

Request for Proposals

**The development of legal guidance and risk framework
on establishing a test mine in accordance with the
necessary and appropriate legal and associated risk
framework**

RFP No. 3367/07/04/2020

Date of Issue	Wednesday, 11 March 2020	
Compulsory briefing session	Friday, 20 March 2020 Time: 09:00 -10:00 Venue: Mid-shaft Boardroom Address: Corner Carlow Road and Rustenburg Road, Melville, Johannesburg	
Closing Date	Tuesday, 07 April 2020	
Place	Tender box, CSIR Main Reception, Gate 3 (North Gate)	
Enquiries	Strategic Procurement Unit	E-mail: tender@csir.co.za
CSIR business hours	08h00 – 16h30	
Category	Professional Services	

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SECTION A – TECHNICAL INFORMATION

1 INTRODUCTION

The Mandela Mining Precinct has been established via a public-private cooperation between state (represented by the Department of Science and Innovation) and the mining industry (represented by the Minerals Council South Africa). The Mandela Mining Precinct facilitates and coordinates the implementation of the South African Mining Extraction, Research, Development and Innovation (SAMERDI) Strategy in collaboration with the research partners from academia and science councils. The CSIR serves as a proxy for the management of the SAMERDI strategy.

2 BACKGROUND

The Mandela Mining Precinct has been in discussions with the mining industry in South Africa to secure the use of an operationally functional mine to serve as a dedicated test mine facility. These discussions have reached an advanced stage where a site has been identified. This operation is currently on care and maintenance, and discussions have been held with the Mining Right holder on the future usage arrangements. This includes the dedicated surface area, access to the mine and the use of the underground workings for test work. The intention for the Test Mine is to use it for the following activities:

- Testing of underground equipment, especially for the use of the Mining Equipment Manufacturers of South Africa (MEMSA);
- Demonstration by OEMs of new technologies;
- Research work to be undertaken by the Mandela Mining Precinct and its research partners;
- Vacation work for university students;
- High-tech modernised mining training for industry;
- Incubator site for supply chain entrepreneurs and technology developers.

This will result in a variable and transitory number of people using the facility, ranging from research people, students, OEM personnel and operators, and industry visitors. In South African law, the Mineral Right owner retains overall responsibility for the mine, but subordinate managers may be appointed, as well as other appointments required for the test mine.

3 INVITATION FOR PROPOSAL

Proposals are hereby invited for the:

- 3.1 development of legal guidance on establishing a test mine in accordance with the necessary and appropriate legal framework.
- 3.2 development of an appropriate framework for Risk Management for testing equipment and in accordance with appropriate legal framework

4 PROPOSAL SPECIFICATION

All proposals are to be submitted in a format specified in this document. Bidders are to submit responses in the following format prescribed below. Failure to adhere to this may result in disqualification and the tender may be deemed as non-responsive.

4.1 Technical Proposal

The following must be submitted as part of the technical proposal:

- Cover letter;
- Company profile;
- Provide a methodology and approach for the proposed required solution- This should include a project plan and timelines
- Value proposition to the CSIR (E.g. flexibility);
- Provide information on proposed hardware/equipment, software and resources, (employees available to service the CSIR in relation to the project);
- Experience and track record as the main contractor in providing similar services; and
- Written testimonials of recent and current projects.

4.2 Financial Proposal:

The following must be submitted as part of the financial proposal:

- Cover Letter;
- Proposed cost/ commercial offer on official company letterhead- must have clear breakdowns as well as the total final cost for the duration of the contract;
- Certified copy of B-BBEE certificate; and
- CSD registration report (RSA suppliers only).

5 PROJECT SCOPE AND DELIVERABLES

Service providers are required to submit a technical and financial proposal based on the scope and deliverables as set out below.

Legal Framework: -

The Mandela Mining Precinct seeks guidance on the legal issues and appointments that need to be made, as well as recommending the requisite structures and agreements that need to be in place. In particular this needs to cover:

- Legal signatories to any agreements;
- Legal appointments for surface area;
- Legal appointments for the underground area;
- Engineering appointments for technology demonstrators/testers;
- Appointment of mining contractor for routine mining work;
- Access agreements and responsibilities;
- Safety:
 - Regulatory requirements;
 - Legal appointments;
 - Health and Safety policy;
 - Health and safety representatives and committees;
 - Mandatory Codes of Practice;
 - Safety training;
 - Induction;
 - Safety inspections;
- Occupational health monitoring;
- Technical services requirements (Survey, Geology, Ventilation);
- DMRE reporting;
- Ventilation requirements and reporting;
- Incident investigations;
- PPE issuing;
- Facilities and infrastructure usage (lamp room, control room, change houses);
- Environmental responsibilities;

Any other pertinent and/or mandatory issue

Risk Management Framework: -

Mandela Mining Precinct seeks guidance on the Risk Assessment process and required documentation, as well as recommending the requisite structures and agreements that need to be in place. In particular, this needs to cover:

- Risk management, risk identification and controls, areas to be covered;
 - Identify hazards—something with the potential to cause harm
 - Assess the likelihood, or probability, of harm arising from the hazard
 - Assess the severity of harm resulting from realization of the hazard
 - Combine assessments of likelihood and severity to produce an assessment of risk
 - Use the assessment of risk as an aid to decision making.
 - Baseline Risk Assessment process
 - Issue Based Risk Assessments process
- Development of Mandatory Codes of Practice;
- Occupational risk management and controls;
- DMRE reporting;
- Environmental responsibilities;
- Any other pertinent and/or mandatory issue

5.1 EXPECTED PROJECT OUTCOMES

Some of the expected outcomes of the work should cover the following (as a minimum):

1. The project deliverable is a report that covers all the points under legal framework, and which defines the recommended structures and appointments, and working arrangements to ensure compliance to the relevant Acts.
2. The project deliverable is a report that covers all the points under risk assessment framework, and which defines the recommended Risk Management Processes and templates to ensure compliance to the relevant Acts.
3. The project is in line with the Mineral Right Holder safety strategy which is based on the principle of achieving zero harm by developing a resilient safety culture and risk mitigation culture.
4. This report will form the input into a Memorandum of Agreement between the Mandela Mining Precinct (or other organisation) and the host mining company.
5. The project should take six weeks to complete, from the time of commencement.
6. It is expected that the successful company is to work closely with the Company who will be developing a Risk Assessment Process for the industry test mine.

5.2 CORE COMPETENCIES REQUIRED TO UNDERTAKE THIS SCOPE OF WORK:

The successful supplier should be able to demonstrate competency, knowledge and experience in the following areas:

1. Mine Health and Safety Act;
2. Occupational Health and Safety Act;
3. Labour Relations Act;
4. Risk management in mining, and risk management systems;
5. Environmental Acts;
6. The activities of the Department of Mineral Resources and Energy, with demonstrated interaction and knowledge of the Department;
7. The development of similar agreements in other operations.
8. Qualification in mining engineering (preferably at post graduate level)
9. Qualification in mining law, and
10. Demonstrable knowledge of the legal and health and safety aspects of mining.

6 FUNCTIONAL EVALUATION CRITERIA

6.1 The evaluation of the functional / technical detail of the proposal will be based on the following criteria:

Description		Weight
1. Legal Framework methodology	Clearly defined and detailed methodology in developing legal framework as stipulated by the various legislative acts as required for a mining operation. This approach must be in line with the Safety Strategy toward Zero harm	25%
2. Risk Assessment methodology	Clearly defined and detailed methodology in developing a Risk Assessment Process for the Industry Test Mine. This approach must be in line the Enterprise Risk Management (ERM) system	25%
3. Concept & project plan	The proposed legal frameworks of the proposal and the implementation plan must be relevant, practical and within the scope of the project.	25%
4. Company experience (Project leader etc)	Examples of previously managed and similar projects. The company is expected to have relevant experience in all the relevant mining legislative acts. The company must be able to provide examples of previously legal framework process and demonstrate success rate	25%

	Total	100%
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6.2 Proposals with functionality / technical points of less than the pre-determined minimum overall percentage of 70% and less than 50% on any of the individual criteria will be eliminated from further evaluation. The tenderer shall prepare for a possible presentation should CSIR require such and the tenderer shall be notified timeously.

6.3 Refer to Annexure A for the scoring sheet that will be used to evaluate functionality.

7 ELIMINATION CRITERIA

Proposals will be eliminated under the following conditions:

- Submission after the deadline;
- Proposals submitted at incorrect location; and
- Non-attendance of the compulsory briefing session.
- If the supplier is not an **EME** with a BBBEE status level of between 1 and 4, **OR** if the supplier is not a **QSE** with a B-BBEE status of level 1

8 NATIONAL TREASURY CENTRAL SUPPLIER DATABASE (CSD) REGISTRATION

Before any negotiations will start with the winning bidder it will be required from the winning bidder to:

- be registered on National Treasury's Central Supplier Database (CSD). Registrations can be completed online at: www.csd.gov.za;
- provide the CSIR of their CSD registration number; and
- provide the CSIR with a certified copy of their B-BBEE certificate. If no certificate can be provided, no points will be scored during the evaluation process. (RSA suppliers only)

SECTION B – TERMS AND CONDITIONS

9 VENUE FOR PROPOSAL SUBMISSION

All proposals must be submitted at:

- **CSIR GATE 03 - Main Reception Area** (in the **Tender box**) at the following address
Council for Scientific and Industrial Research (CSIR)
Meiring Naudé Road
Brummeria
Pretoria

10 TENDER PROGRAMME

The tender program, as currently envisaged, incorporates the following key dates:

- Issue of tender documents : Wednesday, 11 March 2020
- Compulsory briefing session : Friday, 20 March 2020
 - Time: 09:00 -10:00
 - Venue: Mid-shaft Boardroom
 - Address: Corner Carlow Road and Rustenburg Road, Melville, Johannesburg
- Last date for submission of queries: Tuesday, 31 March 2020
- Closing / submission Date: Tuesday, 07 April 2020
- Estimate appointment date of successful tenderer: Tuesday, 21 April 2020
- Estimated contract duration (in months/years) 2 months

11 SUBMISSION OF PROPOSALS

11.1 All proposals are to be sealed. No open proposals will be accepted.

11.2 All proposals are to be clearly marked with the number and the name of the tenderer on the outside of the main package. Proposals must consist of two parts, each of which is placed in a separate sealed package clearly marked:

PART 1: Technical Proposal: No.: CSIR RFP 3367/07/04/2020

PART 2: Pricing Proposal, B-BBEE and other Mandatory Documentation:
No.: CSIR RFP 3367/07/04/2020

- 11.3 Proposals submitted by companies must be signed by a person or persons duly authorised.
- 11.4 The CSIR will award the contract to qualified tenderer(s)' whose proposal is determined to be the most advantageous to the CSIR, taking into consideration the technical (functional) solution, price and B-BBEE.

12 DEADLINE FOR SUBMISSION

Proposals shall be submitted at the address mentioned above no later than the closing date of **Tuesday, 07 April 2020**, during CSIR's business hours. The CSIR business hours are between 08h00 and 16h30.

Where a proposal is not received by the CSIR by the due date and stipulated place, it will be regarded as a late tender. Late tenders will not be considered.

13 AWARDING OF TENDERS

- 13.1 Awarding of tenders will be published on the National Treasury e-tender portal or the CSIR's tender website. No regret letters will be sent out.

14 EVALUATION PROCESS

14.1 Evaluation of proposals

All proposals will be evaluated by an evaluation team for functionality, price and B-BBEE. Based on the results of the evaluation process and upon successful negotiations, the CSIR will approve the awarding of the contract to successful tenderers.

A two-phase evaluation process will be followed.

- The first phase includes evaluation of **elimination** and **functionality criteria**,
- The second phase includes the evaluation of **price** and **B-BBEE** status.

Pricing Proposals will only be considered after functionality phase has been adjudicated and accepted. Only proposals that achieved the specified minimum qualification scores for functionality will be evaluated further using the preference points system.

14.2 Preference points system

The 80/20 preference point system will be used where 80 points will be dedicated to price and 20 points to B-BBEE status. If all tenders received are more than R50m, the proposal will be cancelled and re-issued.

15 PRICING PROPOSAL

- 15.1 Pricing proposal must be cross-referenced to the sections in the Technical Proposal. Any options offered must be clearly labelled. Separate pricing must be provided for each option offered to ensure that pricing comparisons are clear and unambiguous.
- 15.2 Price needs to be provided in South African Rand (excl. VAT), with details on price elements that are subject to escalation and exchange rate fluctuations clearly indicated.
- 15.3 Price should include additional cost elements such as freight, insurance until acceptance, duty where applicable.
- 15.4 Only firm prices* will be accepted during the tender validity period. Non-firm prices** (including prices subject to rates of exchange variations) will not be considered.
- *Firm price is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax which, in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract;*
- **Non-firm price is all prices other than "firm" prices.*
- 15.5 Payment will be according to the CSIR Payment Terms and Conditions.

16 VALIDITY PERIOD OF PROPOSAL

Each **proposal** shall be valid for a minimum period of three (3) months calculated from the closing date.

17 APPOINTMENT OF SERVICE PROVIDER

- 17.1 The contract will be awarded to the tenderer who scores the highest total number of points during the evaluation process, except where the law permits otherwise.
- 17.2 Appointment as a successful service provider shall be subject to the parties agreeing to mutually acceptable contractual terms and conditions. In the event of the parties failing to reach such agreement CSIR reserves the right to appoint an alternative supplier.
- 17.3 Awarding of contracts will be announced on the National Treasury website and no regret letters will be sent to unsuccessful bidders.

18 ENQUIRIES AND CONTACT WITH THE CSIR

Any enquiry regarding this shall be submitted in writing to CSIR at tender@csir.co.za with ***“RFP No : 3367/07/04/2020 – The development of legal guidance and risk framework on establishing a test mine in accordance with the necessary and appropriate legal and associated risk framework”*** as the subject.

Any other contact with CSIR personnel involved in this tender is not permitted during the process other than as required through existing service arrangements or as requested by the CSIR as part of the process.

19 MEDIUM OF COMMUNICATION

All documentation submitted in response to this must be in English.

20 COST OF PROPOSAL

Tenderers are expected to fully acquaint themselves with the conditions, requirements and specifications of this before submitting proposals. Each tenderer assumes all risks for resource commitment and expenses, direct or indirect, of proposal preparation and participation throughout the process. The CSIR is not responsible directly or indirectly for any costs incurred by tenderers.

21 CORRECTNESS OF RESPONSES

- 21.1 The tenderer must confirm satisfaction regarding the correctness and validity of their proposal and that all prices and rates quoted cover all the work/items specified in the. The prices and rates quoted must cover all obligations under any resulting contract.

- 21.2 The tenderer accepts that any mistakes regarding prices and calculations will be at their own risk.

22 VERIFICATION OF DOCUMENTS

- 22.1 Tenderers should check the numbers of the pages to satisfy themselves that none are missing or duplicated. No liability will be accepted by the CSIR in regard to anything arising from the fact that pages are missing or duplicated.
- 22.2 *One hard copy and one electronic copy (CD or USB memory key)* of each proposal must be submitted. In the event of a contradiction between the submitted copies, the hard copy shall take precedence.
- 22.3 Pricing schedule and B-BBEE credentials should be submitted with the proposal, but as a separate document and no such information should be available in the technical proposal.
- 22.4 If a courier service company is being used for delivery of the proposal document, the description must be endorsed on the delivery note/courier packaging to ensure that documents are delivered to the tender box, by the stipulated due date.

23 SUB-CONTRACTING

- 23.1 A tenderer will not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than **25%** of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 23.2 A tenderer awarded a contract may not sub-contract more than **25%** of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.

24 ENGAGEMENT OF CONSULTANTS

The consultants will only be remunerated at the rates:

- 24.1 Determined in the "Guideline for fees", issued by the South African Institute of Chartered Accountants (SAICA); or

- 24.2 Set out in the "Guide on Hourly Fee Rates for Consultants", by the Department of Public Service and Administration (DPSA); or
- 24.3 Prescribed by the body - regulating the profession of the consultant.

25 TRAVEL EXPENSES

- 25.1 All travel expenses for the CSIR's account, be it directly via the CSIR's travel agent or indirectly via re-imbursements, must be in line with the CSIR's travel policy. The following will apply:
- 25.1.1 Only economy class tickets will be used.
- 25.1.2 A maximum of R1400 per night for accommodation, dinner, breakfast and parking will be allowed.
- 25.1.3 No car rentals of more than a Group B will be accommodated.

26 ADDITIONAL TERMS AND CONDITIONS

- 26.1 A tenderer shall not assume that information and/or documents supplied to CSIR, at any time prior to this request, are still available to CSIR, and shall consequently not make any reference to such information document in its response to this request.
- 26.2 Copies of any affiliations, memberships and/or accreditations that support your submission must be included in the tender.
- 26.3 In case of proposal from a joint venture, the following must be submitted together with the proposal:
- Joint venture Agreement including split of work signed by both parties;
 - The original or certified copy of the B-BBEE certificate of the joint venture;
 - The Tax Clearance Certificate of each joint venture member;
 - Proof of ownership/shareholder certificates/copies; and
 - Company registration certificates.
- 26.4 An omission to disclose material information, a factual inaccuracy, and/or a misrepresentation of fact may result in the disqualification of a tender, or cancellation of any subsequent contract.
- 26.5 Failure to comply with any of the terms and conditions as set out in this document will invalidate the Proposal.

27 CSIR RESERVES THE RIGHT TO

- 27.1 Extend the closing date;
- 27.2 Verify any information contained in a proposal;
- 27.3 Request documentary proof regarding any tendering issue;
- 27.4 Give preference to locally manufactured goods;
- 27.5 Appoint one or more service providers, separately or jointly (whether or not they submitted a joint proposal);
- 27.6 Award this as a whole or in part;
- 27.7 Cancel or withdraw this as a whole or in part.

28 DISCLAIMER

This is a request for proposals only and not an offer document. Answers to this must not be construed as acceptance of an offer or imply the existence of a contract between the parties. By submission of its proposal, tenderers shall be deemed to have satisfied themselves with and to have accepted all Terms & Conditions of this. The CSIR makes no representation, warranty, assurance, guarantee or endorsements to tenderer concerning, whether with regard to its accuracy, completeness or otherwise and the CSIR shall have no liability towards the tenderer or any other party in connection therewith.

DECLARATION BY TENDERER

Only tenderers who completed the declaration below will be considered for evaluation.

No:

I hereby undertake to render services described in the attached tendering documents to CSIR in accordance with the requirements and task directives / proposal specifications stipulated in No..... at the price/s quoted. My offer/s remains binding upon me and open for acceptance by the CSIR during the validity period indicated and calculated from the closing date of the proposal.

I confirm that I am satisfied with regards to the correctness and validity of my proposal; that the price(s) and rate(s) quoted cover all the services specified in the proposal documents; that the price(s) and rate(s) cover all my obligations and I accept that any mistakes regarding price(s) and rate(s) and calculations will be at my own risk.

I accept full responsibility for the proper execution and fulfilment of all obligations and conditions devolving on me under this proposal as the principal liable for the due fulfilment of this proposal.

I declare that I have no participation in any collusive practices with any tenderer or any other person regarding this or any other proposal.

I accept that the CSIR may take appropriate actions, deemed necessary, should there be a conflict of interest or if this declaration proves to be false.

I confirm that I am duly authorised to sign this proposal.

NAME (PRINT)
CAPACITY
SIGNATURE
NAME OF FIRM
DATE

WITNESSES

1

2

DATE:

29 ANNEXURE “A” SCORING TO BE USED TO EVALUATE FUNCTIONALITY

Competence	Criterion	Key Aspects of Criterion	Points
Legal Framework Methodology [25%]	Clearly defined and detailed methodology in developing legal framework as stipulated by the various legislative acts as required for a mining operation. This approach must be in line with the Safety Strategy toward Zero harm	Detailed and well-articulated methodology which described the approach that the bidder will use to develop legal framework process. The methodology must be clear, practical, and structured. It must also be in line with the scope of work	10
		Detailed and well-articulated methodology which described the approach that the bidder will use to develop legal framework process. The methodology must be clear, practical, and structured.	7
		This approach must be in line with the Safety Strategy toward Zero harm	5
		The methodology is not clear/unstructured or not in line with the scope of work.	0
Risk Assessment methodology [25%]	Clearly defined and detailed methodology in developing a Risk Assessment Process for the Industry Test Mine. This approach must be in line the Enterprise Risk Management (ERM) system	Detailed and well-articulated methodology which described the approach that the bidder will use to develop Risk Assessment process. The methodology must be clear, practical, and structured. It must also be in line with the scope of work. The methodology must be in line with the Mining Company Enterprise Risk Management (ERM) system.	10
		Detailed and well-articulated methodology which described the approach that the bidder will use to develop Risk Assessment process. The methodology must be clear, practical, and structured.	7
		Detailed and well-articulated methodology which described the approach that the bidder will use to develop Risk Assessment process. The methodology must be clear, practical, and structured.	5
		The methodology is not clear/unstructured or not in line with the scope of work.	0
Concept & Project plan [25%]	The proposed legal framework, process of the proposal and the implementation plan must be relevant, practical and within the scope of the project	The proposal and project plan are very clear, offers a good solution. The implementation plan is in line with the project's scope and timelines.	10
		Proposal and implementation plan have been well articulated. All areas are addressed adequately. The level of details covered is adequate.	7
		Proposal and implementation plan have been articulated but does not address all areas adequately. The level of details covered is inadequate.	5
		The proposal and implementation plan lacks specifications and the proposed timelines are not in line with the project's deadlines.	0
Company experience [25%] (Project leader etc)	Examples of previously managed and similar projects. The company is expected to have relevant experience in Mining Law. The company must be able to provide examples of previously legal framework processes and demonstrate success rate	5 or more years working experience + 4 examples of similar projects	10
		4 years working experience + 3 examples of similar projects	7
		3 years working experience + 2 examples of similar projects	5
		>1 year working experience + 0 examples of similar projects	0