

TENDER No. MOEP/ONT/03/2023-2024 FOR REQUEST FOR PROPOSALS (RFP) FOR CONSULTANCY SERVICES FOR EXTERNAL LEGAL COUNSEL TO PROVIDE LEGAL SERVICES ON THE PETROLEUM COST RECOVERY AUDIT FOR PRODUCTION SHARING CONTRACTS BLOCKS 10BB AND 13T AND THE EARLY OIL PILOT SCHEME AGREEMENT

Please refer to the Tender for Request for Proposals (RFP) for Consultancy Services for External Legal Counsel to Provide Legal Services on the Petroleum Cost Recovery Audit for Production Sharing Contracts Blocks 10BB and 13T and the Early Oil Pilot Scheme Agreement Tender No. MOEP/SDP/003/2023 – 2024 that was advertised on 09th April 2024.

We hereby issue this 1st addendum after requests for clarification were sought as quoted below:

Sn.	ITC Clause	Bidder’s Query / Clarification Request/ Extract as per Tender Document Originally Uploaded	MOEP Response and/or Amendment to the Tender
1.		Tender Document for Consulting Services Request For Proposals (RFP) for Consultancy Services for External Legal Counsel to Provide Legal Services on the Petroleum Cost Recovery Audit for Production Sharing Contracts Blocks 10BB and 13T and the Early Oil Pilot Scheme Agreement	Tender Document for Consulting Services Request For Proposals (RFP) For Consultancy Services for External Legal Counsel to Provide Legal Services on the Petroleum Cost Recovery Audit for Blocks 10BB and 13T Production Sharing Contracts and the Early Oil Pilot Scheme Agreement
2.		Closing Date and Time 23 rd April 2024 at 10:30am East Africa Time	Closing Date and Time 30 th April 2024 at 10:30am East Africa Time
3.		INVITATION TO TENDER CONTRACT NAME AND DESCRIPTION: TENDER No. MOEP/SDP/003/2023 - 2024 for Request for Proposals (RFP) for Consultancy Services for External Legal Counsel to Provide Legal Services on the Petroleum Cost Recovery Audit for Production Sharing Contracts Blocks	INVITATION TO TENDER CONTRACT NAME AND DESCRIPTION: TENDER No. MOEP/SDP/003/2023 - 2024 Request For Proposals (RFP) for Consultancy Services for External Legal Counsel to Provide Legal Services on the Petroleum Cost Recovery Audit for

		10BB and 13T and the Early Oil Pilot Scheme Agreement	Blocks 10BB and 13T Production Sharing Contracts and the Early Oil Pilot Scheme Agreement.
4.	8	Completed tenders must be delivered to the address below on or before 23rd April, 2024 at 10:30am EAT . Electronic Tenders will not be permitted.	Completed tenders must be delivered to the address below on or before 30th April, 2024 at 10:30am EAT . Electronic Tenders will not be permitted.
	13.1	Clarifications may be requested no later than Five (5) days prior to the submission deadline. The contact information for requesting clarifications is: E-mail: supplychain@petroleum.go.ke	Clarifications may be requested by Close of Business on 25th April 2024 . The contact information for requesting clarifications is: E-mail: supplychain@petroleum.go.ke
	14.1 (b)	In preparing the Proposal will the Tenderer be guided by the Procuring Entity's estimated total cost of the assignment (Budget) or Key Experts' time input?	Estimated input of the Key Experts: five (5) person-months.
		Duration of Assignment The assignment will be for three (3) years under a framework agreement or as may be extended based on satisfactory performance.	Duration of Assignment The assignment will be under a three (3) years Contract or as may be extended by the Parties.
	22.1	Other eligibility and mandatory criteria shall be: 4. Certified Power of attorney/ Authorization Letter, Giving the name of person who has been authorized to submit/execute this agreement as a binding document and this person should sign all the documents related to this tender. 8. Original Bid Security of Kenya Shillings One Million Only (Kshs. 1,000,000.00) from a reputable Bank in Kenya valid for 30 days beyond the Tender Validity period. (To be attached in the Technical Proposals)	Other eligibility and mandatory criteria shall be: 4. Certified Power of attorney/ Authorization Letter, Giving the name of person who has been authorized to submit/execute this agreement as a binding document and this person should sign all the documents related to this tender. This is not applicable in Sole Proprietorship. 8. Original Bid Security of Kenya Shillings One Million Only (Kshs. 1,000,000.00) from a reputable Bank in Kenya or a Professional Indemnity issued by an Insurance Firm regulated by IRA and listed in the PPRA website valid for 30 days beyond the Tender

		Lead/Prime bidder to provide in case of a Joint Venture.	Validity period. (To be attached in the Technical Proposals) Lead/Prime bidder to provide in case of a Joint Venture.
22.2		<p>Particulars of appendix to instructions to tender</p> <p>A. General Experience The firm should have been in existence for at least eight (8) years and in legal matters.</p> <p>8 years and above-3 marks Less than 8 years- 1 marks</p> <p>Specific Experience The firm should have developed and implemented at least three (3) legal strategies: either a legal strategy for organizations either in public, private and/or international organizations. At least one (1) of the strategies should be for a public sector or international organizations.</p> <p>Attach documentary evidence i.e., Copies of contract/LPO/LSO and completion certificates with recommendation letters of referenced projects. NB: Recommendation letter should have the contact details of the references (telephone number, postal address, permanent address and email address).</p> <p><i>Each assignment has a maximum of 3 Marks</i> Valid certificate showing membership and/or partnerships to a relevant professional Association (applicable to Each party/member to a consortium in case of a joint venture). (3 Marks)</p>	<p>General Experience The firm should have been in existence for at least eight (8) years</p> <p>Specific Experience The firm should have developed and implemented at least three (3) legal strategies for organizations either in public, private and/or international organizations.</p> <p>Evidence of engagement in development and implementation of legal strategy in at least one public institution. (1 Mark)</p> <p>Attach documentary evidence i.e. Copies of contracts/LPOs/LSO and completion certificates with recommendation letters of referenced projects.</p> <p>NB: Recommendation letter should have the contact details of the references (telephone number, postal address, permanent address and email address).</p> <p>Each assignment has a maximum of 3 Marks</p> <p>Valid practicing certificate showing membership to a relevant professional Association (applicable to Each</p>

			party/member to a consortium in case of a joint venture). (2 Marks)
		<p>Qualifications and competence of the key staff for the assignment (copies of certificates, curriculum vitae and other relevant supporting documentation must be submitted) (50 marks)</p> <p>Team lead – 1 person</p> <ol style="list-style-type: none"> 1. Bachelor of Law Degree from a recognised Institution (2marks). 2. Postgraduate Diploma or its equivalent and member of a recognised legal professional body in good standing (2marks). 3. Master’s degree in Oil and Gas Law, Finance, Project Management or relevant discipline an added advantage (2marks). 4. Minimum fifteen (15) years of experience in developing legal and regulatory frameworks for the oil and gas industry and has been directly involved in at least three similar assignments (2marks). 5. Minimum of fifteen (15) years’ experience in the development and interpretation of Production Sharing Contracts with a focus on cost audits and related matters (2marks). 6. Demonstrable track record of leading or advising high-impact and complex negotiations (claiming value, creating value, multiple stakeholders, sequencing etc.) in oil and gas sector (2marks). 7. Experience and ability to advise on the following topics:- 	<p>Qualifications and competence of the key staff for the assignment (copies of certificates, curriculum vitae and other relevant supporting documentation must be submitted) (50 marks)</p> <p>Team lead – 1 person</p> <ol style="list-style-type: none"> 1. Bachelor of Law Degree from a recognised Institution (2marks). 2. Postgraduate Diploma or its equivalent and member of a recognised legal professional body in good standing (2marks). 3. Master’s degree in Oil and Gas Law, Finance, Project Management or relevant discipline an added advantage (2marks). 4. Minimum fifteen (15) years of experience in developing legal and regulatory frameworks for the oil and gas industry and has been directly involved in at least three similar assignments (2marks). 5. Minimum of fifteen (15) years’ experience in the development and interpretation of Production Sharing Contracts with a focus on cost audits and related matters (3marks). 6. Demonstrable track record of leading or advising high-impact and complex negotiations (claiming value, creating value, multiple stakeholders, sequencing etc.) in oil and gas sector (3marks). 7. Experience and ability to advise on the following topics:-

	<p>- Cost Recovery in the oil and gas sector: experience (from within five years preceding the date of the Consultant’s application) of advising Governments on Production Sharing Contracts cost recovery audits(1mark); and</p> <p>- Cost Recovery Dispute Resolution: experience (from within five years preceding the date of the Consultant’s application) of advising Governments on the resolution of disputes arising from contested cost recovery audits. (1mark)</p> <p>8. Should be conversant with all relevant legislation, including tax laws and the petroleum law, governing the upstream sector in Kenya since they will determine the cost allow ability. (1mark)</p> <p>9. Have a broad understanding of petroleum costing and cost recovery (1mark)</p> <p>10. Excellent drafting ability, and presentation and communication skills, both oral and written in English; ability to explain complex technical issues. (1mark)</p> <p>11. Excellent organizational and management skills and ability to complete deliverables in an efficient and timely manner. (1mark)</p> <p>12. Good understanding of the requirements of the consultancy, ability to work independently with minimum supervision. (1mark)</p> <p>13. Strong interpersonal and communication skills. (1mark)</p> <p>D. Financial Capability (10) Marks</p> <ul style="list-style-type: none"> • Demonstrate liquidity levels and ability to finance the project. Attach certified bank 	<p>- Cost Recovery in the oil and gas sector: experience (from within five years preceding the date of the Consultant’s application) of advising Governments on Production Sharing Contracts cost recovery audits(2mark); and</p> <p>- Cost Recovery Dispute Resolution: experience (from within five years preceding the date of the Consultant’s application) of advising Governments on the resolution of disputes arising from contested cost recovery audits. (2mark)</p> <p>8. Should be conversant with all relevant legislation, including tax laws and the petroleum law, governing the upstream sector in Kenya since they will determine the cost allow ability. (1mark)</p> <p>9. Have a broad understanding of petroleum costing and cost recovery (1mark)</p> <p>Nos. 10, 11, 12 and 13 expunged 20 Marks</p> <p>Financial Capability (10) Marks</p> <p>Demonstrate liquidity levels and ability to finance the project. Attach certified bank statements for the last 2 years and a letter from the bank– 10 marks</p>
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		<p>statements for the last 2 years and a letter from the bank– 105 marks</p> <ul style="list-style-type: none"> • Lines of credit; Attach letter from the Bank on availability of Credit / Overdraft – 5 Marks Financial Capability (10 Marks) 	2nd bullet expunged												
	24.1	<p>The deadline for Tender submission is: Date:23rd April, 2024 Time: 10:30am EAT. Tenderers shall not have the option of submitting their Tenders electronically.</p>	<p>The deadline for Tender submission is: Date:30th April, 2024 Time: 10:30am EAT. Tenderers shall not have the option of submitting their Tenders electronically.</p>												
	27.1	<p>The Tender opening shall take place at: 11th floor Boardroom, KASNEB Tower II Building, off, Hospital Road, Nairobi Date:23rd April, 2024 Time: 11:00 AM</p>	<p>The Tender opening shall take place at: 11th floor Boardroom, KASNEB Tower II Building, off, Hospital Road, Nairobi Date:30th April, 2024 Time: 11:00 AM</p>												
		CLARIFICATIONS IN THE TERMS OF REFERENCE													
		<p>DELIVERABLES The Consultant will submit the following deliverables in English in both in soft and hard copy in accordance with the time schedule to be defined in consultation with the Client.</p> <p>All deliverables must as far as practically possible cover all the areas defined in “C. Scope of Work” above.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">No.</th> <th style="width: 55%;">Deliverables</th> <th style="width: 30%;">Timelines</th> </tr> </thead> <tbody> <tr> <td>Deliverable 1</td> <td>Methodology and work plan</td> <td></td> </tr> </tbody> </table>	No.	Deliverables	Timelines	Deliverable 1	Methodology and work plan		<p>DELIVERABLES The Consultant will submit the following deliverables in English in both in soft and hard copy in accordance with the time schedule to be defined in consultation with the Client.</p> <p>All deliverables must as far as practically possible cover all the areas defined in “C. Scope of Work” above.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 15%;">No.</th> <th style="width: 55%;">Deliverables</th> <th style="width: 30%;">Timelines</th> </tr> </thead> <tbody> <tr> <td>Deliverable 1</td> <td>Methodology and work plan</td> <td></td> </tr> </tbody> </table>	No.	Deliverables	Timelines	Deliverable 1	Methodology and work plan	
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		Deliverable 2	Inception report including preliminary observations and recommendations		Deliverable 2	Inception report including preliminary observations and recommendations		
		Workshop 1	Key issues Training		Deliverable 3	Conclusion of Dispute Resolution for Cost Recovery Audit Reports for the period 2010-2018 (both years included)		
		Deliverable 3	Interim Report with observations & recommendations		Deliverable 4	Legal Analysis and Strategy for Blocks 10BB and 13T PSC's for cost recovery audit period 2019 - 2020		
		Workshop 2	Key issues Training		Deliverable 5	Legal Analysis and Strategy for EOPSA cost recovery audit period 2017-2020		
		Deliverable 4	Final Report		Deliverable 6	Workshop 1 : Key Issues and Training Report		
					Deliverable 7	Legal Analysis and Strategy for Blocks 10BB and 13T PSC's for cost recovery audit period 2021-2024		
					Deliverable 8	Legal Analysis and Strategy for EOPSA		

				for cost recovery audit period 2021- 2024	
			Deliverable 9	Workshop 2: Key Issues and Training Report	
			Deliverable 10	Draft Final Report with observations and recommendations	
			Deliverable 11	Final Report	