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## INVITATION TO BID

<b>REFERENCE NUMBER:</b>	<b>ECS01/23/24</b>	
<b>SERVICES NEEDED:</b>	<b>PROVISION OF INTERNAL SERVICES FOR THE PERIOD OF THREE (3) YEARS</b>	
<b>CLOSING DATE:</b> <b>CLOSING TIME:</b>	<b>13 OCTOBER 2023</b> <b>15H00</b>	
<b>EVALUATION CRITERIA:</b>	<b>80/20 PREFERENCE POINT SYSTEM</b>	
<b>ENQUIRIES:</b>	<b>BIDDING PROCEDURES</b>	<b>TECHNICAL-RELATED</b>
	<b>MR MALWANDE NTONGANA</b> <a href="mailto:TENDERS@ECSECC.ORG">TENDERS@ECSECC.ORG</a>	<b>MRS. JANICE LEACH</b> <a href="mailto:JANICE@ECSECC.ORG">JANICE@ECSECC.ORG</a>

### PROPOSAL SUBMITTED BY:

<b>NAME OF COMPANY</b>	
<b>PHYSICAL ADDRESS</b>	



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## **1 INTRODUCTION**

ECSECC is a Schedule 3C public entity reporting to the OTP which was established as a multi-stakeholder Council to advise the provincial government on improving service delivery and to create a common platform for debate between the various development communities of the Eastern Cape.

ECSECC as a knowledge-based organization, seeks to generate, effectively manage, and disseminate information and knowledge. Its core vision is to reduce poverty in the Eastern Cape by means of providing policy advice through facilitation of multi-agency partnerships for execution of provincial priorities, strategic intelligence, and platforms for short- and long-term innovations.

ECSECC is located at Vincent in East London in the Eastern Cape Province only and has a staff compliment of just less than 100 personnel.

The internal audit function is an outsourced service at ECSECC. The contract cycle starts in March to enable the contractor to be involved at the planning stage of audit project. The current contract expires at the end of February 2024.

## **2 BACKGROUND**

Section 51(1)(a)(ii) of the PFMA, amongst others, requires that an Accounting Officer and Accounting Authority for a public entity must ensure that the public entity has and maintains a system of Internal Audit under the control and direction of an Audit Committee in compliance with and operating in accordance with regulation and instructions of section 76 and 77(of the PFMA).

It is against this background, that ECSECC solicits service providers to provide comprehensive Internal Audit services in accordance with the Institute of Internal Auditor's International Professional Practices Framework.

The service is for a period of 3 (three) years commencing on the 1st of March 2024 and ending on the 28th of February 2027.

### 3 PURPOSE

The purpose of this document is to detail the scope of work, incorporating the tasks and responsibilities of the bidder, required by ECSECC for the provision of Internal Audit services.

### 4 DEFINITIONS

ACRONYM MEANING	
BCMM	Buffalo City Metropolitan Municipality
CA (SA)	Chartered Accountant (South Africa)
CIA	Certified Internal Audit
CSD	Central Supplier Database
CV	Curriculum Vitae
ECSECC	Eastern Cape Socio Economic Consultative Council
GRAP	Generally Recognized Accounting Practices
IA	Internal Audit
IIA	Institute of Internal Auditors
OTP	Office of the Premier in the Eastern Cape to which ECSECC reports
PFMA	Public Finance Management Act No. 1 of 1999
SAICA	South African Institute of Chartered Accountants
SARS	South African Revenue Service
SBD	Standard Bidding Document
SLA	Service Level Agreement
VAT	Value Added Tax as per VAT Act

## 5 LEGISLATIVE FRAMEWORK OF THE BID

### 5.1 Tax Legislation

Bidders must be compliant when submitting a proposal to ECSECC and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991).

### 5.2 Procurement Legislation

This will be processed in accordance with the PPPFA requirements. ECSECC's Supply Chain Management Policy and Contract Management Policy outline the procurement process and a supplier performance evaluation process, respectively.

### 5.3 Technical Legislation and/or Standards

Bidders should be cognizant of the legislation and/or standards specifically applicable to the services.

## 6 COMPULSORY BRIEFING SESSION

6.1 There will be no compulsory briefing session to be held.

## 7 TIMELINE OF THE BID PROCESS

7.1 The period of validity of this bid and the withdrawal of offers, after closing date and time is **90** days. The project timeframes of this bid are set out below:

Activity	Due Date
Advertisement of bid on Government e-Tender Portal/ Eastern Cape Tender Bulletin/ ECSECC Website	22 September 2023
Bid documents will be accessed from the ECSECC website; <a href="http://www.ecsecc.org">www.ecsecc.org</a>	22 September 2023
Bid closing date and time	13 October 2023 at 15H00

7.2 All dates and times in this bid are South African standard time.

7.3 Any time or date in this bid is subject to change at the ECSECC's discretion.

7.4 The establishment of a time or date in this bid does not create an obligation on the part of ECSECC to take any action or create any right in any way for any bidder to demand that any action be taken on the date established.

7.5 The bidder accepts that, if ECSECC extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this bid otherwise apply equally to the extended deadline.

## **8 CONTACT AND COMMUNICATION**

8.1 A nominated official of the bidder(s) can make enquiries in writing, to Malwande Ntongana for enquiries, via email [tenders@ecsecc.org](mailto:tenders@ecsecc.org) and/or by phone at 043 701 3400. Bidders must reduce all telephonic enquiries to writing and send them to the above email address.

8.2 The delegated official at ECSECC may communicate with the bidder(s) where clarity is sought in the bid proposal.

8.3 Any communication to an official or a person acting in an advisory capacity for ECSECC in respect of the bid between the closing date and the award of the bid by the bidder(s) is discouraged.

8.4 All communication between the bidder(s) and ECSECC must be done in writing.

8.5 Whilst all due care has been taken in connection with the preparation of this bid, ECSECC makes no representations or warranties that the content of the bid or any information communicated to or provided to bidder(s) during the bidding process is, or will be, accurate, current, or complete. ECSECC and its employees and advisors will not be liable with respect to any information communicated which may not be accurate, current, or complete.

8.6 If bidder(s) find(s) or reasonably believe(s) it has found any discrepancy, ambiguity, error or inconsistency in this bid or any other information provided by ECSECC (other than minor clerical matters), the bidder(s) must promptly notify ECSECC in writing of such discrepancy, ambiguity, error, or inconsistency in order to afford ECSECC an opportunity to consider what corrective action is necessary (if any).

8.7 Any actual discrepancy, ambiguity, error or inconsistency in the bid or any other information provided by ECSECC will, if possible, be corrected and provided to all bidder(s) via ECSECC website, without attribution to the bidder(s) who provided the written notice.

8.8 All persons (including bidder(s) obtaining or receiving the bid and any other information in connection with the bid of the tendering process) must keep the contents on the bid and other such information confidential, and not disclose or use the information except as required for the purpose of developing a proposal in response to this bid.

## **9 LATE BIDS**

Bids received after the closing date and time, at the address indicated in the bid documents, will not be accepted for consideration and where practicable, be returned unopened to the bidder(s).

## **10 COUNTER CONDITIONS**

Bidders' attention is drawn to the fact that amendments to any of the bid conditions or setting of counter conditions by bidders or qualifying any bid conditions may result in the invalidation of such proposals.

## **11 FRONTING**

- 11.1. ECSECC supports the spirit of broad based black economic empowerment and recognizes that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent, and legally compliant manner. Against this background, ECSECC condemns any form of fronting.
- 11.2. ECSECC, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct, or initiate the necessary enquiries/investigations to determine the accuracy of the representation made in the proposals. Should any of the fronting indicators as contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry, be established during such enquiry/investigation, the onus will be on the bidder to prove that fronting does not exist. Failure to do so within a period of (14) fourteen days from date of notification may invalidate the bid/contract and may also result in the restriction of the bidder/contractor to conduct business with the public sector for a period not exceeding (10) ten years, in addition to any other remedies ECSECC may have against the bidder/contractor concerned.

## **12 SUPPLIER DUE DILIGENCE**

ECSECC reserves the right to conduct supplier due diligence prior to final award or at any time during the contract period.



## 13 SUBMISSION OF PROPOSALS

13.1 Bidders must submit documents , on or before the closing date and time, either by:

13.2 Depositing into the **tender box** placed in the foyer at:

**ECSECC  
12 Gloucester Road,  
Vincent,  
East London**

**OR**

13.3. Electronic submission by way of compressing the documents into a zip format and email to [tenders@ecsecc.org](mailto:tenders@ecsecc.org) **OR** send through a link pointing to your cloud account for the file access quoting the reference of **the Bid Number ECS01/23/24**

13.4. Bid documents will only be considered if received by ECSECC before the closing date and time, regardless of the method used to send or deliver such documents to ECSECC.

13.5. Bidders are required to submit, **before or on 13 October 2023 at 15H00**, the following:

13.5.1. Comprehensive Proposal including financial implications for the proposed 3-year Internal Audit Services.

13.5.2. Cost breakdown must be provided covering all required aspects of this scope of work and requirements.

13.5.3. All pre-qualification documents.

13.6. Bidders may make use of the attached ECSECC risk register (**Annexure A**) to base their proposals.

13.7. Bidders are requested to submit a fully populated and signed reference letter (**Annexure B**) to support the internal audit experience competency the bidder claims to have. Annexure B must be filled in by the institution for which the bidder rendered internal audit services.

## 14. DURATION OF CONTRACT

The successful bidder will be appointed for a period of 3 years.

## 15. SCOPE OF WORK

The services that the Internal Auditors will perform include, but not limited to:

- 15.1. Assist the ECSECC Board in fulfilling their responsibilities of ensuring that the ECSECC maintains an effective, efficient, and transparent systems of financial and risk management and internal control while ensuring that there is a system of Internal Audit under the control and direction of an Audit, Risk and ICT Committee.
- 15.2. Ensure annual review and approval of the Internal Audit Charter by the Audit, Risk, and ICT Committee.
- 15.3. Facilitate annual risk management workshop to enable management to identify and update the existing strategic risk register based on the most up to date cumulative knowledge and experience in accordance with the ECSECC's Risk Management Policy, Framework, and best practices.
- 15.4. Prepare a risk based three year rolling strategic internal audit plan that details audit scope which includes the evaluation of adequacy and effectiveness of ECSECC's risk management, controls, and governance processes, detailed resources, time frames per activity and present such strategic plan to Executive Management for inputs and to Audit, Risk and ICT Committee for approval.
- 15.5. Prepare and update the internal audit methodology for ECSECC.
- 15.6. Prepare and execute an annual risk based internal audit plan according to the approved resources and timeframes for each year of the rolling three-year strategic internal audit plan for approval by the Audit, Risk, and ICT Committee.
- 15.7. Prepare and submit internal audit reports according to the execution of the risk based annual Internal Audit Plan and discuss with the Executive Management and report to the Audit, Risk, and ICT Committee.
- 15.8. Perform ad-hoc audits and value adding services that the Board; Audit, Risk, and ICT Committee and/or Management request in areas identified and agreed by Executive Management and Audit, Risk and ICT Committee.
- 15.9. Conduct performance information audits.
- 15.10. Review of annual financial statements as required.
- 15.11. Engagement with External Auditors on audits including methodology, procedures, and specific requirements to be conducted by Internal Audit to reduce the scope of External Audit work.
- 15.12. Maintain and monitor a system for whistleblowing and fraud reporting via email and/or telephone.
- 15.13. Maintain a professional audit staff with sufficient knowledge, skills, experience, and professional certifications.
- 15.14. Keep the Audit, Risk and ICT Committee informed of emerging trends and successful practices in internal auditing; and
- 15.15. Participate in all Audit, Risk, and ICT Committee meetings.

## 16. EXPECTED DELIVERABLES

- 16.1. A three-year strategic internal audit rolling plan approved by the Audit, Risk, and ICT Committee.
- 16.2. An annual strategic risk report based on the facilitated risk management workshop outlining the methodology, approach, and conclusions to assist management in developing the final strategic risk register.
- 16.3. An annual risk based internal audit plan for each of the three years, approved by the Audit, Risk and ICT Committee.
- 16.4. Internal audit reports supported by audit files, with recommendations for Executive Management execution and report to the Audit, Risk, and ICT Committee.
- 16.5. Reports should be made available in both editable and non-editable versions; and
- 16.6. Participate in all Audit, Risk, and ICT Committee meetings.

## 17. COMPETENCY AND EXPERTISE REQUIREMENTS

The service provider must meet the following requirements:

- 17.1. Proven experience in similar public entities Internal Auditing environment.
- 17.2. Proven competence and qualifications in the professional practice of internal auditing.
- 17.3. Conformity to standards of Internal Audit Quality Assurance.
- 17.4. Risk based audit methodology together with value-add services; and
- 17.5. Independent of the ECSECC.
- 17.6. Location preference is within the Buffalo City Metropolitan Municipality area.

## 18. PRICING MODEL

- 18.1. Pricing must include all costs that will ensure that a complete Internal Audit function is provided to the ECSECC.
- 18.2. Price must be in South African currency and must be inclusive of VAT.
- 18.3. Service providers are further requested to indicate their price in all elements listed in their pricing schedule (**no hidden costs/ unknown costs will be accepted**). Price will be evaluated based on 80/20 principle and applicable formula of calculating points. This includes disbursement costs and any travel, accommodation, and related expenses for exercising all audits on site in Vincent, East London.

- 18.4. Service providers are provided with an Internal Audit plan summarized schedule as reflected below to use for pricing. The schedule below is provided for illustrative purposes, bidders are expected to provide **detailed pricing proposals** (include but not limited to, name of audit project, individual team member, rate per hour, hours spent, etc.) for each of the years using the estimated hours reflected below. This is also a guide for the 3-year plan requested under evaluation criteria.
- 18.5. Bidders are further expected to indicate cost and time for each year for the resources allocated to the project. The final Internal Audit plan will be determined and approved by the relevant authority once the service provider has been appointed. This will be determined annually based on risk assessment, audit assignments agreed on and budget available for the year.

ITEM NO	ITEM DESCRIPTION	TOTAL ESTIMATED HOURS FOR THE 3 YEARS	ESTIMATED COST (R)			
			YEAR 1	YEAR 2	YEAR 3	TOTAL for 3 years
1	Risk assessment	90				
2	Meeting attendance and update of charters	50				
3	Audit of predetermined objectives – (performed annually mid-year and year end reviews)	250				
4	Internal Audit projects for the year (assignments to be determined by bidder based on the strategic risk register)	800				
5	Ad Hoc services	150				
6	Whistleblowing/ Fraud hotline service					
<b>Total professional fees</b>		<b>1 340</b>				
Disbursements						
Travel, accommodation						
Total fees excluding VAT						
VAT						
<b>Total fees including VAT</b>						

## 19. EVALUATION AND SELECTION CRITERIA

ECSECC has set minimum standards (Gates) that a bidder needs to meet in order to be evaluated and selected as a successful bidder. The minimum standards consist of the following:

Pre-qualification Criteria (Gate 0)	Functionality Criteria (Gate 1)	Price and Specific Goals (Gate 2)
Bidders must submit all documents as outlined in <b>(Table 1)</b> below. Only bidders that comply with ALL these criteria shall proceed to Gate 1.	Bidder(s) are required to achieve a minimum of <b>80</b> points out of 100 points to proceed to Gate 2 (Price and Specific Goals).	Bidders will be evaluated out of 100 points, as per <b>(Table 2)</b> , below and Gate 2 will only apply to bidders who have met and exceeded the threshold of 80 points.

### 19.1 Gate 0: Prequalification

19.1.1. The bidders must return the documents listed in **Table 1 below**.

19.1.2. All documents must be completed and signed by the duly authorized representative of the prospective bidders.

19.1.3. During this phase Bidders' responses will be evaluated based on compliance with the listed administration, using the Central Supplier Database (CSD), and mandatory bid requirements.

19.1.4. The bidders' proposals may be disqualified for non-submission of any of the documents.

**Table 1:** Documents that must be submitted for Pre-qualification.

Document that must be submitted	Non-submission may result in disqualification?	
1. SBD 1 -Invitation to Bid	YES	Complete and sign the supplied pro forma document.
2. Tax Clearance Certificate	YES	a. ECSECC transacts with service providers that have a compliant tax status. b. ECSECC makes use of the CSD report to verify tax status of suppliers. Please ensure that your tax affairs are in good order with SARS. c. ECSECC does not transact with service providers that have a non-compliant tax status.
3. SBD 3.3 -Pricing Schedule	YES	Complete the supplied pro forma document.
4. SBD 4 -Bidders' Disclosure	YES	Complete and sign the supplied pro forma document.
5. SBD 6.1 -Preference Points Claim Form in terms of Preferential Procurement Regulations, 2022	NO	Complete and sign the supplied pro forma document. Non-submission will lead to a zero (0) score on Specific Goals.
6. SBD 7.2 -Contract Form	NO	Complete and sign the supplied pro forma document.
7. General Conditions of Contract (GCC)	YES	Complete and sign the supplied pro forma document.
8. Comprehensive proposal with including financial implications for the proposed 3-year Internal Audit Services	YES	Non-submission will render bid non-responsive.

## 19.2 Gate 1: Functionality Criteria

Bidders must score 80 points to proceed to Gate 2.

Criterion Element	Weight
<b>Internal audit approach</b> a. Approach to perform an internal audit, including internal audit methodology and Quality Assurance processes. b. Risk assessment methodology and link to the development of risk-based Internal Audit Plan. c. Provision of value added services e.g., newsletters, GRAP updates, training resources.	15

Criterion Element	Weight
<p><b>Internal audit objectives, scope of work and resourcing the internal audit plan</b></p> <p>a. Proposed 3-year internal audit plan fully resourced and based on the current Strategic Risk Register supplied in <b>Annexure A</b>. Plan must include at minimum, the following:</p> <ul style="list-style-type: none"> <li>- Internal audit assignment name and brief description of the planned assignment.</li> <li>- Number of audit hours needed to complete each assignment in total per assignment per year and per resource required.</li> <li>- Costing per assignment per year in total per resource.</li> <li>- Plan linked to information provided under the pricing schedule and pricing schedule must be a summary of the information provided here.</li> <li>- In terms of ad hoc services on the pricing schedule, these activities are dependent on when the need arises and will include due diligence reviews prior to award for bids, review of the Annual Financial Statements when required by the Audit, Risk and ICT Committee, etc. Activities for the ad hoc services need not be identified at this stage for submission, however the costing of the hours needs to be reflective of an internal auditor with adequate experience for these types of activities as well as the necessary level of reviews.</li> <li>- Resources required must be costed at a rate per hour. Flat rates for all levels of resources will not be accepted. The following levels should be considered (i) Engagement Partner/ Director, (ii) Engagement Manager, (iii) Engagement Internal Auditor/ Specialist, and (iv) Trainee.</li> <li>- Each bidder must make their own assessment of the required time and resources to undertake each assignment and ensure that the tendered price covers the entirety of the work.</li> <li>- Organogram of specific key staff and functions/ roles that will be allocated to ECSECC.</li> </ul> <p><b>[comprehensive proposal must be supported by CVs/ profiles and certified copies of all relevant certificates for the entire engagement team which shows number of years' experience, post registration with relevant bodies for each team member. Organogram must be submitted]</b></p>	25

Criterion Element	Weight
<p><b>Internal audit experience</b></p> <p>a. Proven firm experience of internal audit working with registered PFMA public entities per the schedule in the PFMA and evidence of value add to such entities.</p> <p>b. Points are allocated for every verifiable and favourable reference year up to 10 years, as follows:</p> <ul style="list-style-type: none"> <li>- 10 years and more, plus total score of 36 on the 3 signed Annexure B <b>[20 points]</b></li> <li>- 10 years and more, plus total score of 27-35 on the 3 signed Annexure B <b>[15 points]</b></li> <li>- 8 years but less than 10 years, plus total score of 27-35 on the 3 signed Annexure B <b>[10 points]</b></li> <li>- 5 years but less than 8 years, plus total score of 27-35 on the 3 signed Annexure B <b>[5 points]</b></li> <li>- Experience claim based on service rendered to Corporations other than the PFMA Schedule Entities <b>[0 points]</b></li> </ul> <p><b>[points based on submission of proof of previous contracts to substantiate the years of experience claimed. Bidders must let the institutions that they contracted with or have contracts with to fill in the Annexure B supplied. A minimum of 3 references must be submitted]</b></p>	20
<p><b>Capacity, qualification, and competence of Engagement Manager/ Leader</b></p> <p>a. This is the person that will be the leader in the internal audit assignments, be at the front end of rolling out the internal audit plan, attend the Audit, Risk and ICT Committee meetings and shall be responsible for communication with management, discussing reports and presenting to structures as necessary. Scores will be allocated as follows; Manager/Leader:</p> <ul style="list-style-type: none"> <li>- Registered with IIA or SAICA; with 10 years and more experience in IA in public sector <b>[30 points]</b></li> <li>- Registered with IIA or SAICA; with 8 years but less than 10 years' experience in IA in public sector <b>[22.5 points]</b></li> <li>- Registered with IIA or SAICA; with 5 years but less than 8 years' experience in IA in public sector <b>[15 points]</b></li> <li>- Registered with IIA or SAICA; with 3 years but less than 5 years' experience in IA in public sector <b>[7.5 points]</b></li> </ul> <p><b>[points based on submission of CV/profile, proof of registration with IIA and/or SAICA and/or CA certificate]</b></p>	30



Criterion Element	Weight
<b>Fraud hotline</b> a. Proposal and methodology for whistleblowing and fraud reporting monitoring system and will score as follows: <ul style="list-style-type: none"> <li>- Ability to offer both email and telephonic services within currently available structure/ infrastructure <b>[5 points]</b></li> <li>- Ability to offer either or <b>[3.75 points]</b></li> </ul>	5
<b>Location</b> a. Operating offices in East London <b>[5 points]</b> b. Operating offices in Buffalo City Metro Municipality <b>[3.75 points]</b> c. Operating offices within the Eastern Cape <b>[2.5 points]</b>	5
<b>Total</b>	100

### 19.3 Gate 2: Price and Specific Goals

- 19.3.1 In terms of regulation 4 of the Preferential Procurement Regulations, 2022, pertaining to the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000), responsive bids will be adjudicated on the 80/20-preference point system in terms of which points are awarded to bidders on the basis of:
- The bid price (maximum 80 points) and
  - Specific Goals (maximum 20 points).

- 19.3.2 The evaluation of price and specific goals will be evaluated as outlined in **Table 2 below**.

**Table 2: Price and Specific Goals Evaluation**

Element	Weight
Price	80
Specific Goals	20
Historically Disadvantaged Individuals (HDIs)	
- Enterprises with ownership of 51% or more by person(s) who are black persons <b>(5 points)</b>	
- Enterprises with ownership of 51% or more by person(s) who are women <b>(5 points)</b>	
- Enterprises with ownership of 51% or more by person(s) who are youth <b>(5 points)</b>	
- Enterprises with ownership of 51% or more by person(s) with disability <b>(2 points)</b>	
- Enterprises located and/or operating within the borders of the Eastern Cape <b>(3 points)</b>	
<b>Total</b>	100

## **20 GENERAL CONDITIONS OF CONTRACT**

- 20.1. any award made to a bidder(s) under this bid is conditional, amongst others, upon-
- 20.2. The bidder(s) accepting the terms and conditions contained in the General Conditions of Contract (GCC) as the minimum terms and conditions upon which ECSECC is prepared to enter into a contract with the successful bidder(s).
- 20.3. The bidder submitting the **GCC to ECSECC together with its bid, duly signed** by an authorized representative of the bidder.

## **21 SERVICE LEVEL AGREEMENT**

- 21.1 Upon award, ECSECC and the successful bidder will conclude a supplementary agreement regulating the specific terms and conditions applicable to the services being procured by ECSECC.

## **22 CONDITIONS OF THIS BID**

- 22.1 ECSECC reserves the right to:
- 22.2 Not award or cancel this bid at any time and shall not be bound to accept the lowest or any bid.
- 22.3 Negotiate with one or more preferred bidder(s) identified in the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any other bidder(s) who have not been awarded the status of the preferred bidder(s).
- 22.4 Accept part of a bid rather than the whole bid.
- 22.5 Carry out site inspections, product evaluations or explanatory meetings in order to verify the nature and quality of the service offered by the bidder(s), whether before or after adjudication of the bid.
- 22.6 Correct any mistakes at any stage of the bid that may have been in the bid documents or occurred at any stage of the tender process.

- 22.7 Cancel and/or terminate the bid process at any stage, including after the closing date and/or after presentations have been made, and/or after the bids have been evaluated and/or after the preferred bidder(s) have been notified of their status as such.
- 22.8 Conduct Financial Statement Analysis only on the recommended bidders after completion of the pricing and specific goals evaluation stage.
- 22.9 Award a bid based on which bidder is offering the best value for money, even if the bid is not the lowest priced bid.
- 22.10 Not award the bid to the bidder whose financial statements are not in order.
- 22.11 Award to multiple bidders to spread the risk.

## **23 BIDDER'S DECLARATION**

- 23.1 The bidders are required to confirm that they will:
  - 23.1.1 Act honestly, fairly, and with due skill, care, and diligence, in the interests of ECSECC.
  - 23.1.2 Have and effectively employ the resources, procedures, and appropriate technological systems for the proper performance of the services.
  - 23.1.3 Act with circumspection and treat ECSECC fairly in a situation of conflicting interests.
  - 23.1.4 Comply with all applicable statutory or common law requirements applicable to the conduct of business.
  - 23.1.5 Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with ECSECC.
  - 23.1.6 Avoid fraudulent and misleading advertising, canvassing, and marketing.
  - 23.1.7 Conduct their business activities with transparency and consistently uphold the interests and needs of ECSECC as a client before any other consideration; and
  - 23.1.8 Ensure that any information acquired by the bidder(s) from ECSECC will not be used or disclosed unless the written consent of ECSECC has been obtained to do so.

## **24 CONFLICT OF INTEREST, CORRUPTION AND FRAUD**

24.1 ECSECC reserves the right to disqualify any bidder who either itself or any of whose members (save for such members who hold a minority interest in the bidder through shares listed on any recognized stock exchange), indirect members, being any person or entity who indirectly holds at least a 15% interest in the bidder other than in the context of shares listed on a recognized stock exchange, directors or members of senior management, whether in respect of ECSECC or any other government organ or entity and whether from the Republic of South Africa or otherwise "Government Entity".

24.1.1 Engages in any collusive bidding, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this bid;

24.1.2 Seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

24.1.3 Makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of ECSECC's officers, directors, employees, advisors or other representatives;

24.1.4 Makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;

24.1.5 Accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;

24.1.6 Pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from, the award of any bid, contract, right or entitlement which is in any way related to procurement or the bidding of any services to a Government Entity;

24.1.7 Has in the past engaged in any matter referred to above; or

24.1.8 Has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such bidder,

member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

## **25 MISREPRESENTATION DURING THE LIFECYCLE OF THE CONTRACT**

25.1 The bidder should note that the terms of its Tender will be incorporated in the proposed contract by reference and that ECSECC relies upon the bidder's Tender as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder.

25.2 It follows therefore that misrepresentations in a Tender may give rise to service termination and a claim by ECSECC against the bidder notwithstanding the conclusion of the SLA between ECSECC and the bidder for the provision of the service in question. In the event of a conflict between the bidder's proposal and the SLA concluded between the parties, the SLA will prevail.

## **26 PREPARATION COSTS**

The bidder will bear all its costs in preparing, submitting, and presenting any response or Tender to this bid and all other costs incurred by it throughout the bid process. Furthermore, no statement in this bid will be construed as placing ECSECC, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the bidder(s) in the preparation of their response to this bid.

## **27 INDEMNITY**

If a bidder breaches the conditions of this bid and as a result of that breach, ECSECC incurs costs or damages (including, without limitation, the costs of any investigations, procedural impairment, repetition of all or part of the bid process and/or enforcement of intellectual property rights or confidentiality obligations), then the bidder indemnifies and holds ECSECC harmless from any and all such costs which ECSECC may incur and for any damages or losses ECSECC may suffer.

## **28 PRECEDENCE**

This document will prevail over any information provided during any briefing session whether oral or written unless such written information provided expressly amends this document by reference.

## **29 LIMITATION OF LIABILITY**

A bidder participates in this bid process entirely at its own risk and cost. ECSECC shall not be liable to compensate the bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the bidder's participation in this bid process.

## **30 TAX COMPLIANCE**

No tender shall be awarded to a bidder who is not tax compliant. ECSECC reserves the right to withdraw an award made, or cancel a contract concluded with a successful bidder in the event that it is established that such bidder was in fact not tax compliant at the time of the award, or has submitted a fraudulent TCC to ECSECC, or whose verification against the Central Supplier Database (CSD) proves non-compliant. ECSECC further reserves the right to cancel a contract with a successful bidder in the event that such bidder does not remain tax compliant for the full term of the contract.

## **31 NATIONAL TREASURY**

No tender shall be awarded to a bidder whose name (or any of its members, directors, partners, or trustees) appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. ECSECC reserves the right to withdraw an award, or cancel a contract concluded with a bidder should it be established, at any time, that a bidder has been blacklisted with the National Treasury by another government institution.

## **32 GOVERNING LAW**

South African law governs this bid and the bid response process. The bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this bid, the bid itself and all processes associated with the bid.

## **33 RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL**

A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors, and other representatives), its sub-contractors, if any, and personnel of its sub-contractors comply with all terms and conditions of this bid. In the event that ECSECC allows a bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the bidder and ECSECC will not

under any circumstances be liable for any losses or damages incurred by or caused by such sub-contractors.

## **34 CONFIDENTIALITY**

Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this bid or a bidder's tender(s) will be disclosed by any bidder or other person not officially involved with ECSECC's examination and evaluation of a Tender.

No part of the bid may be distributed, reproduced, stored or transmitted, in any form or by means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Tender. This bid and any other documents supplied by ECSECC remain proprietary to ECSECC and must be promptly returned to ECSECC upon request together with all copies, electronic versions, excerpts, or summaries thereof or work derived there from.

Throughout this bid process and thereafter, bidder(s) must secure ECSECC's written approval prior to the release of any information that pertains to (a) the potential work or activities to which this bid relates; or (b) the process which follows this bid. Failure to adhere to requirement may result in disqualification from the bid process and civil action.

No confidential information relating to the process of evaluating or adjudicating bids or appointing a bidder will be disclosed to a bidder or any other person not officially involved with such process.

## **35 PROPRIETARY INFORMATION**

Bidder will on their bid cover letter make declaration that they did not have access to any ECSECC proprietary information or any other matter that may have unfairly placed that bidder in a preferential position in relation to any other bidder(s).