

**TERMS OF REFERENCE**

**DESCRIPTION**

**BID NUMBER: Tender-/INS/2022/01011**

**BID – APPOINTMENT OF A SERVICE PROVIDER TO RENDER BOARD SECRETARY SERVICES TO INSETA FOR A PERIOD OF THREE (3) YEARS.**

## 1. BACKGROUND

- 1.1 The Insurance Sector Education and Training Authority (INSETA) is a public entity listed in schedule 3A of the PFMA and was established in March 2000. The INSETA must, in accordance with any prescribed requirements to perform in accordance with the Skills Development Act (SDA), the Skills Development Levies Act (SDLA), the Public Finance Management Act (PFMA), any other relevant legislation and the Constitution.
- 1.2 Therefore, the INSETA is requiring a suitability qualified service provider to render Board secretary services to INSETA.

## 2. SITUATION ANALYSIS

- 2.1 INSETA is currently outsourcing the services of a suitably qualified Board Secretary. The current contract is ending on 30 September 2022, therefore INSETA has embarked on a process to appoint a new Board Secretary for a fixed period.

## 3. SCOPE OF WORK

- 3.1 The objective of this bid is to appoint a suitably qualified Service Provider to render Board Secretarial Services to the INSETA Board and the Board's Sub-committees for the period of three (3) years.
- 3.2 The Board Secretary will render Board support risk management services to the INSETA by ensuring that the INSETA effectively and efficiently complies with the legal requirements relating to corporate governance and operation of the Board.
- 3.3 The Board Secretary is required to play a leading role in good governance by helping the Board and its Sub-Committees function effectively and in accordance with their Terms of Reference (ToR) and best practices.
- 3.4 The role requires the provision of support beyond scheduling meetings to proactively managing the agenda and ensuring the presentation of high-quality up-to-date information in advance of meetings.
- 3.5 The role of the Board Secretary services must enable the INSETA Board to contribute fully to the Board and its sub-committee discussions and debates, and to enhance the Board's capability for good decision making.

### **Technical approach**

the bidder must at least:

- a) Describe, in detail, exactly how they propose to carry out the activities to achieve the outcomes identified in the terms of reference. Bidders are required to have the

basic office equipment and the resource/s (which must include but not limited to following laptop, internet and email connection, landline, own office with the basic office equipment) **located within Johannesburg** where the work will be done. They should identify any possible problems that might hinder delivery and indicate how they will avoid or overcome such problems.

- b) Describe how the work will be carried out in terms of the key performance indicated on the terms of reference.
- c) Identify the position(s) involved in the direct delivery of the service to be provided and in the overall management of the work and name the people who will fill these positions. **A maximum of four (4) resources to be identified.**
- d) Describe the tasks, duties or functions to be performed by staff in these positions.
- e) Details of office and office location that will service this contract as well as the capacity of the office to meet the requirements of this proposal including the time required at each to deliver in terms of the requirements in terms of the requirements of the Request for Proposal
- f) Provide information on any additional value-added services for consideration by INSETA, and which will form part of the overall proposed solution. Please note that the additional value ads must be priced separately in the space provided for in the pricing schedule (**Annexure A**).
- g) Bidders are to present such information in a matrix. The following is provided merely as guidance. Bidders are free to elaborate as they see fit.

Outcome/output	Activity	Team member(s) involved (name and position)	Person days for each team member	Total person days

- f) Provide a work plan of activities. In addition to providing details of the estimated number of hours for each activity, bidders are to supply a detailed timetable that identifies when certain activities will be undertaken and over what period they will be spread. The timing of activities, the time needed to complete them, and the order in which they will be undertaken must be explained and justified.
- g) Please note that part 6 should be no longer than 20 single-sided A4 pages in Arial 11 (font size).

## 4. DELIVERABLES

### 4.1 The duties and responsibilities of the Board Secretary will include amongst others:

**Board Members:** Mr. J.S. Ngubane (Chairperson), Ms. V. Pearson (Business), Ms. L. van der Merwe (Business), Ms. R.G. Govender (Business), Ms. P. Mendes (Business), Ms. Z. Motsa (Business), Mr. M. Soobramoney (Labour), Mr. J.J.M. Mabena (Labour), Ms. S.A. Anders (Labour), Mr. C.B. Botha (Labour), Ms. S.T. Dinyake (Labour), Ms. N.B. Jonas (Labour)  
Ms. F. Mabaso (Government), Mr. S.M. Mpuru (Community Organisation)

**CEO: G. Mkhize**

- 4.1.1 The Board Secretary will be required to manage Board and all Board Sub-Committees, including the below mentioned list of deliverables (but not limited to):
- a) Develop Annual Work Plans and schedules
  - b) In liaison with Board/Committee chair draft notices and Agendas for the meetings (i.e., Board, Audit Committee, Finance Committee, Executive Committee and HRR Committee).
  - c) Prepare and issue notices of meetings within the set time frames.
  - d) Preparation and within the set time frames distribution of packs for the Board, Audit Committee, Finance Committee, Executive Committee and HRR Committee,
  - e) Keep audio recordings and formulate accurate minutes and action/decision logs of the meetings including in-committee minutes, as well as follow up actions and report on matters arising.
  - f) Communicate the Board and sub-committee resolutions (including reference coding of each resolution for audit purposes) to relevant parties and prepares action sheets to this effect.
  - g) Ensure actions requested by the Board are undertaken by the responsible executives and report back to the Board.
  - h) Provide a monthly report to the CEO on Board and Committee related activities.
  - i) Ensure the INSETA Constitution and Committee charters/ToR are updated timeously, signed and distributed in line with the rules of the constitution.
  - j) Annually conduct Board and Committee assessments.
- 4.1.2 Board and Board sub-committee Information Sessions and Induction
- a) Arrange induction of the Board and its sub-committees in line with the INSETA policies and procedures.
  - b) Coordinate and provide training to board members on their fiduciary duties, corporate governance and relevant legislation.
  - c) Compile annual board calendar.
  - d) Compile annual workplans for each Committee.
  - e) Annually update each Committee's ToR.
  - f) Annually obtain Board Member's declaration of interest and code of conduct.

4.1.3 Legal advice on company and industry-wide legislative compliance (i.e., South African Constitution and applicable legislations, Companies Act, Electronic Communications and Transactions Act, King IV, POPI etc.) and reports on compliance/non-compliance to the Board and its sub-committees.

- a) Provide general advice on legal, governance and compliance advice to the Board and the Chairperson.
- b) Liaise with INSETA legal advisors and Executives managers on legal work required, litigation and other legal processes to advise the Board on.
- c) Assist the CEO to develop overall company-wide legislative compliance matrix and provide information to Board and relevant stakeholders/governance structures; and
- d) Manage compliance with the PFMA and Electronic Communications Transactions Act regarding the meeting documentation.

4.1.4 Task Condition

- a) Ad-hoc Board and its sub-committees related assignments as determined by the CEO of INSETA as and when required.
- b) Attend status meetings/progress update meetings/Management meetings to report on work done and work in harmony with the executive management team of INSETA.
- c) Functionally report to the CEO and is accountable to the Board.
- d) Compile presentations and reports for the Board and its sub-committees as and when required.
- e) Manages requests from the Board.
- f) Provide an administration support for the Board and management strategic sessions.
- g) Coordinate Board and Committee evaluations annually.

4.1.5 Record Keeping:

- a) Maintains statutory registers for INSETA (including but not limited to):
  - I. The register of Board and Board Committee members and index thereof.
  - II. Minutes and decision log.
  - III. Resolution Register.

- IV. Retains and maintains the statutory registers for the company.
- b) Assist in recording and capturing of all the Board and its sub-committees' activities as required by the Law.
- c) Maintenance, safe-keeping and retrieval of the Board and its sub-committee records.

#### 4.2 Minimum Requirements

- a) The prospective service provider must assign resources or staff who have the following experience and possess the following qualification:
  - I. Chartered Governance Institute of South Africa (CGISA) registration and must be an Admitted Attorney.
  - II. 5 years' legal and Board management experience, knowledge and understanding related to the field experience of which at least 2 years must have been in a Company Secretariat role in the public sector.
  - III. Experience in the SETA environment (preferably).
- b) The prospective service provider must assign resources or staff who have the following behavioural attributes
  - I. Good written, verbal communication and presentations
  - II. Report writing
  - III. Confidentiality and integrity
  - IV. Good understanding of administrative functions and meeting procedures
  - V. Ability to operate at the Executive Management level
  - VI. Ability to work under pressure and meet strict deadlines
  - VII. Computer Literacy
  - VIII. Good interpersonal skills and relationship-building skills
  - IX. Tolerant, motivated, enthusiastic, energetic and assertive.

## 5 TIMEFRAMES

The duration of the contract will be for period of three (3) years from signing of the contract.

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## 6 CONTRACTUAL OBLIGATION

- 6.1 Bidders to fully complete **SBD 3.3** including all applicable costs.
- 6.2 In the case of the service provider using sub-contractors, the former will be responsible for ensuring delivery of services from any such sub-contractors and for making any payments to such sub-contractors.
- 6.3 **Bidder will be subjected to annual review in terms of measuring satisfactory performance.**
- 6.4 The successful bidder will be required to have adequate professional indemnity as well as liability insurance in place (**upon parties contracting**).
- 6.5 Bidders are required to fully comply with the relevant SCM Legislative Framework as well as application of regulatory and prescripts. Bidders are also required to take all reasonable steps to protect information, in line with the provisions of the POPIA 4 of 2014.
- 6.6 The resource(s) in the company profile or whose CV/Profile was used during evaluation must be the preferred resource(s) used for INSETA work.
- 6.7 An alternate replacement of resource(s) should be equal or more competent to the initial approved resource(s).

## 7 ABSENCE OF OBLIGATION & CONFIDENTIALITY

- 7.1 No legal or other obligation shall arise between the service provider and INSETA unless/until both parties have signed a formal contract or Service Level Agreement in place.
- 7.2 The Contract site is at **INSETA (as and when required)**.

## 8 WORKMEN AND SUPERVISION ON SITE

- 8.1 The service provider shall be held responsible for the conduct of his employees and the conduct of his sub-contractor's employees for the full duration of the contract.

## 9 PREQUALIFICATION CRITERIA (Phase 1)

- 9.1 Proof of registration on CSD (**Central Supplier Database**)
- 9.2 Submission of a complete, sign and submit and **Standard Bid Document (SBD) 4 – Bidder disclosure**.
- 9.3 **Bidder must be BBBEE Level 1 or Level 2 contributor (EME or QSE or Generic). Bidder must provide a valid BBBEE Certificate (accredited by SANAS only) or Sworn Affidavit (in as prescribed or CIPC or DTI template).**

**Note: All bidders who do not comply with the items listed above will be disqualified.**

## 10 EVALUATION CRITERIA

10.1 Responses will be evaluated using a predetermined set of evaluation criteria. The evaluation criteria is designed to reflect the INSETA's requirements in terms of identifying a suitable service provider and ensure the selection process is transparent and affords all the bidders a fair opportunity for evaluation and selection.

### 10.2 Functional Evaluation threshold (Phase 2)

10.2.1 The tender submission will be functionally evaluated out of a **minimum of 100 points** – **any bidder who scores less than 70** will not be considered for further evaluation (Phase 3), **maximum score is 100 for PRICE AND BBEE.**



### 10.3 Functional Evaluation Criteria Phase 2:

The evaluation is based on functionality, which will be evaluated using the following criteria and points:

Evaluation Area	Evaluation Criterion	Points
1. Bidder Experience	<ul style="list-style-type: none"> <li>To demonstrate bidder experience in terms of previous work done, bidders must submit three (3) reference letters from different public organisations (PFMA schedule entities) as evidence of related board secretariat work previously conducted = <b>30 points</b></li> <li>No submission or less than 3 reference letters submitted = <b>0 points</b></li> </ul> <p><i>Bidder must provide reference letters on a company letterhead, dated, and signed with contactable email address. Reference letters should be from the last five (5) years.</i></p> <p><b>Bidders to note that due diligence will be conducted against received references.</b></p> <p><b>Non-compliance with the above = 0 points</b></p>	30
2. Resource Board Secretary Experience and Qualification	<p>Bidder to provide Board Secretary <b>Resources:</b></p> <p><b>2.1 Experience:</b> <b>Bidder's proposed resources will be evaluated as a combined experience (collectively)</b></p> <ul style="list-style-type: none"> <li>5 and more years Public Sector Board Secretary experience = <b>20 points</b></li> <li>2 – 4 years Public Sector Board Secretary experience = <b>10 points</b></li> <li>No or less than 2 Board Secretary experience = <b>0 points</b></li> </ul> <p><b>2.2 Resources meeting experience on 2.1:</b></p> <ul style="list-style-type: none"> <li>Minimum 2 Board Secretary Resources = 5 points</li> <li>Above 2 Board Secretary Resources = 20 points</li> </ul> <p><i>NB: The resource's CV break-down of years of experience to be provided - resources must provide contactable references - on a company letterhead, dated, and signed with contactable email address.</i></p> <p><b>Bidders to note that due diligence on Resources will be conducted against received references.</b></p> <p><b>Non-compliance with the minimum criteria above = 0 points.</b></p> <hr/> <p>Board Secretary Qualifications:</p> <ul style="list-style-type: none"> <li>An <b>Admitted Attorney</b> with a valid CGISA registration = <b>5 points</b></li> </ul> <p>NB: Proof of Attorney admission (Letter of Good Standing from the Legal Practice Council) to be submitted. NB: Proof of CGISA registration to be submitted.</p> <p><b>Non-compliance with the above = 0 points</b></p> <hr/> <p>Board Secretary SETA Experience:</p> <ul style="list-style-type: none"> <li>SETA Board Secretary experience = <b>5 points</b></li> </ul> <p><b>Non-compliance with the above = 0 points</b></p>	50
Methodology and a work Plan schedule	<ul style="list-style-type: none"> <li>Bidder to provide a detailed methodology in line with the scope of work presented in section 3.6. Including a work plan schedule = <b>20 points</b></li> </ul> <p><b>Non-compliance with the above = 0 points</b></p>	20
<b>TOTAL</b>		<b>105</b>

11.3.1 Bidders who obtained less than the minimum threshold of **70 points** will be declared non-responsive and therefore will not be eligible for evaluation of **BBEE & Price Preference**.

## 11.4 Preference Evaluation (Phase 3)

### 11.4.1 BBBEE and Price

As the tender **price is estimated to be between R30 000 and R50 million including VAT**, the tender responses will be evaluated on the **80/20**-point system.

## 12 ADJUDICATION USING A POINT SYSTEM

- 12.4 The bidder obtaining the highest number of total points will be awarded the contract unless objective criteria justify the award to another bidder.
- 12.5 Preference points shall be calculated after process has been brought to a comparative basis taking into account all factors of non-firm prices.
- 12.6 In the event that two or more bids have scored equal points in terms of price and preference points for BBBEE, the successful bid must be the one scoring the highest number of preference points for BBBEE - in terms of PPPFA Act 5 of 2000.
- 12.7 However, when functionality is part of the evaluation process and two or more bids have scored equal points for BBBEE, the successful bid must be the one scoring the highest score for functionality.
- 12.8 Should two or more bids be equal in all respect, the award shall be decided by the drawing of lots.

## 13 POINTS AWARDED FOR PRICE AND BBBEE PREFERENCE POINT

The **80/20** preference point system

A maximum of **80** points is allocated for price on the following basis:

$$P_s = 80 \{1 - (P_t - P_{\min})\}$$

P min

Where:

$P_s$  = Points scored for comparative price of bid under Consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

## 14 B-BBEE PREFERENTIAL POINTS WILL BE AWARDED AS FOLLOWS:

B-BBEE Status Level of contributor	Number of points 80/20 system
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 14.1 Bidders who qualify as EME's and QSE's in terms of the B-BBEE Act must submit a Sworn affidavit. Misrepresentation of information constitutes a criminal offence.
- 14.2 Bidders other than EME's or QSE's must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating issued by SANAS.
- 14.3 Tertiary institutions and public entities will be required to submit their B-BBEE status level certificates in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- 14.4 Consortium**
- 14.4.1. A consortium is an association of two or more individuals, companies, organisations or governments (or any combination of these entities) with the objective of participating in a common activity or pooling their resources for achieving a common goal.
- 14.4.2. A consortium requires that each participant retains its separate legal status and the consortium's control over each participant is generally limited to activities

involving the joint endeavour, particularly the division of profits. A consortium is formed by contract, which designates the rights and obligations of each member.

- 14.4.3. In a consortium, only the lead bidder's credentials both in terms of financial and technical qualifications are considered. Therefore, the interpretation and application to a RFQ/Bid process is such that the lead partner is identified and the following requirements are required as follows:

**a) Lead Partner**

- All administrative documents (consortium agreement between the lead partner and the partner)
- Technical requirements (which will show in the proposal and other requirements why the need for the consortium, which for all intent and purpose fulfils the requirements of the bid combination of skills)

**b) Partner**

- Proof of CSD registration.
- Tax Pin.
- BBBEE Sworn-Affidavit.
- SBD 4

- 14.4.4. It should be taken into cognisance that although the lead partner is the qualifying entity, the partner should prove that it can do business with state-owned entities, through CSD registration, proof that the taxes are compliant, its level of BBBEE status in order to align with the BBBEE status level required by the BID, declare interest and answer questions that it is not a disqualified entity with the National Treasury. The foregoing ensures compliance from an SCM process perspective that the consortium is in order.

- 14.4.5. Of importance is that in a consortium, each individual team members retain their identities.

**14.5 A joint venture**

- 14.5.1. A joint venture is a business entity created by two or more parties, generally characterized by shared ownership, returns and risks and shared governance.

**14.6 Unincorporated joint venture:**

- 14.6.1. All SCM documents are filled in by the joint venture in the name of the joint venture, although the submission of administrative documents (partnership agreement between parties) will be completed in the name of the joint venture, and the following will be required from both parties, amongst others

**a) SBD 4**

- b) SBD 6
- c) Tax pin
- d) CSD registration.
- e) The JV agreement will direct which bank account of the two entities will be used.
- f) Consolidated Joint BBBEE Certificate.

#### 14.7 Incorporated joint venture

14.7.1 This aligned to a registered entity or company. A registered entity/ company with a consolidated BBBEE certificate and a bank account in the name of the Joint venture. The required compliance documents must be complete by the entity/ company the name of the joint venture, and the following will be required amongst others

- a) SBD 4
- b) SBD 6
- c) Tax pin
- d) CSD registration.
- e) The JV agreement will direct which bank account of the two entities will be used.
- f) Consolidated Joint BBBEE Certificate.

14.7.2 A person will not be awarded points for B-BBEE status level if it is indicated in the bid documents that such a bidder 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 bidder qualifies for, unless the intended Sub-contractor is an EME that has the capacity and the ability to execute the sub-contract.

14.8 A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an EME that has the capacity and the ability to execute the sub-contract.

#### 15 COMMUNICATION

15.1 Respondents are warned that a response will be disqualified should any attempt be made by a bidder either directly or indirectly to canvass any officer(s) or employees of INSETA in respect of BID process, between the closing date and the date of the award of the business.

All enquiries relating to this BID should be emailed **three days before the closing date.**

## 16 CONDITIONS TO BE OBSERVED WHEN BIDDING

16.1 The organization does not bind itself to accept the lowest or any BID, nor shall it be responsible for or pay any expenses or losses which may be incurred by the bidder in the preparation and delivery of his BID submission. The organization also reserves the right to withdraw or cancel the BID at any stage.

No BID shall be deemed to have been accepted unless and until a formal contract / letter of award is prepared and executed.

The competitive shall remain open for acceptance by the Organization for a period of **120 days** from the closing date of the BID Enquiry.

**INSETA reserves the right to:**

- 16.2 Not evaluate and award a bid that do not comply strictly with this BID document.
- 16.3 Make a selection solely on the information received in the Bid Document and Enter into negotiations with any one or more of preferred bidder(s) based on the criteria specified in the terms of reference.
- 16.4 Contact any bidder during the evaluation process, in order to clarify any information, without informing any other bidders. During the evaluation process, no change in the content of the BID shall be sought, offered or permitted.
- 16.5 Cancel this BID at any time as prescribed in the PPPFA.
- 16.6 Should bidder(s) be selected for further negotiations, they will be chosen on the basis of the of cost effectiveness and the principal of value for money not necessarily on the basis of the lowest costs.

## 17 COST OF BIDDING

17.1 The bidder shall bear all costs and expenses associated with preparation and submission of its BID submission and the INSETA shall under no circumstances be responsible or liable for any such costs, regardless of, without limitation, the conduct or outcome of the bidding, evaluation, and selection process.

## 18 NOTE TO BIDDERS:

18.1 Due diligence to be conducted by INSETA prior to the award of the contract.

### **END OF TERMS OF REFERENCE DOCUMENT**

**Board Members:** Mr. J.S. Ngubane (Chairperson), Ms. V. Pearson (Business), Ms. L. van der Merwe (Business), Ms. R.G. Govender (Business), Ms. P. Mendes (Business), Ms. Z. Motsa (Business), Mr. M. Soobramoney (Labour), Mr. J.J.M. Mabena (Labour), Ms. S.A. Anders (Labour), Mr. C.B. Botha (Labour), Ms. S.T. Dinyake (Labour), Ms. N.B. Jonas (Labour)  
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