting & Dampers	Replace	Contractor
NG	Boiler Air Supply System (Combustion Air) – Fans	Refurbish	Others
NH	Boiler Air Heater	Refurbish	Others
NK	Boiler Lighting-Up Equipment	Replace	Contractor
NL	Boiler Oil Firing Equipment	Replace	Contractor
NM	Boiler Coal Firing Equipment – Coal Mills	Refurbish	Others
NM	Boiler Coal Firing Equipment – PF Piping	Replace	Contractor
NM	Boiler Coal Firing Equipment – PF Burner Fabrication	Replace	Others
NM	Boiler Coal Firing Equipment – PF Burners Installation	Replace	Contractor
NN	Boiler Gas Firing Equipment	Replace	Contractor
NQ	Flue Gas Cleaning/Fabric Filter Plant (FFP)	Refurbish	Others
	Boiler Flue Gas Extraction – Ducting & Dampers up to FFP	Replace	Contractor
NR	Boiler Flue Gas Extraction – Fans	Refurbish	Others
NS	Boiler Secondary Air System	Replace	Contractor
NT	Fly Ash Return - FFP Hopper System	Refurbish	Others
NU	Ash and Slag Removal & Transport (Excl. Boiler Ash Hopper)	Refurbish	Others
NV	Boiler Heating Surface Cleaning (Sootblowing)	Replace	Contractor
NW	Boiler Spray Water	Replace	Contractor
NY	Outage HP Pipework (Chemical Clean & Steam Blow)	Supply	Contractor
P	Fuel Handling System	Refurbish	Others
RA	Main Steam Pipe System	Replace	Contractor
RB	Hot Reheat Pipe System	Replace	Contractor
RC	Cold Reheat Pipe System	Replace	Contractor
RF,RH,RW	Turbine Extraction System	Refurbish	Others
RG	Control Fluid System (HP Bypass & Reheat Safety Valve)	Replace	Contractor

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RK	Drains From Start-Up Flush Tank	Refurbish	Others
RL	Feed Water Transfer Pipe System (Excluding Heaters)	Replace	Contractor
RM	Condensate Transfer System	Refurbish	Others
RQ	Auxiliary Steam Equipment	Replace	Contractor
RU	Turbine Drain & Return System	Refurbish	Others
S	Turbine	Refurbish	Others
US	Control & Service Air System – Within Boiler Terminal Points	Replace	Contractor
UX	Fire detection and alarm system – Within Boiler Terminal Points	Replace	Contractor
UY	Fire water system – Within Boiler Terminal Points	Replace	Contractor
VD	Boiler Auxiliary Cooling Water System	Replace	Contractor
WW	Boiler ash hopper system	Replace	Contractor

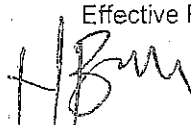
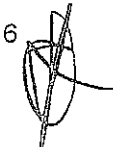
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3. COMMERCIAL EVALUATION

Sourcing Mechanism used	Open tender			
Item / Description	Issue Date	Closing Date	Original Tender Validity Date	Revised Validity Date
Pre-notification letter	5 August 2016	22 November 2016 (an extension from an original submission date of 01 November 2016)	8 (eight) weeks	31 March 2017
RFP information pack	18 August 2016			
Partial technical information	31 August 2016			
Completed technical information and conditions of Contract	30 September 2016			
Required completion date	15 March 2017	Desired award date		8 March 2017
Reason for using this particular sourcing mechanism	To test the market; to maximise opportunities for competition To give potential suppliers an opportunity to tender for the works; and To create supplier competition for Eskom. PFMA Regulations, competitive tenders are required to be open.			
Reasons why extensions of time/validity were requested	Not Applicable.			
No of suppliers approached	Open tender to the market.	No responses received	6 (six) tenderer's.	
Names of suppliers	Response received [Y/N]	Deemed Non-responsive [Y/N]	Reason for non-responsiveness	
Dongfan Electric Corporation Ltd	Y	N	Deemed responsive	
Murray And Roberts And Power And Energy (with Shanghai Electric)	Y	N	Deemed responsive	
RAFAKO SA	Y	N	Deemed responsive	
Alstom S&E-GE Power System	Y	N	Deemed responsive	
Shany Engineering (Pty) Ltd	Y	Y	Deemed non-responsive (Did not meet mandatory technical gatekeepers)	
Sinohydro Corporation Limited	Y	Y	Deemed non-responsive (Did not meet mandatory technical gatekeepers)	
COST ALLOCATION				
Cost Centre / WBS / Asset Number		Not Applicable.		
Status Form : CRA / DRA / ERA		ERA Approved.		
Budget Amount		The project has been budget for (Approved documents available on request).		
Budget commitment				
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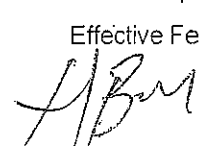
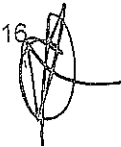
Number	Item	Yes	No	Comments
3.1	Has the Hierarchy been correctly applied?			N/A
3.2	Has it been confirmed that the goods and services cannot be supplied by an Eskom subsidiary?	X		
3.3	Have you determined whether there is other Professional, Strategic or Management Consultants in the market that may be able to render the same / similar services?			N/A
3.4	Has the supplier submitted a valid verification certification confirming its current B-BBEE status		X	Murray and Roberts submitted a valid verification certificate confirming their B-BBEE status. B-BBEE is mandatory submission before contract award and is an objective criteria. It must be noted that GE submitted an invalid B-BBEE certificate and the certificate was observed as invalid and not authentic. Further investigation must be conducted internally and externally. Eskom's Procurement and Supply Chain Management Procedure 1034 states that The PPPFA may also not apply to tenders that target an international supply market, or where in the interests of national security, or in the public interest, it is not practical to apply the provisions of the PPPFA, in

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				which case an exemption from the PPPFA may be sought. This is applicable to BBEE Certificate for Rafako SA, DEC and Murray and Roberts's consortium partner Shanghai Electric Corporation.
5	List the shareholders & directors (company), members (CC) or partners (partnership / JV), and their percentage of ownership in the business.	Shareholder/Members	Executive Directors and Non-Executive	% of Ownership
		Shareholding, directors information will be requested during negotiations		
Number	Item	Yes	No	Comments
3.6	Is Employment Equity included as one of the elements of supplier's B-BBEE Scorecard?		X	
3.7	Is the supplier a "designated employer" as defined in the Employment Equity Act?		X	
3.8	Is this construction / engineering for which registration with CIDB is required?	X		
3.9	Has the supplier provided proof of registration with CIDB in the appropriate category of work?	X		Two Tenderer out of 4 submitted proof of application for CIDB registration. 3.9.1 GE submitted CIDB certificate. 3.9.2 Dongfang submitted proof of A - CIDB registration. <i>application</i> 3.9.3 MRSEC Consortium and Rafako did not submit CIDB registration.
3.10	Indicate Tenderer's level of CIDB grading	9 ME and 9 EP		
3.11	Suite of contract to be used?	NEC **	FIDIC	Other



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3.13	**Complete if NEC suite selected (List Main option and Secondary options)		Main	Secondary	
			A: Priced contract with activity schedule	X1: Price adjustment for inflation X2: Changes in the law X3: Multiple currencies X4: Parent company guarantee X7: Delay damages X13: Performance Bond X15: Limitation of Contractor's liability to fit for the purpose intended X16: Retention X18: Limitation of Liability Z: Additional conditions of contract	
			W1: Dispute resolution procedure		
Number	Item	Yes	No	Comments	
3.14	Legal sign off on deviations to terms and conditions?	Yes X	No	N/A	
3.15	Will any warranties / guarantees be provided & for how long?	Yes X	No	Period To be negotiated.	
3.16	Has the supplier submitted an original and valid Tax Certificate?	Yes X	No X	Murray and Roberts submitted individual Tax Clearance Certificate but Shanghai Electric Corporation Tax Clearance Certificate was not submitted. Rafako SA did not submit Tax Clearance Certificate. GE and DEC submitted valid Tax Clearance Certificates	
3.17	Are there any tax implications?	Yes X	No	Details on Duties and related taxes.	
3.18	The service provider can be classified as one of the following for purposes of PAYE	Labour broker (IRP 30 received)	Personal service provider	Dependent contractor	Independent contractor
				X	
3.19	Will shipping / transportation be arranged by the supplier?			To be negotiated.	
3.20	If yes, has the Shipping Declaration Form accompanied your request to the Shipping department?			To be advised	
3.21	Have any INCOTERMS been used?	Yes X	No	DAP	
3.22	If yes, have you consulted with the Shipping department?			To be negotiated.	
3.23	Is the cost of shipping / transportation indicated separately on the Calculation Sheet, as part of the overall approval value?	Yes	No X	To be negotiated.	



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Number	Item	Yes	No	Comments
3.24	Have the relevant insurance obligations been included as part of the conditions of contract?	Yes X	No	N/A
3.25	Indicate what insurances are applicable to this contract.	Type of insurance Assets all risk Construction all risk / Erection all risk Marine cargo SASRIA/Riot insurance Contractor equipment		
3.26	Is supplier providing Eskom with a performance bond / guarantee/advance payment/retention/SD & L "Construction Guarantees" against the contract?	Yes X	No	To be confirmed during negotiations.
3.27	Has prior approval been obtained from Eskom Treasury Department regarding the institution/s that has guaranteed the funds?	Yes	No	Suppliers will be provided with standard Bond wording for their consideration and any deviations, Eskom Treasury will be notified
			X	Eskom treasury will be notified upon the confirmation of institutions that has guaranteed the funds

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4. EVALUATION CRITERIA

4.1 FUNCTIONALITY

Functionality is divided into two streams i.e engineering which accounts for 80% and Project Controls which accounts for 20%. The Suppliers have to meet the 70% threshold of the combined streams scores.

Functionality Criteria	Maximum number of points/percentage	Tenderers will be expected to score at least the minimum threshold per functional area to proceed to the next step
Engineering	80%	70%
Project Controls	20%	No Threshold
Technical	100%	70%

Buyer to include all the relevant evaluation criteria's score cards in this document

Complete the table below if any gatekeepers were stipulated

No.	Gatekeeper	Reason/explanation
1	The tenderer must have experience, with fabricating in own facilities or through affiliated companies, and under own management and conducted construction under own planning and management, of boilers of at least 500MWe successfully completed.	The use of the mandatory technical gatekeepers was to ensure that all tenderers would have the capacity and experience to execute this project.
2	If construction of main boiler pressure parts and HP piping is sub-contracted, then the proposed sub-contractor needs to have experience of performing the extent of the works sub-contracted.	
3	The tenderer must have boiler pressure parts and high pressure piping fabrication experience according to the specified European norms (EN).	

4.2 PREFERENCE POINTS SYSTEM

TECHNICAL EVALUATION OF TENDERS

No.	Name of Supplier	Technically		Reason
		Acceptable	Unacceptable	
1	Murray & Roberts Shanghai Electric Consortium	Yes		Met Functionality Threshold
2	Alstom S&E Africa (Pty) Ltd TA GE Steam Power System	Yes		Met Functionality Threshold
3	Dongfang Electric Corporation	Yes		Met Functionality Threshold
4	Rafako SA	Yes		Met Functionality Threshold