

BOTSWANA ENERGY REGULATORY AUTHORITY (BERA)

A TENDER FOR THE REVIEW OF PETROLEUM PRODUCTS PRICING STRUCTURE,
DEVELOPMENT OF WHOLESALE MARGIN MODEL AND SLATES FOR ALTERNATIVE
ROUTES

TENDER REFERENCE **NO. 0009/ 2023 - 2024**

Date: 19 December 2023

NAME AND ADDRESS DETAILS OF PROCURING ENTITY AND OR ITS AGENT PREPARING THE DOCUMENTS	
PROCURING ENTITY	AGENT
Petroleum & Gas Department Private Bag 111 Plot No. 8842 Extension Town Centre Lobatse Botswana	Sebaga Dire Private Bag 111 Plot No. 8842 Extension Town Centre Lobatse Tel: 5330932/ 5317548 email: procurement@bera.co.bw with copy to: sebaga.dire@bera.co.bw

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TENDER REFERENCE NO:

TENDERING PROCEDURES

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T1.2 Tender Data

T1.3 Standardised Conditions of Tender

**TENDERING
PROCEDURES****T1.1 TENDER NOTICE and INVITATION TO TENDER**

1.1	Tender Reference No. 0009/ 2023 - 2024
1.2	Tender Title: A TENDER FOR THE REVIEW OF THE PETROLEUM PRODUCTS PRICING STRUCTURE, DEVELOPMENT OF WHOLESALE MARGIN MODEL AND SLATES FOR ALTERNATIVE ROUTES
1.3	Sealed Tender offers are invited for the provision of Consultancy Services for the review of the petroleum products pricing structure, development of wholesale margin model and pricing slates for alternative routes.
1.4	The Procuring Entity is: BOTSWANA ENERGY REGULATORY AUTHORITY
1.5	Procurement Method is: Open International Bidding
1.6	<p>A non-refundable deposit of BWP1000.00 (One Thousand Pula only) payable by cash or bank guaranteed cheque made out in favor of the Botswana Energy Regulatory Authority and POP should be included as part of submission of tender documents. Youth owned citizen companies will pay half the price which is BWP500.00.</p> <p>Tender fees are to be deposited on the BERA banking details as follows: ACCOUNT NAME: Botswana Energy Regulatory Authority BANK NAME: ABSA Bank Botswana LTD ACCOUNT NUMBER: 1026840 BRANCH CODE: 002 REFERENCE: Company name and Tender number</p>
1.7	Queries or clarifications relating to the issuance of this document may be addressed in writing not later than seven (7) working days before the tender closing date to Sebage Dire; Telephone No: +267 5317548; Mobile No: +267 77476945; Email: procurement@bera.co.bw with copy to: sebage.dire@bera.co.bw
1.8	<p>The closing date and time for receipt of sealed tender offers is 1000 hours on 31st January 2024.</p> <p>Late tender offers will not be accepted.</p> <p>The Bid Submission Method is: <i>Two Envelope Submission Method in which the sealed original and all the sealed copies of the Technical Offer are placed in one separate sealed envelope, whilst the sealed original and all the sealed copies of the Financial Offer are enclosed in another separate sealed envelope. The two sealed envelopes are then placed in one outer securely sealed envelope.</i></p>
1.9	<i>An individual who is an employee, a Board Member, Director, Shareholder or is somehow linked to an entity licensed by the Authority to provide services in the petroleum and gas sub-sectors is prohibited from bidding for this work.</i>

1.9 One (1) original tender document marked ORIGINAL and 3 duplicate copies of the original Document marked copy in one sealed envelope clearly marked:

“Tender Reference No. 0009/ 2023 - 2024 Procurement of Consultancy Services for the review of petroleum products pricing structure, development of wholesale margin model and slates for alternative routes” shall be delivered to:

The Caretaker Executive Officer
Botswana Energy Regulatory Authority
Private Bag 111
Plot No. 11566, Khama 1 Avenue
Lobatse, Botswana

The name and address of the bidder should be clearly marked on the envelope.

The Botswana Energy Regulatory Authority Standardised Conditions of Tender for Services shall apply to this procurement, for which all the applicable Tender Data is contained in the tender documents.

{Notwithstanding anything in the foregoing, the Botswana Energy Regulatory Authority is not bound to accept the lowest or any tender offer.}

Dr. Grace Tabengwa
Caretaker CEO – Botswana Energy Regulatory Authority

TENDERING PROCEDURES

T 1.2 TENDER DATA

The **conditions of tender** are the Standardised Conditions of Tender as published by the Public Procurement Regulatory Authority.

The Standardised Conditions of Tender make several references to the Tender Data for details that apply specifically to this tender. The Tender Data shall have precedence in the interpretation of any ambiguity or inconsistency between it and the Standardised Conditions of Tender.

Each item of data given below is cross-referenced to the clause in the Standardised Conditions of Tender to which it mainly applies. There are many other clauses in which the data is required.

1.2.1	<p>The Procuring Entity is: Botswana Energy Regulatory Authority</p> <p>The Procurement Requirements: Consultancy services for review of the petroleum products pricing structure, development of wholesale margin mode and slates for alternative routes.</p> <p>The Procurement Method is: Open International Bidding</p> <p>The Bid Submission Method is: <i>Two Envelope Submission Method in which the sealed original and all the sealed copies of the Technical Offer are placed in one separate sealed envelope, whilst the sealed original and all the sealed copies of the Financial Offer are enclosed in another separate sealed envelope. The two sealed envelopes are then placed in one outer securely sealed envelope.</i></p> <p>The Evaluation Method is: Quality and Cost Based Selection method</p>
1.2.2	<p>The Procuring Entity is: Botswana Energy Regulatory Authority Petroleum & Gas Department Private Bag 111 Plot No. 11566, Khama 1 Avenue, Lobatse, Botswana Tel: +267 5330932 Fax: +267 5330880 E-mail: procurement@bera.co.bw with copy to: sebagadire@bera.co.bw</p>
1.2.3	<p>The eligibility criteria for tenderers are:</p> <ol style="list-style-type: none">1) Local contractors as stated under Section 76 (2) of the Public Procurement Act registered with the Public Procurement Regulatory Authority in the following categories:<ol style="list-style-type: none">a. Code 323: Energy Management Services (EMS), Sub code 01: Energy System Design, Measurement & Auditing (Renewable Energy & Energy Management etc) <p style="text-align: center;">And</p>

	<p>b. Code 317: Other Consultancy Services, Sub-Code 01: Management Consultancy Services</p> <p>2) Bidders with Valid Tax Clearance or exemption thereof issued by Botswana Unified Revenue Service (BURS). Confirmation of bidders' tax clearance shall be subject to online verification. (Local and international Bidders)</p>
1.2.4	<p>Queries or Clarifications of the tender documents must be received by the Procuring Entity at least seven (7) working days before the tender closing date and time stated in clause 2.26 of the Tender Data.</p> <p>All clarifications sought are to be submitted in writing and delivered by hand, email or via facsimile to the employer's agent. Tenderers are thus to present any clarifications sought in writing to minimise any misunderstanding. All requests for clarification and resulting in addenda to the tender documents shall be distributed amongst all prospective tenderers.</p>
1.2.5	The prices and rates are to be stated in Botswana Pula.
1.2.6	Parts of each tender offer communicated on paper shall be submitted as an original, plus 3 duplicate Copies.
1.2.7	<p>The Procuring' Entity's address for delivery of tender offers is:</p> <p>Botswana Energy Regulatory Authority Procurement Office Plot No. 11566, Khama 1 Avenue Lobatse, Botswana</p> <p>Identification details to be shown on each tender offer package are:</p> <p>Tender Reference No. 0009/ 2023 - 2024 Tender Title, Procurement of consultancy services for the review of the petroleum products pricing structure, development of wholesale margin model and slates for alternative routes</p> <p>Name of the bidder and address of the tenderer on the reverse side of the envelope</p>
1.2.8	<p>The closing date and time for submission of tender offers is 1000 hrs on Wednesday 31st January 2024.</p> <p>International bidders shall submit through email their tender offers to procurement@bera.co.bw on the same date and time.</p>
1.2.9	The tender validity period is 120 days.
1.2.10	The date, time and location for opening of the tender offers is: 1015hrs on Wednesday 31 st January 2024.

Location:
 Botswana Energy Regulatory Authority
 Procurement Office
 Plot No. 11566, Khama 1 Avenue,
 Lobatse, Botswana

An online option of the opening of the Technical Proposals will be offered through Microsoft Teams platform for those bidders who are unable to attend physical tender opening session. The bidder is required to indicate the email address to be used for a virtual meeting invitation. A bidder should provide a maximum of two (2) email addresses. This virtual meeting will be held at the same date and time for the physical tender opening session.

1.2.11

Stage 1: Compliance Criteria

The procedure for evaluation of responsive tender offers is: - Quality and Cost Based Selection Method

The Tenderer shall furnish the following documentary evidence to demonstrate that it meets the compliance criteria:

Item	Compliance Requirement	Yes	No
1	Proof of payment for purchase of ITT		
1	Tenderers who are domiciled in Botswana must, in order to be considered for the award of the contract, be registered with the Public Procurement Regulatory Authority in the following categories: Code 323: Energy Management Services (EMS), Sub code 01: Energy System Design, Measurement & Auditing (Renewable Energy & Energy Management etc) And Code 317: Other Consultancy Services Sub code 01: Management Consultancy Services PPRA registration is subject to online registration verification		
2	A copy of Valid Tax Clearance Certificate number and Tax Identification Number (TIN) or exemption thereof issued by BURS. Such validity of the Tax Clearance is subject to online registration verification.		
3	Certificate of Incorporation and/or Trading Certificate		
4	CIPA Extract & Share Certificates		

5	IDs of Shareholders			
6	Submission of Completed and signed Certificate of Authority of Signatory.			
7	Submission of Completed and signed form of Declaration for tendering purposes (T2.2GM).			
8	Citizen Owned Eligibility			
9	Ownership Certification			
10	Completed and signed form of Offer and Acceptance (T2.2GA). This should be in the financial submission. Inclusion of Form of Offer and Acceptance in the Technical proposal will lead to disqualification.			
	Proceed/Fail.			

Bidders who fail to submit the above - mentioned documents (as listed in Circular 1 & 5 of 2016) will be requested during the evaluation to submit them within two to five (2-5) days of notification. Bidders will be notified through a telephone call, sms, or email as an alert. The alert will be followed by fax or letter. Non-responsiveness by the bidder shall result in disqualification of bid.

NB: All Bidders shall submit the completed and signed form of Offer and Acceptance (C1.1), WITHIN THE FINANCIAL PROPOSAL ONLY, in the first instance without fail. Otherwise, the bid shall be disqualified.

1.2.12

Stage 2 – Technical Evaluation

(a) The technical evaluation of all bids that have passed the Compliance stage shall be conducted to evaluate each Technical Offer against the technical evaluation criteria stated below:

Requirement	Evaluation criteria	Total Possible Score
1. Specific experience of the Consultant (as a firm) relevant to the Assignment	<p>1.1 The Consultant should provide a brief description of the organization and an outline of the recent experience of the Company that is most relevant to the assignment.</p> <p>1.2 In the case of a joint venture, information on similar assignments shall be provided for each partner.</p> <p>1.3 For each assignment, the outline should indicate the names of the Consultant's Key</p>	20

		<p>Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant's role/involvement.</p> <p>1.4 The Consultant is required to have excellent understanding of petroleum supply chain issues, particularly within an African context. Bidders should provide a minimum of three (3) contactable references of organizations where the bidder has rendered similar or related services. The services must have been offered in the last five (5) years.</p>	
	<p>2. Key Experts' qualifications and competence for the Assignment</p>	<p>2.1 The Consultant is required to provide an effective Project Team structure with details of relevant qualifications and experience of each team member relative to the assignment.</p> <p>2.2 The Client will assess the overall team composition to check if it is balanced and has an appropriate skills mix.</p>	<p>25</p>
	<p>3. Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs)</p>	<p>3.1 The Consultant should provide their understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology they would adopt for implementing the tasks.</p> <p>3.2 Consultant should outline the work plan for implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing an understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here.</p>	<p>35</p>

		3.3 The Client will assess whether the proposed methodology is clear, responds to the TORs, and the work plan is realistic and implementable.	
	4. Transfer of knowledge (training) program (relevance of approach and methodology):	The Consultant is expected to design a capacity building (training) program for purposes of transfer of knowledge to the staff of the petroleum department of the Authority (maximum of 5 officers). Such a program should aim to provide a mix of options including but not limited to; short term modular training, visit to selected international oil markets and pricing agencies, and on-the-job training.	10
	5. Quality Assurance	The Consultant is expected to include a comprehensive and thorough quality assurance plan detailing the principles, procedures, standards and measures proposed to ensure delivery of quality work.	10
	TOTAL SCORE		100

(b) The minimum qualifying mark is: 70 points.

- A tenderer who does not secure the minimum qualifying score shall be eliminated from the evaluation and shall not proceed to the Financial Evaluation stage.
- The formula used in calculating the weighted technical marks will be; $T_w = T * W_q$ where;
 - T_w = weighted technical marks
 - T = score for quality before weighting
 - W_q = weight of the technical score = 70%

(c) An Assessment of past performance, current workload and litigation history will be carried out. Bidders should Submit duly completed current contracts commitment form. The Tenderer shall demonstrate that it has the capacity and capability to execute additional work if awarded the contract.

The tenderer must submit certified copies of certificates as well as references corroborating the years of experience required.

1.2.13	Financial/Cost Evaluation Stage NB All Bidders shall submit the completed and signed form of Offer and Acceptance (C1.1) in the first instance without fail. Otherwise, the bid shall be disqualified. Stage 3 - Cost Evaluation Stage
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	<p>Bidders must provide a breakdown of proposed costs of the project inclusive, amongst others; of professional fees, reimbursables and all applicable taxes and such costs are to be expressed in the local currency denomination (BWP).</p> <p>(a) Cost evaluation shall be conducted by reviewing the following:</p> <ul style="list-style-type: none"> • The formula for determining the financial scores is the following: $A = F_m / F$ • Where: A is the financial score F_m is the lowest price F is the price of the proposal under consideration. • The value of W_q used in the formula for scoring quality/technical offers is 70% where W_q is the weight of the technical score. • The formula for calculating the weighted financial score shall be: $F_w = F_l / F_c * W_f$ where; <ul style="list-style-type: none"> ▪ F_w = Weighted financial score ▪ F_l = lowest priced bid ▪ F_c = price of bid under consideration ▪ W_f = Weight of financial score = 30% • The weighted scores will then be added together to arrive at the bidder's mark; i.e., T_w + F_w. <p>(b) The Financial proposal would further be evaluated as follows:</p> <ol style="list-style-type: none"> i. Correct arithmetical errors; ii. Where applicable, convert tender offer amounts to a common currency; and iii. Adjust pricing to compensate for deviations and errors. iv. Apply applicable preference schemes (state them) v. Perform price comparison in accordance with the pricing sheet vi. Assess reasonableness of quoted price based on market price, & the PPRA publicized Price guide / Catalogue.
1.2.14	<p>Basis for Award</p> <p>The tender will be awarded to the bidder who scored the highest weighted score (Technical (TW) and Financial (FW))</p> <p>The Tender will be awarded upon successful negotiation with the preferred bidder.</p>
1.1.15	<p>The number of paper copies of the signed contract to be provided by the Procuring Entity is 3.</p>
<p>COOLING – OFF PERIOD: There will be a cooling off period of ten (10) working days after award of the tender “a period between the tender award and signing of the contract” as per PPADB Circular No. 8 of 2014.</p>	
<p>Bidders are required to indicate information in their bids which they consider confidential and whose disclosure shall be prejudicial to their interest. Failure to identify the information referred</p>	

to will render such information subject to declassification after two years following the award of tender. NOTE: This is not a disqualifying factor and shall not be used for evaluation.

**BOTSWANA ENERGY REGULATORY
AUTHORITY**

**T1.3 STANDARDIZED CONDITIONS OF TENDER
FOR SERVICES**

Contents:

- 1 General**
- 2 Tenderer's obligations**

3 The Procuring Entity's undertakings

1. General Actions

- 1.1 The Procuring Entity identified in the **Tender Data** and each tenderer submitting a tender offer shall comply with these Conditions of Tender and any applicable laws and regulations. The Procurement Requirements, Procurement Method, Bid Submission Method and Evaluation Method are identified in the **Tender Data**. The Procuring Entity shall, in addition, act in a manner that is fair, equitable and transparent.

Interpretation and definitions

- 1.2 References to the Tender Data highlighted in **bold** vary for each tender and are identified in the Tender Data. The Tender Data and additional requirements contained in the Tender Schedules that are included in the Returnable Documents are deemed to be part of these Conditions of Tender.
- 1.3 The Conditions of Tender, the Tender Data and Tender Schedules that are only required for tender evaluation purposes will not become part of the contract arising from the invitation to tender.
- 1.4 Comparative Offer means the tenderer's financial offer after all evaluation parameters have been taken into consideration including verifying arithmetic errors and conversion into a common currency.

Tender documents

- 1.5 Unless identified otherwise in the **Tender Data**, the documents issued by the Procuring Entity for the purpose of a tender offer are listed below.

These Conditions of Tender, the Tender Data and Tender Schedules consist of one volume. Tenderers' submissions shall make reference to the appropriate volume number corresponding to each document and/or form requested to be submitted.

A) TENDER SECTION

Part A-1 Tendering Procedures

- Tender Notice & Invitation to Tender
- Standardized Conditions of Tender
- Tender Data
- List of Returnable Documents
- Tender Schedules

B) CONTRACT SECTION

Part B-1 Agreements & Contract Data

- Form of Offer & Acceptance

- General Conditions of Contract, except when a Purpose Written Contract is issued
- Contract Data, except when a Purpose Written Contract is issued
- Purpose Written Contract, if a standard contract is not issued

Part B-2 Pricing Data

- Pricing Instructions
- Price Schedules

Part B-3 Scope of Services

- Terms of reference

Communication & Procuring Entity's agent

- 1.6 Each communication between the Procuring Entity and a tenderer shall be in writing in English to or from the Procuring Entity's agent only. The Procuring Entity will not take any responsibility for non-receipt of communications from or by a tenderer. The name and contact details of the Procuring Entity's agent are stated in the **Tender Data**.

The Procuring Entity's rights to accept or reject any tender offer

- 1.7 The Procuring Entity may accept or reject any variation, deviation, tender offer, or alternative tender offer, and may cancel the tender process and reject all tender offers at any time prior to the formation of a contract. The Procuring Entity will not accept or incur any liability to a tenderer for such cancellation and rejection, but will give reasons for the action.
- 1.8 After the cancellation of a tender process or the rejection of all tender offers the Procuring Entity may abandon the proposed procurement and have it performed in another manner.

2 Tenderer's obligations

The tenderer shall comply with the following obligations:

Eligibility

- 2.1 Submit a tender offer only if the tenderer complies with the eligibility criteria stated in the **Tender Data** and the tenderer is not under any restriction to do business with the Government of Botswana.

Cost of tendering

- 2.2 Accept that the Procuring Entity will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer.

Check documents.

- 2.3 Check the tender documents on receipt, including pages within them, and notify the Procuring Entity of any discrepancy or omission.

Confidentiality & Copyright of documents

- 2.4 Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the Procuring Entity only for the purpose of preparing and submitting a tender offer in response to the invitation.

Standardised specifications and other publications

- 2.5 Obtain, as necessary for submitting a tender offer, copies of the latest versions of standardised specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

Acknowledge addenda

- 2.6 Acknowledge receipt of addenda to the tender documents, which the Procuring Entity may issue, and if necessary, apply for an extension to the closing time stated in *the Tender Data*, in order to take the addenda into account.

Site visit and / or clarification meeting

- 2.7 Attend a site visit and / or clarification meeting at which tenderers may familiarize themselves with the services (and location etc.) and raise questions. Details of the meeting(s) are stated in the **Tender Data**.

Seek clarification

- 2.8 Request clarification of the tender documents, if necessary, by notifying the Procuring Entity by at least the number of working days stated in the **Tender Data** before the closing date and time stated in *the Tender Data*.

Insurance

- 2.9 Be aware that the extent of insurance to be provided by the Procuring Entity (if any) may not be for the full cover required in terms of the Contract. The tenderer is advised to seek qualified advice regarding insurance.

Pricing the tender offer

- 2.10 Include in the rates, prices, and the tendered total of the prices (if any) all duties, taxes (except VAT), and other levies payable by the successful tenderer, such duties, taxes and levies being those applicable fourteen (14) days prior to the closing time stated in *of the Tender Data*.
- 2.11 Show Value Added Tax (VAT) payable by the Procuring Entity separately as an addition to the tendered total of the prices.
- 2.12 Provide rates and prices that are fixed for the duration of the Contract and not subject to adjustment except as provided for in the Contract.
- 2.13 State the rates and prices in local currency unless instructed otherwise in the **Tender Data**. The conditions of contract may provide for part payment in other currencies.

Alterations to documents

- 2.14 Not make any alterations or additions to the tender documents, except to comply with instructions issued by the Procuring Entity, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations. Erasures and the use of masking fluid are prohibited.

Alternative tender offers

2.15 If identified in the **Tender Data**, may submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted. The alternative tender offer is to be submitted with the main tender offer together with a schedule that compares the requirements of the tender documents with the alternative requirements the tenderer proposes.

2.16 Accept that an alternative tender offer may be based only on the criteria stated in the **Tender Data**.

Submitting a tender offer

2.17 Submit a tender offer for providing the whole of the Services identified in the Contract, unless stated otherwise in the **Tender Data**.

2.18 Return all Returnable Documents to the Procuring Entity after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing in black ink.

Information & data to be completed in all respects

2.19 Accept that tender offers, which do not provide all the data or information requested completely and in the form required, may be regarded by the Procuring Entity as non-responsive.

2.20 Submit the parts of the tender offer communicated on paper as an original plus the number of copies stated in the **Tender Data**, with an English translation of any documentation in a language other than English, and the parts communicated electronically in the same format as they were issued by the Procuring Entity.

2.21 Sign the original and all copies of the tender offer comprising a separate Technical Offer and a separate Financial Offer. The Procuring Entity will hold all authorised signatories liable on behalf of the tenderer. Signatories for tenderers proposing to contract as Joint Ventures shall state which of them is the lead partner whom the Procuring Entity shall hold liable for the purpose of the tender offer.

2.22 Seal the original and each copy of the Technical Offer as separate packages marking the packages as "ORIGINAL" and "COPY". Similarly seal the original and each copy of the Financial Offer marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the Procuring Entity's address and identification details stated in the **Tender Data**, as well as the tenderer's name and contact address on the reverse side of the envelope.

2.23 Unless otherwise stated in *the Tender Data*, the Two Envelope Submission Method shall apply. The sealed original and all the sealed copies of the Technical Offer shall be placed inside a sealed envelope clearly marked "Technical Offer". Similarly, the sealed original and all the sealed copies of the Financial Offer shall be placed inside a sealed envelope clearly marked "Financial Offer", and with a warning "DO NOT OPEN WITH THE TECHNICAL OFFER." The sealed envelopes containing the Technical and Financial Offers shall be suitably marked in accordance with *the Conditions of Tender*. The documents shall be securely bound.

2.24 Place the sealed envelopes containing the Technical and Financial Offers together in an outer package that states on the outside the Procuring Entity' address and identification details as stated in *the Tender Data*.

2.25 Accept that the Procuring Entity will not assume any responsibility for the misplacement or premature opening of the tender offer if the documents are not securely bound, outer package is not securely sealed and marked as stated.

Closing date and time

2.26 Ensure that the Procuring Entity receives the tender offer at the address specified in the *of the Tender Data* not later than the closing date and time stated in the **Tender Data**. Proof of posting will not be accepted as proof of delivery. The Procuring Entity will **not** accept tender offers submitted by telephone, facsimile or E mail, unless stated otherwise in the **Tender Data**.

2.27 Accept that, if the Procuring Entity extends the closing date and time stated in *the Tender Data* for any reason, the requirements of these Conditions of Tender apply equally to the extended deadline.

Tender offer validity

2.28 Hold the tender offer(s) valid for acceptance by the Procuring Entity at any time during the validity period stated in the **Tender Data** after the closing date and time stated in *the Tender Data*.

2.29 If requested by the Procuring Entity, consider extending the validity period stated in *the Tender Data* for an agreed additional period. A Tenderer agreeing to the request will not be required or permitted to modify a tender.

Clarification of tender offer after submission

2.30 Provide clarification of a tender offer in response to a request to do so from the Procuring Entity during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors. No change in the substance of the tender offer is sought, offered, or permitted except as required by the Procuring Entity to confirm the correction of arithmetical errors discovered during the evaluation of tenders in accordance with *the Conditions of Tender*. The total of the prices stated by the tenderer as corrected by the Procuring Entity with the concurrence of the tenderer, shall be binding upon the tenderer.

Provide other material

2.31 Provide, on request by the Procuring Entity, any other material that has a bearing on the tender offer. Tenderer's response to such a request shall be for verification purposes only and will not be considered for evaluation purposes, which is restricted to the submitted proposal. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the Procuring Entity's request, the Procuring Entity may regard the tender offer as non-responsive.

Submit securities, bonds, policies etc.

- 2.32 If requested, submit for the Procuring Entity's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the Contract.
- 2.33 Check the final draft of the contract provided by the Procuring Entity within the time available for the Procuring Entity to issue the contract.

3 The Procuring Entity's undertakings

The Procuring Entity undertakes to:

Respond to clarification

- 3.1 Respond to a request for clarification received up to the number of working days stated in *T1.2 of the Tender Data* prior to the tender closing date and time stated in *T1.2 of the Tender Data* and notify all tenderers of the responses.

Issue Addenda

- 3.2 If necessary, issue addenda that may amend or amplify the tender documents to each tenderer. If as a result of the addenda, a tenderer applies for an extension to the closing time stated in *T1.2 of the Tender Data*, the Procuring Entity may grant such extension and, will then notify all tenderers.

Return late tender offers

- 3.3 Return tender offers submitted after the closing date and time of submission as stated in *T.12 of the Tender Data*. The unopened offer shall be returned to the concerned tenderer immediately or as soon as practically possible after the bid opening with the words "Late Tender Offer", together with certification of the date and time on which the tender offer was so received.

Technical offer opening

- 3.4 Open valid Technical Offers in the presence of tenderers' agents and members of the public who choose to attend at the time and place stated in the **Tender Data**. Technical offers for which acceptable reasons for withdrawal have been submitted will not be opened. The envelopes with the Financial Offers shall remain sealed and shall be securely stored until they are opened in accordance with *T1.3 of the Conditions of Tender*.
- 3.5 Announce out loud and record minutes at the opening and the name of each tenderer whose tender offer is opened, the number of originals and copies, the total amount of each tender offer, time for completion (if any) and the presence or absence of any bid security (if required) for the main tender offer only on the Public Procurement Regulatory Authority (PPRA) Form 1.

Non-disclosure

- 3.6 Shall not disclose to tenderers, or to any other persons not officially concerned with the procurement process including the evaluation stage, information relating to the procurement process in general, evaluation of Technical Offers, evaluation of Financial Offers, the ranking of tender offers or recommendations for the award of a contract. Disclosure of information

related to the procurement process and tenders can be made available in accordance with the provisions of the Public Procurement and Asset Disposal Regulations to tenderers and any interested individuals after the award recommendation of the contract to the successful tenderer has been made.

Grounds for rejection & disqualification

- 3.7 Determine whether there has been any effort by a tenderer to influence the processing of tender offers if it is reasonably established that the tenderer offered an inducement to or colluded with any person or other tenderer with the intent to influence the award of the contract. Upon such determination the matter shall be further referred for investigation to be carried out by the competent authority.

Clarification of Tender Offers

- 3.8 Obtain clarification from a tenderer on any matter that could give rise to ambiguity in a contract arising from the Technical Offer.

Examination and Evaluation of Tender Offers

- 3.9 Use the Quality and Cost based evaluation method for examination and, if eligible, subsequent evaluation of tender offers comprising (a) Stage one - Compliance; (b) Stage Two - Technical Evaluation of responsive Technical Offers only; and (c) Stage Three - Cost Evaluation of only the Financial Offers whose corresponding Technical Offers have secured the minimum qualifying score. Thereafter to determine for each qualified and responsive tender offer it's Comparative Offer.

Quality and Cost Based- Services Evaluation Method

Stage One - Compliance

- 3.10 A tenderer that fails to meet the eligibility criteria shall be eliminated from further evaluation.

Stage Two-Technical Evaluation of responsive Technical Offers only

- 3.11 (a) Only for Technical Offers that in accordance with *T1.3 of the Conditions of Tender* have been determined to (i) have been submitted by eligible tenderers; and (ii) be complete and responsive Technical Offers, conduct a technical evaluation to determine technical compliance with the specifications listed in the tender document. The technical evaluation criteria and sub criteria, marking of each criterion and weights and minimum qualifying mark are stated in the **Tender Data**. After concluding the Technical Evaluation, the evaluation committee shall prepare a technical evaluation report which shall be approved by the adjudicating authority. Thereafter each tenderer shall be notified of their Technical results. Tenderers who have secured the minimum qualifying score shall be notified and advised of the date and time set for the public opening of Financial Offers. Technical offers that fail to secure the minimum qualifying mark and / or are declared non-responsive to the specification in the tender document shall be eliminated from further evaluation and their corresponding Financial Offers will be returned and marked unopened to the respective Tenderers after completion of the evaluation, adjudication and award process.

Financial Offer opening

- 3.13 (b) Only for Technical Offers that in accordance with *T1.3 of the Conditions of Tender* have been determined to have secured the minimum qualifying mark and are responsive to the specifications listed in the tender document, open in public the corresponding sealed Financial Offers no sooner than ten (10) working days after notifying the Tenderers of their Technical Score. The name of the responsive and qualified Tenderer, the Technical Score and Financial Offer amount and the duration of the contract shall be announced at the Financial Offer opening.

Stage Three - Cost Evaluation of only the Financial Offers whose corresponding Technical Offers are technically responsive and have secured the minimum qualifying mark

- 3.14 Only for technically responsive and qualified Technical Offers whose Financials Offers have been opened in accordance with *T1.3 of the Conditions of Tender*, conduct a cost evaluation of the Financial Offers to:
- (i) Perform price comparison in accordance with the pricing sheet, if any;
 - (ii) Correct arithmetical errors.

Correct Arithmetical errors

- 3.15 Check responsive and qualified Financial Offers for arithmetical errors, correcting them in the following manner:
- Where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern.
 - If a schedule of quantities or schedule of prices applies and there is an error in the line item total resulting from the product of the unit price and the quantity, the unit price shall govern and the total shall be corrected.
 - Where there is an error in the total of the prices, either as a result of other corrections required by this checking process or in the tenderer's addition of prices, the total of the prices, if any, will be corrected. The corrected Financial Offer amount will be communicated to the tenderer. The tenderer may not change the corrected Financial Offer amount.
- 3.16 Reject a tender offer if the tenderer does not accept the correction of the arithmetical errors in the manner described above.

Determination of a responsive tender offer's Comparative Offer

- 3.17 Taking into account *clauses 3.15, and 3.16, of the Conditions of Tender* for each responsive and qualified Technical and Financial Offer, determine its Comparative Offer.

Ranking of Comparative Offers and award recommendation where no preferences schemes are applicable

- 3.18 Where no preferences schemes are applicable, rank Comparative Offers from the least cost Comparative Offer to the highest cost Comparative Offer. Recommend the least cost Comparative Offer for the award of the contract, unless there are compelling and justifiable reasons not to do so.

Ranking of Comparative Offers and award recommendation where preferences schemes are applicable

3.19 For each responsive and qualified Technical and Financial Offer whose Comparative Offer has been determined in accordance with *T1.3 of the Conditions of Tender*, determine:

- (i) its eligibility for the preference(s) claimed and establish the corresponding weight(s) for the Category of preference (W_p);
- (ii) the Evaluated Comparative Offer (E_{co}) and;
- (iii) the ranking in the manner below:

(a) Examine the documentation supporting the preference(s) claimed, determine the responsive tender offers' eligibility for the preference(s) claimed in respect of the categories of preference(s) stated in the **Tender Data** and establish the corresponding weight(s) for the Category of preference (W_p).

(b) For evaluation purposes only, determine the Evaluated Comparative Offer using the formula below:

$$E_{co} = P \times (1 - W_p)$$

Where:

E_{co} = Evaluated Comparative Offer

P = the Comparative offer under consideration

W_p = Weight for the Category of preference as specified in the **Tender Data**

(c) Rank Evaluated Comparative Offers from the least cost Evaluated Comparative Offer to the highest cost Evaluated Comparative Offer. Recommend the least cost Evaluated Comparative Offer for the award of the contract at its Comparative Offer amount established in *T1.3 of the Conditions of Tender*, unless there are compelling and justifiable reasons not to do so.

(d) Where two or more tender offers have the same Evaluated Comparative Offer (E_{co}), recommend* the award of the contract to the tenderer with the highest Weight for the Category of preference (W_p), unless there are compelling and justifiable reasons not to do so.

Insurance provided by the Procuring Entity

3.20 If requested by the proposed successful tenderer, submit for the tenderer's acceptance the policies and / or certificates of insurance which the conditions of contract identified in the Contract Data, require the Procuring Entity to provide.

Acceptance of tender

3.21 Notify the successful tenderer of the Procuring Entity's acceptance of his tender offer by completing and returning one copy of the Form of Offer and Acceptance before the expiry of the validity period stated in the Tender Data, or agreed additional period. Providing the Form of Offer and Acceptance does not contain any qualifying statements, it will constitute the formation of a contract between the Procuring Entity and the successful tenderer as described in the Form of Offer and Acceptance.

Notice to unsuccessful tenderers

3.22 After the successful tenderer has acknowledged the Procuring Entity's notice of acceptance, notify other tenderers that their tender offers have not been successful.

Prepare contract documents

- 3.23 If necessary, revise documents that will form part of the contract and were issued by the Procuring Entity as part of the tender documents to take account of:
- addenda issued during the tender period,
 - inclusion of some of the Returnable Documents,
 - other revisions agreed between the Procuring Entity and the successful tenderer, and
 - the Schedule of Deviations attached to the Form of Offer and Acceptance.

Issue final contract

- 3.24 Prepare and issue the final draft of contract documents to the successful tenderer for acceptance as soon as possible after the date of the Procuring Entity's execution of the Form of Offer and Acceptance (including the Schedule of Deviations). Only those documents that the Conditions of Tender require the tenderer to submit, after acceptance by the Procuring Entity will be included.

Provide copies of the contracts

- 3.25 Provide to the successful tenderer the number of copies stated in the **Tender Data** of the signed copy of the contract as soon as possible after completion and signing of the Form of Offer and Acceptance.

List of Returnable Documents

The tenderer must complete the following returnable documents:

1 Returnable Documents required for tender evaluation purposes.

ITEM NO.	DESCRIPTION	RETURNED Yes /No
1	PPRA Registration Code: 137: Other Consultancy Services Sub-Code: 01 Management Consultancy Services and Code: 323: Energy Management Services Sub-Code: 01: Energy System Design, Measurement and Auditing (Renewable Energy and Energy Management	
2	Valid Tax Clearance Certificate Number and Tax Identification Number (TIN) or Exemption thereof issued by BURS. Such validity of the tax clearance is subject to online registration verification	
3	Certificate of Incorporation	
4	CIPA Extract & Share Certificates	
5	IDs of Shareholders	
6	Certificate of Authority of Signatory	
7	Declaration Form for Tendering Purposes (T2.2 GM)	
8	Proof of Payment for the tender document	
9	Citizen Owned Eligibility	
10	Ownership Certification	
11	Completed and signed form of Offer and Acceptance (T2.2GA). This should be in the financial submission. Inclusion of Form of Offer and Acceptance in the Technical proposal will lead to disqualification.	

Signed: _____

Date: _____

Name: _____

Position: _____

Other returnable documents that will be incorporated into the contract:

CONTRACT DATA

PRICING INSTRUCTIONS

FORM OF OFFER AND ACCEPTANCE

RETURNABLE DOCUMENTS	TENDER SCHEDULES CERTIFICATE OF AUTHORITY OF SIGNATORY
-----------------------------	---

Indicate the status of the tenderer by ticking the appropriate box hereunder. The tenderer must complete the certificate set out below for the relevant category.

A COMPANY	B PARTNERSHIP	C JOINT VENTURE	D SOLE PROPRIETOR	E OTHER

A. Certificate for company

I, _____, authorised representative of _____, hereby confirm that by resolution of the board Mr/Ms _____, acting in the capacity of _____, was authorised to sign all documents in connection with this tender offer and any contract resulting from it on behalf of the company.

B. Certificate for partnership

We, the undersigned, being the key partners in the business trading as _____ hereby authorise Mr/Ms _____, acting in the capacity of _____, to sign all documents in connection with the tender offer for Contract _____ and any contract resulting from it on our behalf.

NAME	ADDRESS	SIGNATURE	DATE

NOTE: This certificate is to be completed and signed by all of the partners. Attach additional pages if more space is required.

Furthermore, we attach to this Schedule a copy of the partnership agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all partners.

C. Certificate for Joint Venture

We, the undersigned, are submitting this tender offer in Joint Venture and hereby authorise Mr/Ms _____, an authorised signatory of the company _____, acting in the capacity of lead partner, to sign all documents in connection with the tender offer for Contract _____ and any contract resulting from it on our behalf.

This authorisation is evidenced by the attached power of attorney signed by legally authorised signatories of all the partners to the Joint Venture.

Furthermore, we attach to this Schedule a copy of the joint venture agreement which incorporates a statement that all partners are liable jointly and severally for the execution of the contract and that the lead partner is authorised to incur liabilities, receive instructions and payments and be responsible for the entire execution of the contract for and on behalf of any and all the partners.

NAME OF FIRM	ADDRESS	AUTHORISING SIGNATURE, NAME & CAPACITY
Lead partner		

D. Certificate for sole proprietor.

I, _____, hereby confirm that I am the sole owner
of the business trading as _____.

E. Certificate for other.

I, _____, hereby confirm that I am _____
of the business trading as _____

THUS, SIGNED AND SWORN TO BEFORE ME COMMISSIONER OF OATHS AT

_____ ON THIS _____ DAY OF _____ 20____, AT ____AM /
PM, THE DEPONENT HAVING ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS
OF THIS DECLARATION AND THAT IT IS BINDING ON HIS CONSCIENCE.

COMMISSIONER OF OATHS

CAPACITY:

Declaration to establish that Directors, shareholders, beneficial owners, partners, members have not participated through any other bid for the same tender.

PART A

I, _____ (full name), in my capacity as (state position in Entity)

hereby declare that on my behalf, and on behalf of the owners, partners / directors/ shareholders /administrators and/or Other (Please specify)

of:

..... (Name of Entity)

of:

.....

..... (Postal/physical address)

that, in connection with the enclosed tender,

All information contained herein is true and not misleading, and it is to the best of my knowledge factual and binding on the Entity and/or its Representatives. I state that the (State Name of Entity) and/or its representatives confirm that they have not, through other entities, participated in the same tender and offer the same products in response to the same items.

NOTE THAT: In the case of competing franchises, the franchises may bid for the same item but with different products. Item means the commodity required by the procuring entity indicated in the ITT. Product means the commodity offered by the bidder.

I declare and confirm that the Entity and/or its Representatives have in fact not participated in the same tender and offered the same products in response to the same items, through any other registered company or other entity. I hereby provide a current list of Directors/ Administrators/ Partners/ Beneficial Owners/ Members and/or Shareholders for the Company/Partnership/ Society/Joint Venture/ Private Foundation/Statutory Body and/or other (Please specify)

.....

	DIRECTORS/MEMBERS/Beneficial Owners and/or Other (Please Specify)	CAPACITY IN ENTITY	NATIONALITY	PERCENTAGE OF SHAREHOLDING
1				
2				
3				
4				
5				
6				
7				

	SHAREHOLDERS NAME	NATIONALITY	PERCENTAGE OF SHAREHOLDING
1			
2			
3			
4			
5			
6			
7			

	BENEFICIAL OWNER NAME	NATIONALITY	PERCENTAGE OF SHAREHOLDING
1			
2			
3			
4			
5			
6			
7			

If more space is required attach additional sheet. Note that Public companies should state which stock exchange the company is listed under.

I further acknowledge that should any of the directors, partners, and shareholders, members/administrators /beneficial owners (others please specify) be found to be associated in a similar or other manner in another company/entity, participating in this tender and offering the same products in response to the same items, this shall disqualify this Company/Partnership/ Society/Joint Venture/ Private Foundation/Statutory Body, and whichever company or other entity the said director/partner/ beneficial owners shareholder/member and/or administrator is consequently involved in.

I further acknowledge that should the Company /Partnership/ Society/Joint Venture/ Private Foundation/ Statutory Body or any of its affiliates or subsidiaries be found to have participated in the same tender and offered the same products in response to the same items, the said

Company/Partnership/ *Society*/Joint Venture/ Private Foundation/Statutory Body/(others please specify) and its affiliates and/or subsidiaries shall be disqualified.

The Company/Partnership/ *Society*/Joint Venture/ Private Foundation/ Statutory Body/(others please specify), through its agents, employees or directors has not illegally communicated with any member of the procuring entity or its agents except as may be permitted in the relevant “instructions to tenderers” or by law.

The Company/Partnership/ *Society*/Joint Venture/ Private Foundation/Statutory Body/(others please specify), through its agents, employees, partners, beneficial owners/ members, administrators and/or directors has not paid or offered to pay any consideration, favour or promise to any member of the procuring entity or its agent.

I declare that this tender is submitted by us in our own right and we have not colluded in any way with any other /potential tenderer in the production and submission of this tender other than in the establishment of a joint venture or sub-contractor arrangement as fully and correctly declared in the tender.

I acknowledge that if after the award of this tender any of these declarations are found to be false then any contract(s) between ourselves and the procuring entity shall be terminated forthwith and we may be barred from future tendering for government services and liable to possible prosecution.

I confirm that our entity has undertaken not to collude to withdraw from a tender award, only for the reason that an unsuccessful bidder be awarded the tender. I confirm further that the entity has undertaken not to engage in frivolous complaints and litigation that frustrates project implementation.

SIGNED: NAME:

DATED:

.....

Entity

Stamp

PART B

1. Declaration to establish Eligibility for Reservation and Price Preferences for Citizen Contractor / and other Entities.
2. The declaration shall be signed by all Businesses tendering for reserved contracts and contracts subject to preferences, as a condition of each tender.
3. The 100% citizenship requirements for shareholders, etc. contained therein shall not withstand any previous consents and practice, be pre-condition for the award of any reserved tender.

Definition

4. The following definitions shall apply to this declaration:

Citizen Contractor: a natural person or an incorporated company wholly owned and controlled by persons who are citizens of Botswana.

Control: the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous exercise of managerial and financial authority and power in determining the policies and directing the operations of the business.

Beneficial Owner: means a natural person, who directly or indirectly through any contract, arrangement, understanding, relationship or otherwise —

(a) in relation to an incorporated body, ultimately owns or has a controlling ownership or exercises ultimate effective control through positions held in the incorporated body or is the ultimate beneficiary of a share or other securities in the body corporate;

(b) in relation to a trust or other legal arrangement, is the settlor, trustee or ultimate beneficiary of the trust or legal arrangement or has the power, alone or jointly with another person or with the consent of another person, to —

(i) dispose of, advance, lend, invest, pay or apply trust property or property of the legal arrangement,

(ii) vary or terminate the trust or legal arrangement,

(iii) add or remove a person as a beneficiary or to or from a class of beneficiaries,

(iv) appoint or remove a trustee or give another person control over the trust or legal arrangement, or

(v) direct, withhold consent or to overrule the exercise of a power referred to in subparagraphs (i) – (iv)

(c) is the ultimate beneficiary of proceeds of a life insurance policy or other related investment services when an insured event covered by the policy occurs; or

(d) a transaction is conducted on his or her behalf.

Net Amount: the financial value of the Contract at the time of the award of the Contract, exclusive of sales tax which the law requires the Employer to pay to the Contractor.

Owned: Having all the customary incidents of ownership, including the right of disposition, and sharing in all the risks and profits commensurate with the degree of ownership interest or shareholding as demonstrated by an examination of the substance as well as the form of ownership arrangements

5. The company operates banking and savings accounts, the only authorised signatories are:

- | | |
|-----------------------------------|-----------------------|
| i. | |
| (Bank Name and Name of signatory) | (Omang No. /Passport) |
| ii. | |
| (Bank Name and Name of signatory) | (Omang No. /Passport) |
| iii. | |
| (Bank Name and Name of signatory) | (Omang No. /Passport) |
| iv. | |
| (Bank Name and Name of signatory) | (Omang No. /Passport) |

6. Undertakings

The Tenderer confirms that it is a Citizen contractor and undertakes to remain a Citizen Contractor for the duration of the Contract.

7. Sanctions relating to reserved treatment

Any changes in Ownership or Control which violate the definition of a Citizen Contractor shall be sufficient reason for the Procuring entity to terminate the Contract.

8. All the Beneficial Owners, partners/Directors/shareholders and Administrators of(Name of company) have read this declaration and agree to its contents.

- a) All the Beneficial owners, partners/Directors/shareholders and Administrators hereby give consent and verification of the information provided above and understand that this may include but is not limited to the verification of assets, liabilities, accounts, bonds and undertake to notify the competent authorities of any change to the information provided in this Declaration within seven (7) days of such occurrence.

b) I understand and declare that each matter here deposed to is essential for the tender validity of (Name of company)'s

NB: BERA reserves the right to confirm the authenticity of the information provided above.

THUS SIGNED AND SWORN TO BEFORE ME COMMISSIONER OF OATHS AT _____
ON THIS _____ DAY OF _____ 20____, AT ____AM / PM, THE DEPONENT HAVING
ACKNOWLEDGED THAT HE KNOWS AND UNDERSTANDS THE CONTENTS OF THIS DECLARATION AND
THAT IT IS BINDING ON HIS CONSCIENCE.

COMMISSIONER OF OATHS

A Services Contract for Procurement of Services for consultancy services for the review of the petroleum products pricing structure, development of wholesale margin mode and slates for alternative routes

CONTRACT

PART 1: AGREEMENTS AND CONTRACT DATA

- C1.1 Form of Offer and Acceptance
- C1.2 General Conditions for Services Contract
- C1.3 Special Conditions of Contract

PART 2: PRICING DATA

- C2.1 Pricing Instructions - Activity Schedule / Price Schedules

PART 3: SCOPE OF WORK

- C3 Scope of work

Republic of Botswana Public Procurement Regulatory Authority	CONTRACT PART 1 - AGREEMENTS & CONTRACT DATA	C1.1 FORM OF OFFER AND ACCEPTANCE
---	--	---

Offer

The Procuring Entity, _____ (name) of _____ (address), has solicited offers to enter into a contract for the procurement of:

Title of the Contract: Services Contract For

The tenderer, identified in the signature block below, has examined the documents listed in the Tender Data and addenda thereto as listed in the Tender Schedules, and by submitting this Offer has accepted the Conditions of Tender.

By attaching the signature of a duly authorised representative to this part of this Form of Offer and Acceptance, the tenderer offers to perform all of the obligations and liabilities of the Service Provider under the Contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the Conditions of Contract identified in the Contract Data.

The total of the amount tendered is _____ _____ Pula, (in words); P _____ ____ (in figures). (Not applicable for rate only contracts)

This Offer, of which the tenderer has one original, may be accepted by the Procuring Entity by signing the form of Acceptance overleaf and returning one fully executed original of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, whereupon the tenderer becomes the party named as the Service Provider in the Conditions of Contract identified in the Contract Data.

For the tenderer:

Signature(s)

Name(s) _____

Capacity _____

(Insert name and address of organisation)

Name & signature of witness _____ Date _____

Acceptance

By attaching the signature of a duly authorised representative to this part of this Form of Offer and Acceptance, the Procuring Entity accepts the tenderer's Offer. In consideration thereof, the Procuring Entity shall pay the Service Provider the amount due in accordance with the Conditions of Contract identified in the Contract Data. Acceptance of the tenderer's Offer shall form an Agreement between the Procuring Entity and the tenderer upon the terms and conditions contained in this Agreement and in the Contract that is the subject of this Agreement.

The terms of the Contract, are contained in:

Part 1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)
The following Appendices: [**Note:** *If any of these Appendices are not used, the words "Not Used" should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.*]

Appendix A: Description of the Services

Appendix B: Schedule of Reporting Requirements

Appendix C: Key Personnel and Subcontractors

Appendix D: Breakdown of Contract Price in Foreign Currency

Appendix E: Breakdown of Contract Price in Pula

Appendix F: Services and Facilities Provided by the Procuring Entity

Part 2 Pricing Data

Part 3 Scope of Work

Drafting Instructions to the Procuring Entity

- **Delete these instructions when they have been complied with**

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Procuring Entity during this process of Offer and Acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule, which must be signed by the duly authorised representative(s) for both parties.

The tenderer shall within one week of receiving a fully executed original of this Agreement, including the Schedule of Deviations (if any), contact the Procuring Entity's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the Conditions of Contract identified in the Contract Data at, or just after, the date this Agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this Agreement.

Notwithstanding anything contained herein, this Agreement comes into effect on the date when the tenderer receives one fully executed original of this document, including the Schedule of Deviations (if any). Unless the tenderer (now Service Provider) within five days of the date of such receipt notifies the Procuring Entity in writing of any reason why he cannot accept the contents of this Form of Offer and Acceptance, this Agreement shall constitute a binding contract between the Parties.

For the Procuring Entity

Signature(s)

Name(s)

Capacity

.....
(Insert name and address of organisation)

Name &
signature of
witness

.....
Date

Note: If tenderer wishes to submit alternative tender offers, further copies of this document may be used for that purpose, duly endorsed, 'Alternative Tender No. _____'

(Suggested format, to be completed by the Procuring Entity prior to award of contract)

Schedule of Deviations

Note:

1. The extent of deviations from the tender documents issued by the Procuring Entity prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
2. In the event of conflict between the contents of this Schedule of Deviations and any other list or record of tender stage amendments or addenda, this Schedule shall take precedence.

1 Subject _____

Details _____

2 Subject _____

Details _____

3 Subject _____

Details _____

4 Subject _____

Details _____

5 Subject _____

Details _____

6 Subject _____

Details _____

By affixing the signatures of the duly authorised representatives below, the Procuring Entity and the tenderer both agree to and accept the foregoing Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any changes to the terms of the Offer agreed by the tenderer and the Procuring Entity during this process of Offer and Acceptance.

It is expressly agreed that no information, documentation or communication not listed in the Schedule of Deviations shall have any meaning or effect in the contract between the parties arising from this

Signature(s)

Name(s)

Capacity

(Insert name and address of organisation)

Name & signature of witness Date

Agreement. _____

For the tenderer:

For the Procuring Entity

Signature(s)

Name(s)

Capacity

.....
.....
.....
(Insert name and address of organisation)

Name &
signature of
witness

Date

Republic of Botswana
Public Procurement Regulatory Authority

**C1.2 GENERAL CONDITIONS
FOR SERVICES CONTRACT AND
CONTRACT FORMS**

General Conditions of Contract (GCC)

Table of Clauses

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CONTRACT PART 2 - PRICING DATA.....44
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Appendices

Appendix A—Description of the Services

Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Procuring Entity, etc.

Appendix B—Schedule of Reporting Requirements

List the format, frequency, and contents of reports or products to be delivered; persons to receive them; dates of submission; etc. If no reports are to be submitted, state here “Not applicable.”

Appendix C—Key Personnel and Subcontractors

List under: C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of Personnel to be assigned to work

C-2 List of approved Subcontractors (if already available); same information with respect to their Personnel as in C-1.

Appendix D—Breakdown of Contract Price in Foreign Currency(ies)

List here the elements of cost used to arrive at the breakdown of the lump-sum price—foreign currency portion:

- 1. Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).*
- 2. Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional Services.

Appendix E—Breakdown of Contract Price in Pula

List here the elements of cost used to arrive at the breakdown of the lump-sum price—Pula portion:

- 1. Rates for Equipment Usage or Rental or for Personnel (Key Personnel and other Personnel).*
- 2. Reimbursable expenditures.*

This appendix will exclusively be used for determining remuneration for additional Services.

Appendix F—Services and Facilities Provided by the Procuring Entity

Insert as appropriate

Republic of Botswana Public Procurement Regulatory Authority	CONTRACT PART 1 AGREEMENTS & SPECIAL CONDITIONS OF CONTRACT	C1.4 FORMS OF SECURITIES 1. PERFORMANCE SECURITY – DEMAND GUARANTEE
--	--	---

Title of the Contract _____

Name and address of Beneficiary (whom
the contract defines as the Procuring
Entity) _____

We have been informed that _____ (hereinafter called the “Principal”) is your contractor under such Contract, which requires him to obtain a performance security.

At the request of the Principal, we (*name of bank*) _____ hereby irrevocably undertake to pay you, the Beneficiary/Procuring Entity, any sum or sums not exceeding in total the amount of _____ (the “guaranteed amount”, say: _____) upon receipt by us of your demand in writing and your written statement stating:

- (a) that the Principal is in breach of his obligation(s) under the Contract, and
- (b) the respect in which the Principal is in breach.

Any demand for payment must contain signature of your authorised signatory which must be authenticated by your bankers or by a notary public. The authenticated demand and statement must be received by us at this office on or before (insert *date*) or *within seventy (70) days after the expected expiry of the period for notifying defects*) _____ (the “expiry date”), when this guarantee shall expire and shall be returned to us.

We have been informed that the Beneficiary may require the Principal to extend this guarantee if the Principal has not completed his obligations under the Contract by (Insert the date) or 28 days prior to such expiry date. We undertake to pay you such guaranteed amount upon receipt by us, within such period of 28 days, of your demand in writing and your written statement that the Principal has not completed his obligations under the Contract, for reasons attributable to the Principal, and that this guarantee has not been extended.

This guarantee shall be governed by the laws of Botswana subject to the jurisdiction of the courts of Botswana and shall be subject to the Uniform Rules for Demand Guarantees, published as number 758 by the International Chamber of Commerce, except as stated above.

Date _____ Signature(s) _____

Republic of Botswana Public Procurement Regulatory Authority	CONTRACT PART 1 AGREEMENTS & SPECIAL CONDITIONS OF CONTRACT	C1.4 FORMS OF SECURITIES: 2 ADVANCED PAYMENT GUARANTEE
--	--	---

Title of the Contract _____

Name and address of
Beneficiary (whom the
contract defines as the
Procuring Entity) _____

We have been informed that _____ (hereinafter called the "Principal") is your contractor under such Contract and wishes to receive an advance payment, for which the Contract requires him to obtain a guarantee.

At the request of the Principal, we (*name of bank*) _____ hereby irrevocably undertake to pay you, the Beneficiary/Procuring Entity, any sum or sums not exceeding in total the amount of _____ (the "guaranteed amount", say: _____) upon receipt by us of your demand in writing and your written statement stating:

- (a) that the Principal has failed to repay the advance payment in accordance with the conditions of the Contract, and
- (b) the amount which the Principal has failed to repay.

This guarantee shall become effective upon receipt [of the first instalment] of the advance payment by the Principal. Such guaranteed amount shall be reduced by the amounts of the advance payment repaid to you, as evidenced by your notices of amounts due to the Principal issued in terms of the conditions of the Contract. Following receipt (from the Principal) of a copy of each purported notice, we shall promptly notify you of the revised guaranteed amount accordingly.

Any demand for payment must contain your signature(s) of your authorised signatory which must be authenticated by your bankers or by a notary public. The authenticated demand and statement must be received by us at this office on or before..... (*Insert date*) or *within seventy (70) days after the expected expiry of the time for completion of the works/Services/ Supply* _____ (the "expiry date"), when this guarantee shall expire and shall be returned to us.

We have been informed that the Beneficiary may require the Principal to extend this guarantee if the advance payment has not been repaid by..... (insert date) 28 days prior to such expiry date. We undertake to pay you such guaranteed amount upon receipt by us, within such period of 28 days, of your demand in writing and your written statement that the advance payment has not been repaid and that this guarantee has not been extended.

This guarantee shall be governed by the laws of Botswana, subject to the jurisdiction of the courts of Botswana and shall be subject to the Uniform Rules for Demand Guarantees, published as number 758 by the International Chamber of Commerce, except as stated above.

Date _____ Signature(s) _____

Objectives

The objectives of the Activity Schedule are

- (a) to provide sufficient information on the quantities of Services to be performed to enable Tender Offers to be prepared efficiently and accurately; and
- (b) when a Contract has been entered into, to provide a priced Activity Schedule for use in the periodic valuation of Services executed.

In order to attain these objectives, Services should be itemized in the Activity Schedule in sufficient detail to distinguish between the different classes of Services, or between Services of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Activity Schedule should be as simple and brief as possible.

1) PRICING

- a. The bidder has to provide a breakdown of the fees.
- b. The pricing should take into account that the price should be fixed for a period of twelve (12) months from the date of contract commencement.

2) PAYMENT AND CURRENCY

The prices and rates are to be stated in Botswana Pula.

3) VALUE ADDED TAX(VAT)

- a. All prices shall be exclusive of VAT except on the grand total.
- b. VAT exclusion on the Grand Total by VAT registered bidders shall render the bid non-compliant and not fit for consideration for award.

4) PRICE VARIATION

In the event of the service provider incurring increased costs in the execution of the contract by reason of any or all of the following, a price increase may be considered:

- a. An increase by reason of any statute enactment or regulation having force of law and applicable to the traders concerned and binding on or affecting the contract and which could not have been foreseen at the date of tender.

1. Introduction

The Government of Botswana regulates the retail pump prices of petroleum products through the Botswana Energy Regulatory Authority. The regulation process entails regular reviews of the retail pump prices of gasoline (petrol), automotive gasoil (diesel) and illuminating paraffin on a monthly basis. The review is guided by the Basic Fuels Pricing (BFP) methodology used by Botswana and other Southern African Customs Union (SACU) Member States. Botswana and the rest of SACU Member States started using the BFP Model (Pricing Slate) in 2003. The determination of petroleum products prices is done in relation to other price setting regions like Europe, the Arabian Gulf and Far East owing to the fact that the region is a price taker.

The pricing structure is divided into three sections which collectively, build up to the final retail pump price. The first section of the slate is the calculation of the average Free on Board (FOB) price which is basically the average of postings by international oil companies during the month. The second section is calculation of the Basic Fuel Pricing (BFP) which includes the FOB price. The BFP is the average cost of a product from its source point to the Botswana border. This includes transportation costs to Botswana borders. The last section comprises all Government's taxes and levies, industry's operating and service costs as well as the industry's and dealers' profit margins.

All these three sections sum up to the actual cost price (the slate section) of a product per litre to be paid by consumers. The retail pump price is therefore set based on this actual cost. If the set retail pump price is higher than the actual cost, an over-recovery is experienced. On the other hand, if the pump price is lower than the actual cost, an under-recovery situation is experienced. The accumulation of these differences on each product reflects the slate balance for that particular product at a particular period.

This project has four (4) main components as follows:

- a) comprehensive review of the current pricing structure (BFP) related to the supply and distribution of petroleum products into and within Botswana;
- b) review and update the pricing schedule;
- c) development and implementation of wholesale margin model; and
- d) Investigate all possible sources and routes of supply of petroleum products into Botswana with the view to develop and implement pricing structures (slates) for the most viable alternative routes, key amongst them being Namibia and Mozambique.

a) Review of the Current Pricing Structure (BFP)

The project involves a review of all costs components associated with the supply and distribution of petroleum products into and within Botswana. The goal of the exercise is to ensure the

development and implementation of a pricing slate that is cost reflective and speaks to the situation on the ground in terms of supply chain logistics and market configuration. Therefore, the study should objectively assess the applicability and relevance of the current pricing regime and come up with a robust pricing framework that is aligned to the current reality in terms of supply logistics and requirements of the BERA (Amendment) Act of 2022. The Act has mandated the National oil Company to consolidate, procure and supply petroleum products into the country. Therefore, Botswana Oil Limited has been given a larger portion of the import requirements (90%) with a small percentage (10%) allocated to majority citizen owned companies beginning 1st April 2024. Furthermore, the pricing framework should align with Section 37 of the BERA Act which provides for petroleum sector activities to be regulated. Therefore, the framework should aim to ensure that such activities are segmented and properly compensated as a way of facilitating meaningful participation across the value chain.

The current pricing system recognized certain places as key pricing centres because of the availability of the secondary storage and product handling and distribution facilities at those places. Such places included Lobatse, Gaborone, Serule and Francistown. However, Lobatse and Serule have since been decommissioned even though they are still recognized as pricing centres. This causes distortion in the process of pricing. The study should holistically review this historic arrangement with the view to addressing the identified bottlenecks and ensuring that proper deterministic principles are grafted to guide costs related to the distribution of products within the country.

b) Review of the Pricing Schedule

Some places in the country do not appear on the current pricing schedule since the places included are those areas that had amongst others; gazetted access roads as well as the places being gazetted towns and villages by record. This presents a challenge to achieving a fair pricing approach given the fact that some new places and roads have since been developed and gazetted which now require being recognized by the pricing slate. Therefore, the Consultant is expected to review the current pricing schedule (price list) and develop appropriate formula for price differentials between places around the country. The study should also advise on the appropriate distance (kilometer) and/or radius from a distribution/pricing centre for purposes of determining and applying an appropriate rate. In essence, the Consultant is expected to deliver to the Authority a well-reviewed, constructed and cost reflective pricing model that is compatible with realities on the ground.

c) Development of Wholesale Margin Model

The Authority regulates both wholesale and retail margins. Over the years, there has not been any scientific model for the award of the wholesale margin. The review of the wholesale margin has been based on the Consumer Price Index (CPI) for most of the time. The method has been found to be not fully acceptable to the Oil Industry because there is a feeling that what is awarded, falls far short of what is expected. The consultant is expected to develop an appropriate model for the determination of the wholesale margin. It is important to strike a fair balance between the level of the margin awarded to companies and affordability of product prices charged on consumers.

The Consultant would be expected to test the functionality of the model through a pilot survey to see if it generates desired results. This will be done through undertaking a mini survey by feeding actual industry and market data into the model and generating results.

d) Investigation, development and piloting of pricing structures (slates) for alternative routes.

Security of supply of petroleum products remains an area of key strategic focus for the Government. The country has, over the years, remained vulnerable to heavy reliance on South Africa as the primary source of supply of petroleum products into Botswana. While South Africa will continue to be a key strategic partner in the sourcing and supply of Botswana's petroleum requirements, it has also become apparent that Botswana identifies, explore and operationalize procurement from alternative sources. To date, Namibia and Mozambique have been piloted and proved to be viable supply options. However, the use of these alternative sources and routes comes at a premium cost compared to the traditional route of Durban-Gaborone. That notwithstanding, the Government is more determined to develop these routes to the point that they form part of the supply chain as opposed to the current arrangement where they are only triggered during times of short supply from South Africa. Therefore, as part of this study, the consultant is expected to develop pricing slates/formulas for the alternative routes of Namibia and Mozambique to ensure that they are utilized fully. The pricing structures should be piloted to identify implementation challenges, which should be addressed as part of this work.

2. Use of reasonable skill and care

The Consultant shall exercise reasonable skill, care and diligence in the discharge of its duties under this Agreement.

In the performance of the Services, the Consultant shall in all professional matters act as a faithful advisor to the Authority and, with respect to the Authority and third Parties, give preference to the Authority and Botswana Government. The Consultant, its staff, employees and attached specialists shall respect the laws and customs of Botswana and shall carry out all its responsibilities in accordance with the professional standards of its profession.

3. Co-operation with other services providers

Necessary consultations shall be conducted with relevant stakeholders including but not limited to the following: -

- Ministry of Minerals and Energy (MME)
- Ministry of Finance and Economic Development
- Ministry of Trade & Investment
- Department Of Energy (DOE)
- Bank of Botswana
- Botswana Railways

- Oil Industry which includes importers, wholesalers and retailers.
- Fuel transporters

4. Brief

ACTIVITY	EXPECTED COMPLETION DATE
Floating of the ITT to Bidders	TBA
Close of Tender Clarifications	TBA
Bid Submission Deadline	TBA
Evaluation and Adjudication of Bids	TBA
Official Announcement of Preferred Bidder	TBA
Cooling- Off Period	TBA
Award of the Tender and Contract Signing	TBA
Presentation and Approval of Inception Report	TBA
Presentation and Approval of the Final Report for Phase 1 (reviewed pricing structure with updated pricing schedule)	TBA
Presentation and Approval of Final Report for Phase 2 (wholesale margin model developed)	TBA
presentation and Approval of Final Report for Phase 3 (slates for alternative routes developed)	TBA

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Key Deliverables for this project are as follows

Project Delivery Approach

The project will be delivered according to three (3) phases as follows;

Phase 1

This will include the review of the current pricing structure as well the price schedule. The consultant is expected to complete and submit the reviewed structure and price schedule.

Phase 2

The consultant is expected to develop an appropriate model for determination of the wholesale margin.

Phase 3

The consultant is expected to develop pricing slates for the routes of Namibia and Mozambique.

5. Approvals

The Client shall be the Chief Executive Officer (CEO) of Botswana Energy Regulatory Authority or her nominated representative. The Petroleum Department will provide a link between the CEO and the consultant. The Authority shall give its decision on all reports, recommendations and other matters properly referred by the consultants for decision in such reasonable time as not to delay or disrupt the performance by the Consultant of its service under this consultancy work.

6. Access to land / buildings / sites

The Authority will assign the project team to work with the Consultant/s and shall provide all the necessary resources that might be required by the consultant to execute the assignments such as: office space, timely access to data/information etc. All the representatives of the consultant will only access buildings/offices as permitted by BERA representatives.

7. Software Application for programming

Reports to be prepared on Microsoft Office programmes only except where circumstances require specialized programmes other than Microsoft Office. All the necessary computer software programmes to be supplied by the Consultant to the client.

All software shall be compatible with the latest version of Microsoft Windows.

8. Quality management

Consultant to advise on the Quality Management systems.

9. Key Personnel

The Consultant shall provide all personnel with the appropriate expertise necessary for the execution of the assignment. The Consultant shall submit CVs for all the Key Staff in their proposed team. All CVs must meet the minimum requirements.

10. Management meetings

The Consultant/s will work under the general supervision of BERA. All deliverables/outputs would be subject to initial review and approval by designated committee and BERA representative designated staffs. Scheduled project meetings will be held with Authority's representatives and the consultant's team.

11. Forms for Communications

Formal reports and other tender documentation to be ring bound and presented in minimum font size of 12.

All communications and reports to be prepared and presented in Microsoft word, power point, excel and MS Project and any other MS applications and be presented in English language

12. Electronic Payments

Consultant to provide a firm payment address details together with the preferred method of payment.

[To be filled by the Consultant]

13. Payment Certificates

Payment invoices shall be issued by the Consultant and paid according to the terms of payment agreed by both the Employer and Service Provider. Notwithstanding the above, all payments for remuneration shall be made on milestone basis.

Consultant to provide a firm payment address details together with the preferred method of payment

14. Proof of Compliance with the Law

Full compliance with the applicable Acts and Regulations including but not limited to the following is a mandatory requirement for this tender:

- a. Public Procurement Act and its Subsidiary Legislation;
- b. Botswana Energy Regulatory Authority Act;
- c. Public Finance Management Act;
- d. And any other.

THE CLIENT'S RESPONSIBILITIES TO THE CONSULTANT

The Client shall:

- a. Supply free of charge all available data and information pertinent to the project requested by the Consultant that is in his possession. However, the Client shall not be held responsible for their accuracy and correctness of the information provided. The Consultant, where necessary; shall verify the accuracy and correctness of such data supplied to him.
- b. Authorize the Consultant to act as stated in the consultancy work.
- c. Not enter into contracts in connection with this assignment, which describe duties and responsibilities of the Consultant, which are inconsistent with the duties, and responsibilities of the Consultant provided for herein and required hereunder, without obtaining the prior written agreement thereto from the Consultant.
- d. Pay the Consultant's fees and expenses as provided for hereunder and provide or reimburse the Consultant for obtaining legal, accounting and insurance counselling where such are agreed as necessary between the Client and the Consultant.
- e. Bear all costs incidental to the preparation of this consultancy work, including the costs of executing this consultancy work.
- f. Designate in writing a person to act as his representative with respect to the Project and such person shall have complete authority to transmit instructions and to interpret and define the Client's policies and decisions pursuant to services covered by this Agreement, and to receive the information on behalf of the Client from the Consultant.
- g. The Authority shall appoint a project manager to act as the Client's primary contact person with respect to contacts with the Consultant.

CONSULTANT'S RESPONSIBILITIES TO THE CLIENT

- a. The Consultant shall provide appropriate expert professional personnel and exercise all reasonable skill, care and diligence in the performance of the Services under this Agreement. The Consultant shall carry out all his/her responsibilities in accordance with the highest ethics and general practices of his profession.
- b. The Consultant shall in all professional matters act as a faithful adviser to the Client and, in so far as any of his duties are discretionary, act fairly as between the Client and third parties.
- c. The Consultant shall arrange regular meetings with the Client to keep him abreast of the Consultant's progress in the performance of his duties under this Agreement.
- d. With the agreement and written approval of the Client, which may not be unreasonably withheld, the Consultant shall engage specialist consultants or contractors directly to perform services necessary to enable the Consultant to perform the services required of him hereunder.

- e. The remuneration of the Consultant charged to the Client shall constitute his only remuneration in connection with the Agreement and neither he nor his personnel shall accept any trade commission, allowance or any indirect payment or other consideration in connection with or in relation to the Agreement or to the discharge of his obligations hereunder.
- f. The copyright of all documents prepared by the Consultant in connection with this Agreement rests with the Client.
- g. The Consultant shall have the right subject to the Client's written approval, which shall not be unreasonably withheld, to publish descriptive articles with or without illustrations, with respect to the services performed by him either on his own account or in conjunction with other parties concerned.