

CONFIDENTIAL



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Request for Proposal (RFP)

TENDER REF No: ECESWA 08 of 2024/2025

TENDER NAME: REQUEST FOR PROPOSAL FOR SALARY REVIEW

TENDER CLOSING DATE: Thursday, 18th July 2024 at 12:00 noon

CONFIDENTIALITY

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Standard Request for Proposals Document

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LETTER OF INVITATION

Date Issued: 13 June 2024

Request for Proposal for Conducting Salary Review Exercise – ECESWA 08 of 2024/2025

The Examinations Council of Eswatini has allocated funds to be used for the procurement of **Consultancy Services to conduct Salary Review Exercise**. The Entity invites sealed proposals for the provision of the above services from eligible and competent service providers. Tendering will be conducted in accordance with the Government of Eswatini's Public Procurement Act and Regulations and the procedures described in Part 1: Proposal Procedures.

Interested Service Providers may download the tender document from the Eswatini Public Procurement Regulatory Agency's website at www.esppra.co.sz or the Examinations Council of Eswatini's website at www.examsCouncil.org.sz.

Requests for clarifications, which must be in writing and should be addressed, via email, to procurement@examsCouncil.org.sz copied to manesi.c@examsCouncil.org.sz not later than the 28th June 2024. ECESWA will strive to promptly respond in writing via e-mail to any requests for clarification up until close of business on **28th June 2024**. Written copies of the Fund's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Bidders.

This procurement is subject to a payment of a non-refundable **Tender Fee of E500.00** which Consultants must pay for their submissions to be acceptable. The Tender documents is in

The method of payment will be through Electronic Funds Transfer (EFT) or Cash Deposit into any of the following bank accounts:

NAME OF BANK	ACCOUNT NAME	ACCOUNT NUMBER	BRANCH CODE
NEDBANK	ECESWA	020000026458	360164
FIRST NATIONAL BANK	ECESWA	62022235388	280164
STANDARD BANK	ECESWA	9110004571749	663164

Once payment is done, proof of payment should be sent to the Examinations Council for receipting through this email address: procurement@examsCouncil.org.sz or physically with the Tender Number and name of Company making the payment as reference.

Proposals must be delivered to the address: **Examinations Council of Eswatini, Ngonini Road, Ezulwini**, next to Mahlanganisa Township on or before **18th July 2024 at 12:00 noon (CAT)**. Late, emailed or faxed proposals shall be rejected. Proposals will be opened on the **18th July at 12:10 PM (CAT)** in the presence of the consultants' representatives who choose to attend at the same above address.

Sincerely

Name:

Position of Authorised Official:



PART 1 – Proposal Procedures

Section 1. Instructions to Consultants

A. General

1. Scope of Proposal

The Procuring Entity indicated in the Proposal Data Sheet (PDS), invites proposals for the provision of the Services specified in Section 6, Terms of Reference (TOR) to commence on the date indicated in the TOR.

- 1.1 Procurement will be undertaken in compliance with the Public Procurement Act, and its Regulations of 2020.
- 1.2 The Instructions to Consultants (ITC) should be read in conjunction with the PDS.
- 1.3 Throughout this Request for Proposals Document:
 - (a) the term “in writing” means communicated in written form with proof of receipt;
 - (b) if the context so requires, singular means plural and vice versa;
 - (c) “day” means working day, and “month” means working month.

2. Source of Funds

- 2.1 The Procuring Entity has an approved budget from ECESWA FEES towards the cost of the procurement described in the PDS. The Procuring Entity intends to use these funds to place a contract for which this Request for Proposals Document is issued.
- 2.2 Payments will be made directly by the Procuring Entity and will be subject in all respects to the terms and conditions of the resulting contract placed by the Procuring Entity.

3. Corrupt Practices

- 3.1 It is the policy of the Examination Council of Eswatini to require that Procuring Entities, as well as Consultants, observe the highest standards of ethics during procurement and the execution of contracts. In pursuit of this policy, the Examination Council.
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution;
 - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;



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- (b) will reject a recommendation for award if it determines that the Consultant recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract;
 - (c) The Regulator will suspend a Consultant from engaging in any public procurement proceeding for a stated period of time, if it at any time determines that the Consultant has engaged in corrupt or fraudulent practices in competing for, or in executing, a Government contract.
- 3.2 Furthermore, Consultants shall be aware of the provision stated in Sub Clause 15.1(g)-(h) and Sub Clause 2.2 of the General Conditions of Contract.
- 3.3 In pursuit of the policy defined in Sub-Clause 3.1, the Procuring Entity may terminate a contract or be ordered by ESPPRA to cancel a contract if it at any time determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Procuring Entity or of the Consultant during the procurement or the execution of that contract.
- 3.4 In pursuit of the policy defined in Sub-clause 3.1, the Code of Ethical Conduct for Consultants and Providers as provided in the tender forms shall be signed by the Consultant and submitted together with the other tender forms. The Government of Eswatini may suspend a Consultant from engaging in any public procurement or process for a period determined by the Eswatini Public Procurement Regulatory Agency (herein referred to as ESPPRA), where the Consultant is suspended from the procurement processes of an international agency of which Eswatini is a member.
- 3.5 Any communications between a Consultant and the Procuring Entity related to matters of alleged fraud or corruption must be made in writing and addressed to the Controlling Officer of the Procuring Entity.

4. Eligible Consultants

- 4.1 A Consultant, and all parties constituting the Consultant, shall meet the following criteria to be eligible to participate in public procurement:
- (a) the Consultant has the legal capacity to enter into a contract;
 - (b) the Consultant is not:
 - (i) insolvent;
 - (ii) in receivership;
 - (iii) bankrupt; or
 - (iv) being wound up
 - (c) the Consultant's business activities have not been suspended
 - (d) the Consultant is not the subject of legal proceedings for any of the circumstances in (b); and
 - (e) the Consultant has fulfilled his or her obligations to pay taxes and social security contributions.
- 4.2 A Consultant may be a natural person, private entity, government-owned entity, subject to ITC Sub-Clause 4.6 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the PDS, all parties shall be jointly and severally liable. In the case of a consortium or association, the formal intent shall be by way of Memorandum of Understanding which shall be registered with the Registrar of documents if signed in Eswatini or if signed outside Eswatini, shall be notarized.
- 4.3 A Consultant, and all parties constituting the Consultant including sub-contractors and key professional staff, shall have the nationality of an eligible country, in accordance with Section 5, Eligible Countries. A Consultant shall be deemed to have the nationality of a country if the



Consultant is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors for any part of the Contract including related works or supplies.

- 4.4 A Consultant shall not have a conflict of interest, as defined in ITC Clause 5. All Consultants found to be in conflict of interest shall be disqualified.
- 4.5 A firm that is under a suspension by ESPPRA in accordance with ITC Clause 3.1 (c) or 3.4, at the date of the deadline for proposal submission or thereafter before contract signature, shall be disqualified.
- 4.6 ECESWA-owned enterprises shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law.
- 4.7 Consultants shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

5. Conflict of Interest

- 5.1 ECESWA policy requires that Consultants provide professional, objective, and impartial advice and at all times hold the Procuring Entity's interest's paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests. Consultants shall not be contracted for any assignment that would conflict with their prior or current obligations to other Procuring Entities, or that may place them in a position of not being able to carry out the assignment in the best interests of the Procuring Entity.
- 5.2 A Consultant may be considered to have a conflict of interest with one or more parties in this procurement process, if they:
 - (a) have controlling shareholders in common; or
 - (b) receive or have received any direct or indirect subsidy from any of them; or
 - (c) have the same legal representative for purposes of this proposal; or
 - (d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the proposal of another Consultant, or influence the decisions of the Procuring Entity regarding this procurement process; or
 - (e) submit more than one proposal in this procurement process. However, this does not limit the participation of subcontractors in more than one proposal, or as Consultants and subcontractors simultaneously; or
 - (f) have been engaged, or any of their affiliates have been engaged, by the Procuring Entity to provide supplies or works for the same project: or
 - (g) may be in conflict with another of their, or their affiliates' assignments by performing this assignment.
- 5.3 Consultants hired to provide consultancy services for the preparation or implementation of a project, and any of their affiliates, shall be disqualified from subsequently providing supplies, works or services related to the initial assignment (other than a continuation of the Consultant's earlier consulting services) for the same project.
- 5.4 Consultants may be hired for downstream work, when continuity is essential, in which case this possibility shall be indicated in the PDS and the factors used for the selection of the consultant will take the likelihood of continuation into account. It will be the exclusive decision of the Procuring



Entity whether or not to have the downstream assignment carried out, and if it is carried out, which consultant will be hired for the purpose.

- 5.5 Any previous or ongoing participation in relation to the assignment by the Consultant, its professional staff, or its affiliates or associates under a contract with the Procuring Entity or the Government of Eswatini may result in rejection of the proposal. Consultants should clarify their situation in that respect with the Procuring Entity before preparing the proposal.

B. Request for Proposals Document

6. Contents of Request for Proposals Document

- 6.1 This Request for Proposals Document consists of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITC Clause 8.

PART 1 Procurement Procedures

- Section 1. Instructions to Consultants (ITC)
- Section 2. Proposal Data Sheet (PDS)
- Section 3. Evaluation Methodology and Criteria
- Section 4. Proposal Forms
- Section 5. Eligible Countries

PART 2 Terms of Reference

- Section 6. Terms of Reference

PART 3 Contract

- Section 7. General Conditions of Contract (GCC) for the Procurement of Consultancy Services
- Section 8. Special Conditions of Contract (SCC)
- Section 9. Contract Forms

- 6.2 The letter inviting Consultants to submit proposals is part of the Request for Proposals Document.
- 6.3 Proposals from Consultants who did not pay the tender fee will be rejected during evaluation.
- 6.4 The Consultant is expected to examine all instructions, forms, terms, and requirements in the Request for Proposals Document. Failure to furnish all information or documentation required by the Request for Proposals Document may result in the rejection of the proposal.
- 6.5 Where an electronic copy of the Request for Proposals document is issued, the paper or hard copy is the original version. In the event of any discrepancy between the two, the hard copy shall prevail.

7. Clarification of Request for Proposals Document

A prospective Consultant requiring any clarification on the Request for Proposal Document shall contact the Procuring Entity in writing at the Procuring Entity's address indicated in the PDS. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the date indicated in the PDS. Should the Procuring Entity deem it necessary to amend the Request for Proposals Document as a result of a clarification, it shall do so following the procedure under ITC Clause 8 and Sub-Clause 24.2.

8. Amendment of Request for Proposals Document

- 8.1 At any time prior to the deadline for submission of proposals, ECESWA may amend the Request for Proposals Document by issuing addenda.



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- 8.2 Any addendum issued shall be part of the Request for Proposals Document and shall be published in the ESPPRA or ECESWA websites.
 - 8.3 To give prospective Consultants reasonable time in which to take an addendum into account in preparing their proposals, the ECESWA may, at its discretion, extend the deadline for the submission of proposals, pursuant to ITC Sub-Clause 24.2.

C. Preparation of Proposals

9. Cost of Proposals

The Consultant shall bear all costs associated with the preparation and submission of its proposal, including any negotiations with or visits and ECESWA shall not be responsible or liable for those costs, regardless of the conduct or outcome of the procurement process.

10. Language of Proposal and Communications

- 10.1 The medium of communication shall be in writing unless otherwise specified in the PDS.
- 10.2 The proposal, as well as all correspondence and documents relating to the proposal exchanged by the Consultant and the Procuring Entity, shall be written in English.
- 10.3 Supporting documents and printed literature that are part of the proposal may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in ITC Sub-Clause 10.2, in which case, for purposes of interpretation of the proposal, such translation shall govern.

11. Preparation of Proposals

- 11.1 Consultants are required to prepare and submit separate technical and financial proposals. The proposal submission method shall be a one stage-two envelope method, unless otherwise specified in the PDS. The one stage-two envelope submission method requires a Consultant to submit a single envelope containing two separately sealed envelopes, labelled technical and financial proposals which are opened on different occasions at separate proposal openings.
- 11.2 Where necessary, a pre-proposal meeting will be held as indicated in the PDS. Attendance at the pre-proposal meeting is optional.

12. Joint Ventures, Associations and Sub-contracting

- 12.1 If a Consultant considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) or other Consultants or entities in a joint venture or by sub-contracting as appropriate, unless otherwise specified in the PDS.
- 12.2 Consultants must obtain the approval of ECESWA to enter into a joint venture with Consultants not invited for this assignment or other short-listed Consultants.
- 12.3 International Consultants for large contracts are encouraged to seek the participation of national Consultants by entering into a joint venture with, or subcontracting part of the assignment to national Consultants.

13. Professional Staff

- 13.1 For assignments on a staff-time basis, the estimated number of professional staff-months or budget is given in the PDS. The proposal shall, however, be based on the number of professional staff-months estimated by the Consultant.
- 13.2 ECESWA prefers that the majority of the key professional staff proposed are permanent employees of the Consultant or have an extended and stable working relationship with the Consultant.



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- 13.3 Proposed professional staff must, as a minimum, have the experience indicated in the Terms of Reference, preferably working under conditions similar to those prevailing in Eswatini.
- 13.4 The Consultant and the professional staff shall confirm their availability for the assignment using the Forms included in section 4.
- 13.5 Alternative professional staff shall not be proposed, and only one curriculum vitae (CV) may be submitted for each position.
- 13.6 As the determination of the Best Evaluated Proposal will be based, among other factors, on an evaluation of proposed key professional staff, ECESWA expects to award a contract on the basis of the experts and specialists named in the proposal.
- 13.7 ECESWA will not consider substitutions unless both parties agree that undue delay in the procurement process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the proposal may be rejected.

14. Technical Proposal

- 14.1 The technical proposal shall provide the following information using the standard forms contained in Section 4, Proposal Forms:
- (a) The declarations included in the Technical Proposal Submission Sheet (Section 4.1.1);
 - (b) An outline of recent experience on assignments of a similar nature (Section 4.1.2). For each assignment, the outline should indicate, inter alia, the profiles of the staff proposed, the duration of the assignment, the contract amount and the Consultant's involvement;
 - (c) Any comments or suggestions on the Terms of Reference (Section 4.1.3);
 - (d) A description of the methodology for performing the assignment (Section 4.1.4);
 - (e) The list of the proposed staff team by specialism, the proposed assignment of tasks for each staff team member and their timing (Section 4.1.5);
 - (f) CVs of the proposed professional staff, signed by both the staff member and the authorised representative submitting the proposal (Section 4.1.6). Key information should include the number of years working for the Consultant and the degree of responsibility held in various assignments; Confirmation of availability of staff (Section 4.1.7)
 - (g) Estimates of the total staff input (professional and support staff time) needed to carry out the assignment, supported by bar chart diagrams showing the time proposed for each professional staff team member (Section 4.1.8);
 - (h) A description of the Work or Activity Schedule for performing the assignment (Section 4.1.9)
 - (i) A Proposal Securing Declaration, as required by the ITC Clause 21 (Section 4.1.10);
 - (j) Written confirmation authorising the signatory of the proposal to commit the Consultant, in accordance with ITC Sub-Clause 22.2;
 - (k) Documentary evidence in accordance with ITC Clause 18 establishing the Consultant's eligibility;
 - (l) Documentary evidence in accordance with ITC Clause 19 establishing the Consultant's qualifications to perform the contract if its proposal is accepted;
 - (m) Any additional information requested in the PDS.
- 14.2 The technical proposal shall not include any financial information.



15. Financial Proposal

- 15.1 The financial proposal shall list all costs associated with the assignment, using the following standard forms contained in Section 4, Proposal Forms:
- (a) Financial Proposal Submission Sheet (Section 4.2.1);
 - (b) Summary of Proposal Price Breakdown of Lump Sum (Section 4.2.2);
 - (c) Breakdown of Fees (Section 4.2.3);
 - (d) Breakdown of Reimbursables (Section 4.2.4) for staff (foreign and national in the field and at headquarters); such as subsistence (per diem, housing), transportation (international and local for mobilisation and demobilisation);
 - (e) Breakdown of Miscellaneous Expenses (Section 4.2.5), printing of documents, etc.;
 - (f) Any additional information requested in the PDS.
- 15.2 The total proposal price shall be broken down into the following cost components using the appropriate forms:
- (a) Fees
 - (b) Reimbursable expenditure
 - (c) Miscellaneous expenses
- 15.3 Where indicated in the PDS, the total proposal price shall be broken down into the separate activities indicated in Section 6, Terms of Reference with the cost elements in ITC Sub Clause 15.2 expressed for each activity.
- 15.4 The financial proposal should clearly estimate, as a separate amount, the local taxes (including social security), duties, fees, levies, and other charges imposed under the applicable law, on the Consultant and their personnel (other than nationals of or permanent residents in Eswatini), unless the PDS specifies otherwise.
- 15.5 The completed financial proposal forms will be used to compile the Breakdown of Contract Price in any resulting Agreement as adjusted if necessary during evaluation or negotiation. The Breakdown of Contract Price will determine prices for any additional Services or costs.
- 15.6 Where commissions and gratuities have or shall be paid by the Consultant in relation to the assignment these shall be listed in the Financial Proposal Submission Sheet.

16. Proposal Prices

- 16.1 Prices quoted by the Consultant shall be fixed during the Consultant's performance of the Contract and not subject to variation on any account, unless otherwise specified in the PDS. A proposal submitted with an adjustable price quotation shall be treated as non-responsive and shall be rejected, pursuant to ITC Clause 30. However, if in accordance with the PDS, prices quoted by the Consultant shall be subject to adjustment during the performance of the Contract, a proposal submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

17. Currencies of Proposal

- 17.1 Unless otherwise specified in the PDS, proposal prices shall be quoted in the following currencies:
- (a) for Services originating in Eswatini, the proposal prices shall be quoted in Eswatini currency (Lilangeni), unless otherwise specified in the PDS; and
 - (b) for Services originating from outside Eswatini, the proposal prices shall be quoted in the currency of the expense or in the currency of the Consultant's country.



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- 17.2 If a Consultant wishes to be paid in a currency or a combination of currencies different from the one in which it was requested to express its quotation, it shall as part of its offer:
- (a) indicate its requirement to be paid in other currencies, including the amount in each currency or the percentage of the quoted price corresponding to each currency;
 - (b) justify, to ECESWA satisfaction, the requirement to be paid in the currencies requested; and
 - (c) utilise the rate of exchange specified by ECESWA to express its offer in the currency required by ECESWA. The source, date, and type of exchange rate to be used is indicated in ITC Clause 35.

18. Documents Establishing the Eligibility of the Consultant

18.1 To establish their eligibility in accordance with ITC Clause 4, Consultants shall complete the eligibility declarations in the Technical Proposal Submission Sheet, included in Section 4, Proposal Forms and submit the documents required in Section 3, Evaluation Methodology and Criteria.

19. Documents Establishing the Qualifications of the Consultant

To establish its qualifications to perform the Contract, the Consultant shall submit any evidence specified in Section 3, Evaluation Methodology and Criteria.

20. Period of Validity of Proposals

- 20.1 Proposals shall remain valid until the date specified in the PDS. A proposal valid for a shorter period shall be rejected by the Procuring Entity as non-compliant.
- 20.2 During this period, the Consultant is expected to keep available the professional staff proposed for the assignment. ECESWA will make its best effort to complete the procurement process within this period.
- 20.3 In exceptional circumstances, prior to the expiration of the proposal validity period, ECESWA may request Consultants to extend the period of validity of their proposals. The request and the responses shall be made in writing. If a Proposal Securing Declaration is requested in accordance with ITC Clause 21, it shall also be extended for a corresponding period. A Consultant may refuse the request without being liable for execution of its Proposal Securing Declaration. A Consultant granting the request shall not be required or permitted to modify its proposal.

21. Proposal Securing Declaration

- 21.1 The Consultant shall furnish as part of its proposal a Proposal Securing Declaration, in original form if specified in the PDS.
- 21.2 The Proposal Securing Declaration shall be submitted using the Form included in Section 4, Proposal Forms. The Proposal Securing Declaration shall be valid until the date specified in the PDS.
- 21.3 Any proposal not accompanied by a substantially responsive Proposal Securing Declaration, if one is required in accordance with ITC Clause 21, shall be rejected by the Procuring Entity as non-compliant.
- 21.4 The Proposal Securing Declaration of all consultants shall be returned as promptly as possible once the successful consultant has signed the Contract or upon request by the unsuccessful consultant after publication of the notice of best evaluated consultant.



21.5 A Consultant's Proposal Submission may be rejected by ECESWA from participating in the procurement:

- (a) if a Consultant withdraws its proposal during the period of proposal validity specified by the Consultant on the Proposal Submission Sheet, except as provided in ITC Sub-Clause 20.3; or
- (b) if the successful Consultant fails to:
 - (i) sign the Contract in accordance with ITC Clause 43;
 - (ii) furnish any Performance Security if required in accordance with ITC Clause 45; or
 - (iii) accept the correction of its proposal price pursuant to ITC Sub-Clause 31.5

22. Format and Signing of Proposal

22.1 The Consultant shall prepare one original of each of the documents comprising the technical and the financial proposal as described in ITC Clauses 14 and 15 and clearly mark both "ORIGINAL". In addition, the Consultant shall submit copies of both the technical and financial proposals, in the number specified in the PDS and clearly mark each of them "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail.

22.2 The original and all copies of the proposal shall be typed or written in indelible ink and shall be signed by a person duly authorised to sign on behalf of the Consultant.

The name and position held by each person signing the authorisation must be clearly written below the signature. All pages of the proposal, except for unamended printed literature, shall be signed or initialled by the person signing the proposal.

22.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the proposal.

D. Submission and Opening of Proposals

23. Sealing and Marking of Proposals

23.1 The original and all copies of the technical proposal shall be placed in a sealed envelope clearly marked "Technical Proposal," and the original and all copies of the financial proposal in a separate sealed envelope clearly marked "Financial Proposal". The envelopes shall be securely sealed in such a manner that opening and resealing cannot be achieved undetected.

23.2 The envelopes containing the technical and financial proposals shall:

- (a) bear the name and address of the Consultant;
- (b) be addressed to the Procuring Entity in accordance with ITC Clause 24.1; and
- (c) bear the Procurement Reference Number of this procurement process.

23.3 The financial proposal shall also bear a warning "Do Not Open with the technical proposal".

23.4 The two envelopes shall be placed in an outer envelope which shall be securely sealed in such a manner that opening and resealing cannot be achieved undetected.

23.5 The outer envelope shall:

- (a) bear the name and address of the Consultant;
- (b) be addressed to ECESWA in accordance with ITC Sub-Clause 24.1;
- (c) bear the Procurement Reference number of this procurement process; and



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- (d) bear a warning not to open before the time and date for proposal opening, in accordance with ITC Sub-Clause 24.1.

23.6 If all envelopes are not sealed and marked as required, ECESWA will assume no responsibility for the misplacement or premature opening of the proposal.

24. Deadline for Submission of Proposals

24.1 Proposals must be received by ECESWA at the address and no later than the date and time indicated in the PDS.

24.2 ECESWA may, at her discretion, extend the deadline for the submission of proposals by amending the Request for Proposals Document in accordance with ITC Clause 8, in which case all rights and obligations of ECESWA and Consultants previously subject to the deadline shall thereafter be subject to the deadline as extended.

25. Late Proposals

The Procuring Entity shall not consider any proposal that arrives after the deadline for submission of proposals, in accordance with ITC Clause 24. Any proposal received by the Procuring Entity after the deadline for submission of proposals shall be declared late, rejected, and returned unopened to the Consultant.

26. Withdrawal and Replacement of Proposals

26.1 A Consultant may withdraw or replace its proposal after it has been submitted at any time before the deadline for submission of proposals by sending a written notice, duly signed by an authorised representative, which shall include a copy of the authorisation in accordance with ITC Sub-Clause 22.2. Any corresponding replacement of the proposal must accompany the respective written notice. All notices must be:

- (a) submitted in accordance with ITC Clauses 22 and 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL” or “REPLACEMENT”; and
- (b) received by ECESWA prior to the deadline prescribed for submission of proposals, in accordance with ITC Clause 24.

26.2 Proposals requested to be withdrawn in accordance with ITC Sub-Clause 26.1 shall be returned unopened to the Consultant.

26.3 No proposal may be withdrawn or replaced in the interval between the deadline for submission of proposals and the expiration of the period of proposal validity specified by the Consultant on the Proposal Submission Sheet or any extension thereof.

26.4 Proposals may only be modified by withdrawal of the original proposal and submission of a replacement proposal in accordance with ITC Sub-Clause 26.1. Modifications submitted in any other way shall not be taken into account in the evaluation of proposals.

27. Proposal Opening

27.1 ECESWA shall conduct the proposal opening in the presence of Consultants` designated representatives who choose to attend, at the address, date and time specified in the PDS.

27.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding proposal shall not be opened but returned to the Consultant. No proposal withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at the proposal opening.



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- 27.3 All other outer envelopes including those marked “REPLACEMENT” shall be opened and the technical proposals within them opened. Replacement proposals shall be recorded as such on the record of the proposal opening.
- 27.4 All technical proposals shall be opened one at a time, reading out: the name of the Consultant; the presence of a Proposal Securing Declaration, if required; and any other details as the ECESWA may consider appropriate. No proposal shall be rejected at the proposal opening except for late proposals, in accordance with ITC Sub-Clause 25.1.
- 27.5 Only envelopes that are opened and read out at the proposal opening shall be considered further.
- 27.6 The financial proposals shall remain sealed until the time and date notified for the opening of the financial proposals. Evaluators of technical proposals shall have no access to the financial proposals until the detailed evaluation is concluded and the result established.
- 27.7 ECESWA shall prepare a record of the proposal opening that shall include, as a minimum: the name of the Consultant, the presence or absence of a Proposal Securing Declaration where required and any other information that is required to be stated at the public opening as indicated in the request for proposals. The Consultants’ representatives who are present shall be requested to sign the record. The omission of a Consultant’s signature on the record shall not invalidate the contents and effect of the record.

E. Evaluation of Proposals

28. Confidentiality

- 28.1 Information relating to the examination, evaluation, comparison, and post-qualification of proposals, and recommendation of contract award, shall not be disclosed to Consultants or any other persons not officially concerned with such process until information detailing the Best Evaluated Consultant is communicated to all Consultants.
- 28.2 Any effort by a Consultant to influence the ECESWA in the examination, evaluation, comparison, and post-qualification of the proposals or contract award decisions may result in the rejection of its proposal.
- 28.3 Notwithstanding ITC Clause 28.2, from the time of proposal opening to the time of Contract award, if any Consultant wishes to contact ECESWA on any matter related to the procurement process, it should do so in writing.

29. Clarification of Proposals

To assist in the examination, evaluation, comparison and post-qualification of the proposals, the ECESWA may, at its discretion, ask any Consultant for a clarification of its proposal. Any clarification submitted by a Consultant that is not in response to a request by the ECESWA shall not be considered. ECESWA’s request for clarification and the response shall be in writing. The request for clarification shall be copied to all Consultants for information purposes. No change in the price or substance of the proposal shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by ECESWA in the evaluation of the financial proposals, in accordance with ITC Clause 31.4.

30. Compliance and Responsiveness of Proposals

- 30.1 ECESWA’s determination of a proposal’s compliance and responsiveness shall be based on the contents of the proposal itself.



- 30.2 A substantially compliant and responsive proposal is one that conforms to all the terms, conditions, and requirements of the Request for Proposals Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) is inconsistent with the request for proposal and which may limit in any substantial way, the rights of the procuring entity or the obligations of the consultant under the contract;
 - (b) if corrected would unfairly affect the competitive position of the other consultants whose proposals are administratively compliant; or
 - (c) impacts the key factors of a procurement including cost, risk, time and quality and causes unacceptable -
 - (i) time schedules, where it is stated in the request for proposals that time is of the essence;
 - (ii) alternative technical details, such as design, materials, workmanship, specifications, standards or methodologies; or
 - (iii) counter proposals with respect to key contract terms and conditions, such as payment terms, price adjustment, liquidated damages, sub-contracting or warranty.
- 30.3 If a proposal is not substantially compliant and responsive to the Request for Proposals Document, it shall be rejected by ECESWA and may not subsequently be made compliant and responsive by the Consultant by correction of the material deviation, reservation, or omission.

31. Nonconformities, Errors, and Omissions

- 31.1 Provided that a proposal is substantially compliant and responsive, ECESWA may waive any non-conformity or omission in the proposal that does not constitute a material deviation.
- 31.2 Provided that a proposal is substantially compliant and responsive, ECESWA may request that the Consultant submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the proposal related to documentation requirements. Such omission shall not be related to any aspect of the price of the proposal. Failure of the Consultant to comply with the request may result in the rejection of its proposal.
- 31.3 Provided that a proposal is substantially compliant and responsive, ECESWA shall rectify nonmaterial nonconformities or omissions. To this effect, the proposal price may be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component.
- 31.4 Provided that the proposal is substantially compliant and responsive, ECESWA shall correct arithmetic errors on the following basis:
- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of ECESWA there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 31.5 If the Consultant that submitted the best evaluated bid does not accept the correction of errors, its proposal shall be rejected.



32. Preliminary Examination of Proposals – Eligibility and Administrative Compliance

- 32.1 ECESWA shall examine the legal documentation and other information submitted by Consultants to verify the eligibility of Consultants in accordance with ITC Clause 4.
- 32.2 If after the examination of eligibility, ECESWA determines that the Consultant is not eligible, it shall reject the proposal.
- 32.3 ECESWA shall examine the technical proposals to confirm that all documents and technical documentation requested in ITC Clause 14 has been provided, and to determine the completeness of each document submitted.
- 32.4 ECESWA shall confirm that the following documents and information have been provided in the technical proposal. If any of these documents or information is missing, the offer shall be rejected.
- (a) Technical Proposal Submission Sheet, including:
 - (i) a brief description of the services offered; and
 - (ii) the correct validity date of the proposal
 - (b) separately sealed financial proposal;
 - (c) written confirmation of authorisation to commit the Consultant; and
 - (d) a Proposal Securing Declaration, if required.

33. Detailed Evaluation

- 33.1 The Procuring Entity shall technically evaluate the proposals on the basis of the Consultant's responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and methodology specified in Section 3. A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference or if it fails to achieve any minimum technical score indicated in Section 3.
- 33.2 The Procuring Entity may, where so indicated in the PDS, conduct interviews with the key staff stated in the PDS. The expected method and date of interview shall be as indicated in the PDS. All costs associated with any interviews shall be for the account of the consultant(s) concerned. Consultants shall be provided with adequate notice of any interviews planned.
- 33.3 The proposals proceeding to the financial evaluation shall be determined in accordance with the methodology and criteria specified in Section 3.

34. Opening of Financial Proposals

- 34.1 After the detailed evaluation is completed, ECESWA shall notify those Consultants whose proposals did not qualify for the financial opening, indicating reasons why their proposal was disqualified and that their financial proposals will be returned unopened after of at least 10 working days from display of the best evaluated consultant notice.
- 34.2 ECESWA shall simultaneously notify the Consultant(s) whose proposals passed the technical evaluation stage, indicating the date and time set for the opening of financial proposal(s). The opening date shall not be sooner than one week after the notification date. The notification will be sent in writing.
- 34.3 The financial proposal(s) shall be opened in the presence of the Consultants' representatives who choose to attend. The name of the Consultant, the technical score, and the proposal price(s) shall be read out and recorded when the financial proposal(s) are opened. The Procuring Entity shall prepare minutes of the public opening.

35. Conversion to Single Currency



For evaluation and comparison purposes, ECESWA shall convert all proposal prices expressed in the amounts in various currencies into a single currency, using the selling exchange rate established by the source and on the date fourteen days prior to the deadline for closing of proposals. Should this date be a non-working day the selling exchange rate on the date prior to this non-working day shall be used for currency conversion or as otherwise specified in the PDS.

36. Margin of Preference

36.1 Unless otherwise specified in the PDS, a margin of preference shall apply. Where a Margin of Preference applies, its application and detail shall be specified in Section 3, Evaluation Methodology and Criteria.

37. Financial Comparison of Proposals

37.1 ECESWA shall financially compare each financial proposal that has been opened.

37.2 To financially evaluate a proposal, ECESWA shall only use the criteria and methodologies defined in this Clause and in Section 3, Evaluation Methodology and Criteria. No other criteria or methodology shall be permitted.

37.3 In the calculation of the evaluated price of each proposal, ECESWA shall include the costs stated in Section 3, Evaluation Methodology and Criteria.

37.4 To determine the evaluated price, ECESWA shall consider the following:

- (a) the proposal price;
- (b) price adjustment for correction of arithmetic errors in accordance with ITC Sub-Clause 31.4;
- (c) adjustment for non-conformities and omissions in accordance with ITC Sub-Clause 31.3; and
- (d) adjustments due to the application of a margin of preference, in accordance with ITC Clause 36.

38. Determination of Best Evaluated Proposal

ECESWA shall compare all substantially compliant and responsive proposals to determine the best evaluated bid/proposal, in accordance with Section 3, Evaluation Methodology and Criteria.

39. Post-qualification of the Consultant

39.1 If so stated in Section 3, ECESWA shall determine to its satisfaction whether the Consultant that is selected as having submitted the best evaluated proposal is qualified to perform the Contract satisfactorily.

39.2 The determination shall be based upon an examination of the documentary evidence of the Consultant's qualifications submitted by the Consultant, pursuant to ITC Clause 19, to clarifications in accordance with ITC Clause 29 and the qualification criteria indicated in Section 3, Evaluation Methodology and Criteria. Factors not included in Section 3 shall not be used in the evaluation of the Consultant's qualifications.

39.3 An affirmative determination shall be a prerequisite for award of the Contract to the Consultant. A negative determination shall result in disqualification of the proposal, in which event the ECESWA shall proceed to the next best evaluated proposal to make a similar determination of that Consultant's capabilities to perform satisfactorily.



39.4 If pre-qualification has been conducted, no post-qualification will be conducted but pre-qualification information shall be verified.

40. Negotiations

40.1 Negotiations may be held with the best evaluated Consultant following the evaluation of proposals.

40.2 The cost of any negotiations or technical discussions shall be borne by the respective parties themselves.

F. Award of Contract

41. Award Procedure

41.1 ECESWA shall issue an Intention to Award for publication by ESPPRA after a decision of the Entity Tender Board to award a contract which shall also be published on ECESWA's website with a standstill period on 10 working days.

41.2 ECESWA shall not award a contract to the best evaluated consultant until the lapse of ten days after the date of display of the notice of the best evaluated consultant.

41.3 ECESWA shall award the Contract to the Consultant whose offer has been determined to be the best evaluated proposal, provided that the Consultant is qualified to perform the Contract satisfactorily and subject to satisfactory negotiations.

42. Procuring Entity's Right to Accept or Reject Any or All Proposals

ECESWA reserves the right to accept or reject any proposal, and to annul the procurement process and reject all proposals at any time prior to contract signature and issue by ECESWA, without thereby incurring any liability to Consultants.

43. Signing and effectiveness of the Contract

43.1 On expiry of the ten working days after the date of display of the Notice of the Tender Award and ECESWA shall sign a contract with the successful Consultant.

43.2 Failure by the successful Consultant to sign the contract shall constitute sufficient ground for annulment of the contract award.

43.3 Effectiveness of the Contract shall be subject any conditions specified in the Contract.

44. Debriefing

Where a Consultant requests information on the reasons for their success or failure of their proposal, ECESWA shall give the Consultant a written debrief after the signing of the contract.

45. Procurement Related Complaints and Administrative Review

45.1 The procedures for making a Procurement-related Complaint are as **specified in the BDS**.

46. Abnormal Low and Abnormally High Prices

46.1 Abnormally Low Prices

46.1.1 An Abnormally Low Price is one where the financial price, in combination with



other constituent elements of the proposal, appears unreasonably low to the extent that the price raises material concerns with the Procuring Entity as to the capability of the Consulting firm to perform the Contract for the offered price.

46.1.2 In the event of identification of a potentially Abnormally Low Price by the evaluation committee, the Procuring Entity shall seek written clarification from the firm, including a detailed price analyses of its price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risks and responsibilities and any other requirements of the RFP document.

46.1.3 After evaluation of the price analyses, if the Procuring Entity determines that the firm has failed to demonstrate its capability to perform the contract for the offered price, the Procuring Entity shall reject the firm's proposal.

46.2 Abnormally High Prices

46.2.1 An abnormally high price is one where the proposal price, in combination with other constituent elements of the proposal, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Consultants is compromised.

46.2.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct, and review the RFP to check if the Terms of Reference, scope of work and conditions of contract are contributory to the abnormally high proposals. The Procuring Entity may also seek written clarification from the Consultants on the reason or the high proposal price. The Procuring Entity shall proceed as follows:

- i) If the proposal price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the proposal depending on the Procuring Entity's budget considerations.
- ii) If Terms of Reference, scope of work and/or conditions of contract are contributory to the abnormally high proposal prices, the Procuring Entity shall reject all proposals and may re-invite for proposals for the contract based on revised estimates, Terms of Reference, scope of work and conditions of contract.

46.2.3 If the Procuring Entity determines that the Proposal Price is abnormally too high because genuine competition between Consultants is compromised (often due to collusion, corruption or other manipulations), the Procuring Entity shall reject all Proposals and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before re-inviting for proposals.



Section 2: Proposal Data Sheet

Instructions to Consultants Reference	Data relevant to the ITC
A. General	
ITC 1.1	The Procuring Entity is: Examinations Council of Eswatini (ECESWA)
ITC 1.3	Subject: The subject of the procurement is: Consultancy Services for Conducting Salary Review Exercise
ITC 1.3	Reference: The Procurement Reference Number is: ECESWA 08 of 2024/2025
ITC 4.2	Joint Ventures: The individuals or firms in a joint venture, consortium or association <i>shall</i> be jointly and severally liable.
ITC 5.4	Downstream work: The Procuring Entity <i>shall</i> envisage the need for continuity for downstream work.
B. Request for Proposals Document	
ITC 7	<p>Clarification: For clarification purposes only, ECESWA's address is: Attention : Procurement P. O. Box 1394 Mbabane Email : procurement@examsCouncil.org.sz / manesi.c@examsCouncil.org.sz</p> <p>The Procuring Entity will respond to any request for clarification provided that such request is received no later than 05th July 2024.</p>
C. Preparation of Proposals	
ITC 10.1	Medium: The medium of communication shall be in writing.
ITC 11.1	Submission Method: The proposal submission method shall be: Proposals Submissions shall be deposited in the Tender Box located at Reception, Examinations Council of Eswatini, Ngonini Road, Ezulwini next to Mahlanganisa Township
ITC 11.2	Pre-Proposal meeting: N/A
ITC 12.1	Association: Short-listed Consultants shall not be permitted to associate with individual Consultants or other Consultants or entities in a joint venture.
ITC 12.2	Prior to granting approval to enter into a joint venture, ECESWA shall conduct an assessment of Consultants not invited for this assignment.
ITC 13.1	Estimated Man Months: The estimated number of professional staff-months required for the assignment is: 2 man months.



Instructions to Consultants Reference	Data relevant to the ITC
ITC 17.1 (a)	Currency: For Services originating in Eswatini, the currency of the proposal shall be local currency which is Lilangeni (SZL)
ITC 20.1	Validity: Proposals must remain valid until 90 days
ITC 21.1	Proposal Securing Declaration: A Proposal Securing Declaration <i>shall not</i> be required.
ITC 22.1	Number of Copies: In addition to the original of the technical and financial proposal, the number of copies of each required is: Four (4) copies
ITC 22.2	Form of Authorisation: Power of Attorney registered with the Registrar of Documents if signed in Eswatini or a Notarised Power of Attorney if signed outside Eswatini.
D. Submission and Opening of Proposals	
ITC 24.1	<p>Proposal Submission: For proposal submission purposes only, the Procuring Entity's address is :</p> <p>Examination Council of Eswatini Street Address: Ngonini Road Floor/Room number: Reception Town/City: Ezulwini Country: Eswatini The deadline for proposal submission is: Date: 18 July 2024 Time (local time): 12:00 Noon.</p>
ITC 27.1	Proposal Opening: The proposal opening for the technical proposal shall take place at: Examinations Council of Eswatini on 18th July 2024 at 12:10 PM
E. Evaluation of Proposals	
ITC 35	<p>Exchange Rate: The currency that shall be used for financial comparison purposes to convert all proposal prices expressed in various currencies into a single currency is: Lilangeni (SZL).</p> <p>The source of exchange rate shall be: Central Bank of Eswatini. The date for the exchange rate shall be: 5th July, 2024</p>
ITC 36.1	<p>Margin of Preference: A margin of preference <i>shall</i> apply.</p> <p>If a margin of preference applies, the application methodology and the level of margin shall be as stated in Section 3, Evaluation Methodology and Criteria.</p>
ITC 45.1	<p>The procedures for making a Procurement-related Complaint are detailed in the ESPPRA website https://esppra.co.sz</p> <p>If a Consultant wishes to make a Procurement-related Complaint, the Consultant shall submit its complaint following these procedures, in writing (by the quickest means available, that is by email), to: procurement@examsCouncil.org.sz</p>



Instructions to Consultants Reference	Data relevant to the ITC
	<p>Title/position: <i>Chief Executive Officer</i></p> <p>Procuring Entity: <i>Examinations Council of Eswatini</i></p> <p>Email address: procurement@examsCouncil.org.sz</p> <p>In summary, a Procurement-related Complaint may challenge any of the following:</p> <ol style="list-style-type: none"> 1. the terms of the Bidding Documents; and 2. the Procuring Entity’s decision to award the contract.



Section 3. Evaluation Methodology and Criteria

A Evaluation Methodology

1. Methodology Used

The evaluation methodology to be used for the evaluation of proposals received shall be:

Quality and Cost Based Selection (QCBS): *The procuring entity shall select the quality and cost-based selection method as the preferred method to be used in evaluating proposals. This implies that the proposal is judged on its quality and pricing (quality-price oriented)*

2. Summary of Methodology

The evaluation shall be conducted in three sequential stages –

- (a) a preliminary examination to determine the eligibility of consultants and the administrative compliance of bids received;
- (b) a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant proposals; and
- (c) a financial comparison to compare costs of the eligible, compliant, responsive proposals received and determine the best evaluated bid.

Failure of a proposal at any stage of the evaluation shall prevent further consideration at the next stage of evaluation.

B Preliminary Examination Criteria

3. Eligibility Criteria

3.1 The eligibility requirements shall be determined for: -

- (a) Eligible Consultants in accordance with ITB Clause 4 and Section 40 of the Public Procurement Act, 2011; and

3.2 The documentation required to provide evidence of eligibility shall be: -

- (i) Original and valid Tax Compliance Certificate **or equivalent for foreign firms**
- (ii) Certified Copy of Certificate of Incorporation **or equivalent for foreign firms**
- (iii) Trading License **or equivalent for foreign firms**
- (iv) Certified Copy of Labour Compliance Certificate **or equivalent for foreign**
- (v) Certified Copy of Eswatini National Provident Fund Certificate **or Equivalent**
- (vi) Police Clearance Certificate **or equivalent for foreign firms**
- (vii) Form J for Company Directors and Form C for shareholding **or equivalent for foreign firms**
- (viii) Signed Declaration of Eligibility

The purpose of the documents are explained on the table below:

Part 2: Section 3. Evaluation Methodology and Criteria

	Eligibility Requirement	Documentary Evidence to be Provided by the Consultant
(a)	The Consultant has legal capacity to enter into the contract	1. Certificate of Incorporation or Registration 2. Trading License for the current year
(b)	The Consultant is not insolvent, in receivership, bankrupt or being wound up, its affairs are not being administered by a court or a judicial officer, its business activities have not been suspended, and it is not the subject of legal proceedings for any of the foregoing	A Declaration of Eligibility
(c)	The Consultant has fulfilled its obligations to pay taxes	Tax Compliance Certificate issued by Tax Regulator
(d)	The Consultant has fulfilled its obligations to social security contributions	Labour Compliance Certificate <i>[for Swati firms]</i> or equivalent Social Security Compliance Certificate or equivalent <i>[for foreign firms]</i>
(e)	The Consultant adheres to basic labour legislation	Eswatini National Provident Fund Compliance Certificate <i>[for Swati firms only]</i> or equivalent
(f)	The Consultant does not have a conflict of interest in relation to the procurement requirement	Declaration of Eligibility
(g)	The Consultant, or any of its directors or officers, have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of five years preceding the commencement of procurement proceedings	A Police Clearance Certificate or equivalent
(f)	The Consultant is not subject to suspension in accordance with section 55 [of the Public Procurement Act, 2011] ¹ , and none of its directors or officers have been involved in a tenderer or supplier currently subject to suspension	Not under suspension by Procurement Regulatory Agency
(g)	Ownership of Firm	Form J and Form C
(h)	Payment of Tender Fee	Proof of Payment

¹ Refers to suspension by the Eswatini Public Procurement Regulatory Agency

Part 2: Section 3. Evaluation Methodology and Criteria

- 3.3 A Power of Attorney which if signed in Eswatini shall be registered; or if signed outside Eswatini shall be notarized authorising signature of the bid on behalf of the Consultant.
- 3.4 For a Joint Venture, the documentation in Section 3.2 shall be required for each member of the Joint Venture and the following additional documentation shall be required:
- (a) a certified copy of the Joint Venture Agreement or letter of intent to enter into such an agreement, which is legally binding on all partners, showing that:
 - (i) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (ii) one of the partners will be nominated as being in charge, and receive instructions for and on behalf of any and all partners of the joint venture; and
 - (iii) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
 - (b) a Power of Attorney from each member of the JV nominating a Representative in the JV and a Power of Attorney from the JV nominating a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.

4. Administrative Compliance Criteria

The evaluation of Administrative Compliance shall be conducted in accordance with ITB Sub-Clauses 32.3 and 32.4

C Detailed Technical Evaluation Criteria

5. Technical Evaluation Criteria

- 5.1 Technical responsiveness shall be evaluated in accordance with ITB Clause 33.
- 5.2 The Terms of Reference in the Statement of Requirements details the minimum technical requirements expected from the consultant. The Criteria, sub-criteria, and point system for the evaluation of the Technical Proposals shall be as follows:

The minimum technical score required to pass the technical evaluation is **70** points.

D Financial Comparison Criteria

6. Financial Proposals for QCBS

Following the ranking of the Technical Proposals, and after internal approvals, the Procuring Entity shall simultaneously notify in writing those Consultants whose Proposals were considered responsive to the RFP and TOR, and that have achieved the minimum qualifying technical score, advising them the following:

- (ix) their Proposal was responsive to the RFP and TOR and met the minimum qualifying technical score;
- (x) provide information relating to the Consultant's overall score, as well as scores obtained for each criterion and sub-criterion,
- (xi) their financial proposal will be opened for qualifying Consultants.

7. Combined Quality and Cost Evaluation

a. Quality and Cost Based Selection (QCBS) Methodology

In the case of Quality and Cost Based Selection (QCBS), the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions below. The Consultant that achieves the highest combined technical and financial score will be notified and invited for negotiations.

The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100.

The formula for determining the financial scores (Sf) of all other Proposals is calculated as following:

$Sf = 100 \times Fm / F$, in which "Sf" is the financial score, "Fm" is the lowest price, and "F" the price of the proposal under consideration.

The weights given to the Technical (T) and Financial (P) Proposals are:

T = 70, and

P = 30

Proposals are ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following:

$S = St \times T\% + Sf \times P\%$.

Section 4. Proposal Forms

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4.1 Technical Proposal – Standard Forms

- 4.1.1 Technical Proposal Submission Sheet.
- 4.1.2 Consultant’s References.
- 4.1.3 Comments and Suggestions on the Terms of Reference.
- 4.1.4 Description of the Methodology for performing the Assignment.
- 4.1.5 Team Composition and Task Assignments.
- 4.1.6 Format of Curriculum Vitae for Proposed Professional Staff.
- 4.1.7 Confirmation of availability of professional staff
- 4.1.8 Estimated Time Schedule for Professional Staff.
- 4.1.9 Activity (Work) Schedule.
- 4.1.10 Proposal Securing Declaration

4.2 Financial Proposal - Standard Forms

- 4.2.1 Financial Proposal Submission Sheet.
- 4.2.2 Summary of Proposal Price (Breakdown of Lump Sum).
- 4.2.3 Breakdown of Fees.
- 4.2.4 Breakdown of Reimbursables.
- 4.2.5 Breakdown of Miscellaneous Expenses.



Part 2: Section 3. Evaluation Methodology and Criteria

This Proposal Submission Sheet should be on the letterhead of the Consultant and should be signed by a person with the proper authority to sign documents that are binding on the Consultant. It should be included by the Consultant in its technical proposal]

4.1.1 Technical Proposal Submission Sheet

Date: *[insert date (as day, month and year) of proposal submission]*

Procurement Reference No: *[insert Procurement Reference number]*

To: *[insert complete name of Procuring Entity]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Request for Proposals Document, including Addenda No.: *[insert the number and issuing date of each Addenda]*;
- (b) We offer to provide the services in conformity with the Request for Proposals Document for the *[insert a brief description of the Services]*;
- (c) We hereby submit our proposal which includes this technical proposal, and a financial proposal sealed under a separate envelope;
- (d) Our proposal shall be valid until the date specified in ITC Clause 20.1 and it shall remain binding upon us and may be accepted at any time before and including that date;
- (e) We, including any subcontractors or consultants for any part of the contract resulting from this procurement process, are eligible to participate in public procurement in accordance with ITC Clause 4.1;
- (f) We, including any associates, Joint Venture partners or Sub contractors for any part of the contract, have nationals from eligible countries *[insert the nationality of the Consultant, including that of all parties that comprise the Consultant, if the Consultant is a Joint Venture, consortium or association, and the nationality of each subcontractor]*;
- (g) We have signed and undertake to abide by the Code of Ethical Conduct for Consultants attached during the procurement process and the execution of any resulting contract;
- (h) We are not participating, as Consultants, in more than one proposal in this procurement process;
- (i) We, including any subcontractors or consultants, do not have any conflict of interest and have not participated in the preparation of the original project for the Procuring Entity;
- (j) We, our affiliates or subsidiaries—including any subcontractors for any part of the contract—have not been debarred by ESPPRA from participating in public procurement;
- (k) Our Proposal is binding upon us, subject to modifications agreed during any contract negotiations, and we undertake to negotiate on the basis of the staff proposed in our Proposal;
- (l) We understand that this Proposal, shall not be binding on the Entity until a formal contract is prepared and executed;

We understand that you are not bound to accept the lowest proposal or any other proposal that you may receive;

Signed: *[signature of person whose name and capacity are shown below]*

Name: *[insert complete name of person signing the Proposal]*

In the capacity of *[insert legal capacity of person signing the proposal]*



Part 2: Section 3. Evaluation Methodology and Criteria

Duly authorised to sign the proposal for and on behalf of: *[insert complete name of Consultant]*

Dated on _____ day of _____, _____ *[insert date of signing]*

The information requested is required in the format provided below and should be included by the Consultant in its proposal]

4.1.2 Consultant’s References

Relevant services carried out in the last years (Insert number of years required) that best illustrate experience.

Using the format below, provide information on each assignment for which the Consultant, either individually as a corporate entity or as one of the major companies within an association, was legally contracted.

Consultant’s Name: _____

Assignment name:		Country:
Location within country:		Professional Staff provided by consultant (profiles):
Name of client:		Nº of staff:
Address:		Nº of Staff-Months; Duration of assignment:
Start date (Month/Year):	Completion date (Month/Year):	Approx. Value of services (in Currency SZL):
Name of Associated Consultants, if any:		Nº of Months of Professional Staff provided by Associated Consultants:
Name of senior staff (Project Director/Coordinator, Team Leader) involved and functions performed:		
Narrative description of Project:		
Description of actual services provided by your Staff:		

[The information requested is required in the format provided below and should be included by the Consultant in its proposal. If none, include form and state “None”]



4.1.3 Comments and Suggestions on the Terms of Reference

[Comments and suggestions on the Terms of Reference that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Client, including: administrative support, office space, local transportation, equipment, data, etc.]

A - On the Terms of Reference

{Improvements to the Terms of Reference, if any }

B - On Counterpart Staff and Facilities

{Comments on counterpart staff and facilities to be provided by the Client. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any }

4.1.4 Description of the Methodology for performing the Assignment

A description of the approach, methodology and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

{Suggested structure of your Technical Proposal }:

- a) Technical Approach and Methodology
- b) Work Plan
- c) Organization and Staffing }

a) **Technical Approach and Methodology.** {Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TORs in here. }

b) **Work Plan.** {Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form. }

c) **Organization and Staffing.** {Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff. }



The information requested is required in the format provided below and should be included by the Consultant in its proposal]

4.1.5. Team Composition and Task Assignments

1. Technical/Managerial Staff		
Name	Position	Task(s)

2. Support Staff		
Name	Position	Task(s)



[The information requested is required in the format provided below and should be included by the Consultant in its proposal]

4.1.6 Format of Curriculum Vitae for Proposed Professional Staff

CURRICULUM VITAE (CV)

Position Title and No.	{e.g., A-1, TEAM LEADER}
Name of Expert:	{Insert full name}
Date of Birth:	{day/month/year}
Country of Citizenship/Residence	

Education: {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

Period	Employing organization and your title/position. Contact information for references	Country	Summary of activities performed relevant to the Assignment
[e.g., May 2000-present]	[e.g., Ministry of, advisor/consultant to... For references: Tel...../e-mail.....; Mr. A2 , Project manager]		

Membership in Professional Associations and Publications:

Language Skills (indicate only languages in which you can work): _____

Adequacy for the Assignment:

Detailed Tasks Assigned on Consultant’s Team of Experts:	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks
{List all deliverables/tasks as in TECH-5 in which the Expert will be involved}	

Expert’s contact information: (e-mail....., phone.....)

Certification:



I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Client, and/or sanctions by the Bank.

{ day/month/year }

Name of Expert
Date

Signature

{ day/month/year }

Name of authorized
Date

Signature

Representative of the Consultant
(the same who signs the Proposal)

4.1.7 Format for confirmation of availability of Key Professional Staff

Subject of procurement :		Procurement reference number	
--------------------------	--	------------------------------	--

Consultant	
------------	--

List of key professional staff	Competencies of key professional staff	Percentage of time for which key staff shall be available



Confirmation

I(insert name of consultant) hereby certify that the staff described above shall be available as indicated

Signature: _____ Name: _____

[The information requested is required in the format provided below and should be included by the Consultant in its proposal. Consultants may reproduce this format in landscape format if more practical but are responsible for its accurate reproduction.]

4.1.8 Estimated Time Schedule for Professional Staff

Name	Position	Reports Due/Activities	Months (in the Form of a Bar Chart)												Number of Months		
			1	2	3	4	5	6	7	8	9	10	11	12			
																	Subtotal (1)
																	Subtotal (2)
																	Subtotal (3)

Full-time: _____ Part-time: _____

Signature: _____

(Authorised Representative)

Full Name: _____ Title: _____

Consultant: _____

1. Inception Report	
2. Interim Progress Reports	
(a) First Status Report	
(b) Second Status Report	
3. Draft Final Report	
4. Final Report	
5. Other Deliverables	



4.1.10 Proposal Securing Declaration

[The Consultant shall fill in this Form in accordance with the instructions indicated. If the Consultant is a Joint Venture, Consortium or Association the Proposal Securing Declaration must be in the name of the Joint Venture, Consortium or Association that submits the proposal. If the Joint Venture has not been legally constituted at the time of bidding, the Proposal Securing Declaration shall be in the names of all future partners as named in the letter of intent]

Date: *[insert date (as day, month and year) of Proposal Submission]*

Procurement Reference No.: *[insert reference number of selection process]*

To: *[insert complete name of Procuring Entity]*

I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, proposals must be supported by a Proposal Securing Declaration.
2. I/We accept that I/we may be debarred for three years by the Agency from being eligible for bidding in any contract with the Government of Eswatini, if we are in breach of our obligation(s) under the Request for Proposals conditions, because we:
 - a. have withdrawn our proposal during the period of proposal validity specified by us in the Technical Proposal Submission Sheet, except as provided in ITC Sub-Clause 20.3; or
 - b. having been notified of the acceptance of our proposal by the Procuring Entity, during the period of proposal validity, fail or refuse to:
 - (i) sign the Contract in accordance with ITC Clause 43;
 - (ii) furnish the Performance Security, in accordance with the ITC Clause 45; or
 - (iii) accept the correction of our bid by the Procuring Entity, pursuant to ITC sub Clause 31.4.
3. I/We understand this Proposal Securing Declaration shall expire on *[Insert date as per ITC Clause 21]*.

Signed: *[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Proposal Securing Declaration]*

Name: *[insert complete name of person signing the Proposal Securing Declaration]*

Duly authorized to sign the proposal for and on behalf of: *[insert complete name of Consultant]*

Dated on _____ day of _____, _____ *[insert date of signing]*

[This Proposal Submission Sheet should be on the letterhead of the Consultant and should be signed by a person with the proper authority to sign documents that are binding on the Consultant. It should be included by the Consultant in its financial proposal]

4.2.1 Financial Proposal Submission Sheet

Date: *[insert date (as day, month and year) of proposal submission]*

Procurement Reference No: *[insert Procurement Reference number]*

To: *[insert complete name of Procuring Entity]*

We, the undersigned, declare that:

- (a) The total price of our Proposal is: *[insert the total proposal price in words and figures, indicating the various amounts and the respective currencies]*, inclusive of local taxes;
- (b) We are eligible for a Margin of Preference in accordance with ITC Clause 36 and are eligible for inclusion in *[insert Group A or Group B as appropriate]* and enclose documentary evidence of our eligibility;

[or]

We are not eligible for a Margin of Preference in accordance with ITC Clause 36;

- (c) The following commissions, gratuities, or fees have been paid or are to be paid with respect to this procurement process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity. If none has been paid or is to be paid, indicate "none"]*;

Name and address of Recipient	Purpose Reason	Currency and Amount

Name: _____ *[insert complete name of person signing the proposal]*

In the capacity of _____ *[insert legal capacity of person signing the proposal]*

Signed: _____ *[signature of person whose name and capacity are shown above]*

Duly authorised to sign the proposal for and on behalf of: _____ *[insert complete name of Consultant]*

Dated on _____ day of _____, _____ *[insert date of signing]*



[Consultants may reproduce this sheet in landscape format if more practical but are responsible for its accurate reproduction. State currency or currencies of proposal. If three currencies are not used state “nil” as appropriate. If the PDS requires the proposal price to be quoted separately for different Activities, complete this form as a “Summary of Proposal Price” for each activity and complete one overall Summary of prices.]

4.2.2 Summary of Proposal Price (Breakdown of Lump Sum)

Cost item	Currency	Amount(s)
Fees		
Reimbursables		
Miscellaneous Expenses		
Local taxes		
Total Lump Sum/Cost Estimate		

4.2.3 Breakdown of Fees

[Consultants may reproduce this sheet in landscape format if more practical but are responsible for its accurate reproduction. The Consultant should complete a separate form for each currency or add currency columns and show up to three totals. Complete this form for the total proposal or for each activity as indicated in the ITC]

State activity name or total proposal: _____

Name	Position	Input Qty	Unit (Days/months etc.)	Rate	Total
Grand Total					



4.2.4 Breakdown of Reimbursables

[Consultants may reproduce this sheet in landscape format if more practical but are responsible for its accurate reproduction. The Consultant should complete a separate form for each currency or add currency column and show up to three totals. Complete this form for the total proposal or for each activity as indicated in the ITC]

State activity name or total proposal: _____ **Currency:** _____

Description of Cost	Quantity	Unit of Measure	Unit Price	Total Price
Grand Total				

Notes: Local transportation costs are not to be included if local transportation is being made available by the Procuring Entity. Similarly, the project site, office rent/accommodations/clerical assistance costs are not to be included if being made available by the Procuring Entity.

4.2.5 Breakdown of Miscellaneous Expenses

[Consultants may reproduce this sheet in landscape format if more practical but are responsible for its accurate reproduction. The Consultant should complete a separate form for each currency or add currency column and show up to three totals. Complete this form for the total proposal or for each activity as indicated in the ITC].

State activity name or total proposal: _____ **Currency:** _____

Description of Cost	Quantity	Unit of Measure	Unit Price	Total Price
Grand Total				



Section 5. Eligible Countries

Procurement Reference Number:

All countries are eligible except countries subject to the following provisions.

A country shall not be eligible if:

- (a) as a matter of law or official regulation, the Government of Eswatini prohibits commercial relations with that country, provided that the Government of Eswatini is satisfied that such exclusion does not preclude effective competition for the provision of services required; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government of Eswatini prohibits the provision of Services from that country or any payments to persons or entities in that country.



PART 2 – Statement of Requirements

Section 6. Terms of Reference

Terms of Reference: Job Evaluation and Salary Review

1. Introduction

This document outlines the terms of reference for a salary review exercise to be conducted for ECESWA. The objective is to ensure fair and competitive compensation for all employees, aligned with their job responsibilities and the current market value.

2. Purpose of the Assignment

In its quest to improve remuneration model for human capital retention strategy, and continuously attract top talent, the Examination Council of Eswatini seeks to review and benchmark employee salaries for all positions. The consultant should recommend a salary structure commensurate with the market and benefits that align with the roles of the positions.

3. Scope

- i. Review the grading structure in line with the functions of each Directorate/Department/Unit as depicted by the organogram.
- ii. Conduct a salary and benefits survey and work collaboratively with a Salary Review committee comprising ECESWA Management and Workers' Union in developing a clear and standardized salary and compensation structure.
- iii. Based on the findings from data analysis and benchmarking, review Council's salary structure, pay bands, or salary ranges for different job roles and levels within the organization, as per the Paterson Job Evaluation & Grading system.
- iv. Prepare a comprehensive report summarizing the findings, analysis, and recommendations from the salary structure review and benchmarking exercise.
- v. Establish metrics and key performance indicators (KPIs) to monitor the effectiveness of the revised salary structures over time.
- vi. Present the report to the Salary Review Committee and Management.

4. *Relevant documents for the exercise*

- a. The Council shall make available to the Consultant firm the following:
 - i. Organisational Structure
 - ii. Current salary structure
 - iii. Remuneration policies
 - iv. Job profiles
 - v. Any other relevant document that may be required
- b.

Part 2: Section 6. Terms of Reference

- c. The Consultant shall meet with the following.
 - i. CEO
 - ii. Management
 - iii. Salary Review Committee
 - iv. Heads of Department (HODs)
 - v. ECESWA Union

- c. The Council shall provide professional support that may be required.

5. Deliverables and Timelines

- i. An inception report detailing the Consultant’s understanding of what is being reviewed and as well as proposed method, tools, sources of data and procedures for the assignment. The inception report should also include a proposed schedule of tasks, activities, timeline, deliverables and key issues.
- ii. A report on the results and recommendations of the salary review exercise detailing the scope of the salary review and process followed (Methodology, information and data sources, supporting and reference documentation).
- iii. Present first draft report of the reviewed salary structure to the Salary Review Committee and Management
- iv. Presentation of final comprehensive reviewed salary structure and benchmarking report to the Salary Review Committee and Management), , outlining findings, recommendations, and proposed implementation plan.
- v. Submission of three (3) hard copies and one (1) soft copy of final comprehensive salary review and benchmarking report consolidating findings, analysis, and recommendations as well as recommended salary progression within the structure to the office of the Chief Executive Officer.

This exercise is expected to be completed within 60 calendar days from the date of signing the Contract.

Technical Evaluation

Criteria		Maximum Points
Specific Experience of the firm relevant to the assignment 1. Firms Experience Firm must have over 10 years’ experience conducting assignments relating to Job grading and salary review.		5 points
2. Lead Consultant’s Qualification and Experience		15 points

Part 2: Section 6. Terms of Reference

<p>a) The team leader on the assignment shall meet the following minimum criteria:</p> <ol style="list-style-type: none"> i. Master's degree in fields related to Human Resource Management, Business Administration, Management Studies, or related fields. A PhD will be an added advantage. ii. Proven experience in Job Evaluation and grading or compensation and benefit analysis or organizational development. iii. At least 5 years of experience in in the field of human resource management. iv. Familiarity with labour market issues v. Ability to render consulting services in the most professional, effective and efficient manner. <p>b) Support staff shall meet the following criteria:</p> <ol style="list-style-type: none"> vi. Minimum Bachelor's degree in fields related to Human Resource Management, Business Administration, Management Studies, or related fields. A Master's degree will be an added advantage. i. At least 5 years' experience in the field of human resource management /organizational development. ii. Familiarity with labour market issues. iii. Ability to render consulting services in the most professional, effective, and efficient manner. 		10 points
3. Adequacy of the Proposed Approach and Methodology in responding to the Terms of Reference		30 points
Appropriateness of the Proposed Work Plan		10 points
4. Reference Letters from at least 3 clients for similar assignment conducted in the past 5 years		10 points
5. Participation by Nationals (Citizen Service Providers)		10 points
6. Participation of Swati Company		10 points
Total:		100 points

PART 3 - Contract

Section 7: General Conditions of Contract

A General Provisions

1 Definitions

- 1.1 The headings and titles of these General Conditions of Contract shall not limit, alter or affect the meaning of the Contract.
- 1.2 Unless the context otherwise requires, the following words and terms shall have the meanings assigned to them:
 - (a) “Consultant” means the natural person, private or government entity, or a combination of the above, whose proposal to perform the Contract has been accepted by the Procuring Entity and is named as such in the Agreement and includes the legal successors or permitted assigns of the Consultant.
 - (b) “Contract” means the Agreement entered into between the Parties and includes the Contract Documents.
 - (c) “Contract Documents” means the documents listed in GCC 4.1, including all attachments, appendices, and all documents incorporated by reference therein, and shall include any amendments thereto.
 - (d) “Contract Price” means the sum stated in the Agreement representing the maximum, total or estimated amount payable for the provision of the Services.
 - (e) “Day” means working day. “Month” means calendar month.
 - (f) “Eligible Countries” means the countries and territories eligible as listed in the SCC.
 - (g) “Foreign Currency” means any currency other than Swaziland Lilangeni.
 - (h) “GCC” means the General Conditions of Contract.
 - (i) “Local Currency” means Eswatini Lilangeni.
 - (j) “Lump sum contract” means a contract under which the Services are performed for an all inclusive fixed total amount.
 - (k) “Member,” where the Consultant consists of a joint venture of more than one entity, means any of these entities; “Members” means all these entities; and “Member in Charge” means the entity authorised to act on all the Members behalf in exercising all the Consultants’ rights and obligations towards the Procuring Entity under the Contract and named in the SCC.
 - (l) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both of them.
 - (m) “Personnel” means persons engaged by the Consultant or by any Sub-contractor as employees and assigned to the performance of the Services or any part thereof; “Foreign Personnel” means such persons who at the time of being so engaged had their domicile outside Eswatini; “Local Personnel” means such persons who at the time of being so engaged had their domicile inside Eswatini; and “Key Personnel” means those Personnel that are regarded by the Consultant as essential to the successful completion of the Services and related tasks.

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- (n) “Procuring Entity” means the entity purchasing the Services, as specified in the Agreement.
 - (o) “SCC” means the Special Conditions of Contract.
 - (p) “Services” means the professional or specialised Services to be performed by the Consultant as described in the contract and shall include consultancy Services.
 - (q) “Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Services to be provided is subcontracted by the Consultant.
 - (r) “Time based contract” means a contract under which the Services are provided on the basis of fixed fee rates and payments are made on the basis of time actually spent.
- 1.3 The word “Government” shall mean the Government of the Kingdom of Eswatini.
- 1.4 If the context so requires it, singular means plural and vice versa.
- 1.5 Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent between the Procuring Entity and the Consultant.

2 Corrupt Practices

- 2.1 It is the Government of Eswatini’s policy to require that Procuring Entities, as well as Consultants under Government financed contracts, observe the highest standards of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Government of Eswatini:
- a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution; and
 - (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - b) will debar a firm, either indefinitely or for a stated period of time, from being awarded a Government funded contract if it at any time determines that the firm has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Government funded Contract.
- 2.2 The Consultant shall permit the Government of Eswatini to inspect the Consultant’s accounts and records relating to the performance of the Consultant and to have them audited by auditors appointed by the Government of Eswatini, if so required by the Government.
- 2.3 In pursuit of the policy defined in GCC Clause 2.1, the Procuring Entity may terminate a Contract in accordance with GCC Clause 15 if it at any time determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Procuring Entity or of a Consultant, during the procurement or the execution of that contract.



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3 Confidential Information

- 3.1 The Procuring Entity and the Consultant shall keep confidential and shall not without the written consent of the other party hereto, divulge to any third party any reports or data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Consultant may furnish to its Subcontractor such documents, data, and other information it receives from the Procuring Entity to the extent required for the Subcontractor to perform its work under the Contract, in which event the Consultant shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Consultant under the Contract.
- 3.2 The Procuring Entity shall not use such documents, data, and other information received from the Consultant for any purposes unrelated to the contract. Similarly, the Consultant shall not use such documents, data, and other information received from the Procuring Entity for any purpose other than the design, procurement, or other work and Services required for the performance of the Contract.
- 3.3 The obligations of a party under GCC Clauses 3.1 and 3.2 shall however not apply to information that:
- (a) the Procuring Entity or Consultant need to share with any institution participating in the financing of the Contract;
 - (b) now or hereafter enters the public domain through no fault of that party;
 - (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
 - (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 3.4 The provisions of GCC Clauses 3.1 and 3.2 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Services or any part thereof.
- 3.5 The provisions of GCC Clauses 3.1 and 3.2 shall survive for a period of two years from completion or termination, for whatever reason, of the Contract.

B The Contract

4 Contract Documents

- 4.1 The documents forming the Contract shall be interpreted in the following order of priority:
- (a) Agreement,
 - (b) Consultant's Proposal as amended by clarifications,
 - (c) Special Conditions of Contract,
 - (d) General Conditions of Contract,
 - (e) Statement of Requirements,
 - (f) Minutes of negotiations if any,
 - (f) any other document listed in the SCC as forming part of the Contract.

All documents forming the Contract are intended to be correlative, complementary, and mutually explanatory.



Part 3: Section 9: Contract Forms

- 4.2 No amendment, modification or other variation of the Contract shall be valid unless an Amendment to Contract is made in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party thereto.
- 4.3 If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.
- 4.4 Any action required or permitted to be taken, and any document required or permitted to be executed, under the Contract by the Procuring Entity or the Consultant may be taken or executed by the authorised representatives specified in the SCC.
- 4.5 The Contract constitutes the entire agreement between the Procuring Entity and the Consultant and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

5 Governing Law

- 5.1 The Contract shall be governed by and interpreted in accordance with the laws of Eswatini unless otherwise stated in the SCC.

6 Language

- 6.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Consultant and the Procuring Entity, shall be written in the language specified in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 6.2 The Consultant shall bear all costs of translation to the governing and all risks of the accuracy of such translation.

7 Notices

- 7.1 Any notice, request or consent required or permitted to be given or made pursuant to the Contract shall be in writing. Any such notice shall be deemed to have been given when delivered to the authorised representative of the Party at the address specified in the SCC.
- 7.2 A Party may change its address for notice hereunder by giving the other Party notice of such change.

8 Commencement of Services

- 8.1 The Consultant shall commence the Services within the time period specified in the SCC after the date of signature of the Agreement.

9 Assignment

- 9.1 The Procuring Entity or the Consultant shall not assign, in whole or in part, their obligations under this Contract, except with the prior written consent of the other party.

10 Subcontracting

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- 10.1 The Consultant shall request approval in writing from the Procuring Entity for all subcontracts awarded under the Contract that are not included in the Contract. Subcontracting shall in no event relieve the Consultant of any of its obligations, duties, responsibilities or liability under the Contract.
- 10.2 Subcontracts shall comply with the provisions of GCC Clauses 2 and 35.

11 Contract Amendments

- 11.1 The Procuring Entity may at any time request the Consultant through notice in accordance with GCC Clause 7, to make changes to the Contract by agreement to an Amendment of Contract.
- 11.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Consultant's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Completion Date, or both, and the Contract shall accordingly be amended. Any claims by the Consultant for adjustment must be asserted within twenty-eight days from the date of the Consultant's receipt of the Procuring Entity's notice.
- 11.3 Prices to be charged by the Consultant for any related or additional Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties.
- 11.4 An Amendment to Contract shall be signed by both Parties following agreement to the proposed changes required and shall make adjustments for the impact on the Contract Price, completion period or any other condition.

12 Change in Laws

- 12.1 Unless otherwise specified in the Contract, if after the date of the Request for Proposals Document, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Eswatini or where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Completion Date and/or the Contract Price, then such Completion Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Consultant has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for by a contracts amendment or a price adjustment in accordance with GCC Clause 32.

13 Force Majeure

- 13.1 For the purposes of the Contract, "Force Majeure" shall mean an event or events which are beyond the reasonable control of a Party, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- 13.2 Force Majeure shall not include:
- (a) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-contractors or agents or employees; nor



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- (b) any event which a diligent Party could reasonably have been expected to both:
 - (i) take into account from the effective date of the Contract; and
 - (ii) avoid or overcome in the carrying out of its obligations.
 - (c) insufficiency of funds or failure to make any payment required hereunder.
- 13.3 The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, the Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Contract.
- 13.4 A Party affected by an event of Force Majeure shall take all reasonable measures to:
- (a) remove such Party's inability to fulfil its obligations hereunder with a minimum of delay; and
 - (b) minimise the consequences of any event of Force Majeure.
- 13.5 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- 13.6 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of the Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Services after the end of such period.
- 13.7 Not later than thirty (30) days after the Consultant, as the result of an event of Force Majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing appropriate measures to be taken in the circumstances.

14 Suspension of Assignment

- 14.1 The Procuring Entity may, by written notice of suspension of the assignment to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under the Contract, including the carrying out of the Services, provided that such notice of suspension shall:
- (a) specify the nature of the failure; and
 - (b) request the Consultant to remedy such failure within a period not exceeding thirty days
- after receipt by the Consultant of such notice of suspension.

15 Termination

- 15.1 The Procuring Entity may, by not less than thirty days written notice of termination to the Consultant (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty days), such notice to be given after the occurrence of any of the events specified in GCC Clause 15.1 (a) to (h), terminate the Contract if:
- (a) the Consultant fails to remedy a failure in the performance of its obligations as specified in a notice of suspension of assignment pursuant to GCC Clause 14



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within thirty days of receipt of such notice of suspension of assignment or within such other period agreed between the Parties in writing;

- (b) the Consultant becomes, or if any of the Consultant's Members becomes, insolvent or bankrupt or enters into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary other than for a reconstruction or amalgamation;
- (c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 17 hereof;
- (d) the Consultant submits to the Procuring Entity a statement which has a material effect on the rights, obligations or interests of the Procuring Entity and which the Procuring Entity knows to be false;
- (e) the Consultant is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days;
- (f) the Procuring Entity, in its sole discretion and for any reason whatsoever, decides to terminate the Contract;
- (g) the Consultant, in the judgment of the Procuring Entity, has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing the Contract; or

15.2 The Consultant may, by not less than thirty days written notice to the Procuring Entity, such notice to be given after the occurrence of any of the events specified in GCC Clause 15.2 (a) to (d) terminate the Contract if:

- (a) the Procuring Entity fails to pay any money due to the Consultant pursuant to the Contract and not subject to dispute pursuant to GCC Sub-Clause 23.2 within forty-five days after receiving written notice from the Consultant that such payment is overdue;
- (b) the Procuring Entity is in material breach of its obligations pursuant to the Contract and has not remedied the same within forty-five days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Procuring Entity of the Consultant's notice specifying such breach;
- (c) the Consultant is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days; or
- (d) the Procuring Entity fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 17 hereof.

15.3 If either Party disputes whether an event specified GCC Clauses 15.1 or GCC Clause 15.2 has occurred, such Party may, within forty-five days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to GCC Clause 17 and the Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

16 Cessation of Rights and Obligations or Services

16.1 Upon termination of the Contract pursuant to GCC Clause 15, or upon completion of the Services pursuant to GCC Clause 18 hereof, all rights and obligations of the Parties hereunder shall cease, except:



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- (a) such rights and obligations as may have accrued on the date of termination or completion;
 - (b) the obligation of confidentiality set forth in GCC Clause 3;
 - (b) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Sub-Clause 2.2; and
 - (c) any right which a Party may have under the Governing Laws.
- 16.2 Upon termination of the Contract by notice of either Party to the other pursuant to GCC Clause 7, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, by GCC Clause 44.

17 Settlement of Disputes

- 17.1 The Procuring Entity and the Consultant shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract or interpretation thereof.
- 17.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight days from the commencement of such consultation, either party may require that the dispute be referred for resolution in accordance with the Arbitration Act of the laws of Eswatini or such other formal mechanism specified in the SCC.

18 Completion Period of the Services

- 18.1 The period for the completion of the Services shall be specified in the SCC. The completion period shall be counted from the date of the commencement of the Services.

C Obligations of the Procuring Entity

19 Provision of Information and Assistance

- 19.1 The Procuring Entity shall supply the Consultant with any information or documentation at its disposal which may be relevant to the performance of the contract. Such documents shall be returned to the Procuring Entity at the end of the period of the Contract.
- 19.2 The Consultant may request the assistance of the Procuring Entity to obtain copies of laws, regulations, and information on local customs, orders or bylaws of Eswatini, which may affect the Consultant in the performance of its obligations under the contract. The Procuring Entity may charge the Consultant for such assistance.
- 19.3 Subject to the provisions of the laws and regulations on foreign labour in Eswatini, the Procuring Entity shall make every effort to facilitate the Consultant in obtaining all required visas and permits, including work and residence permits, for the personnel whose services the Consultant and the Procuring Entity consider necessary as well as residence permits for their families.
- 19.4 The Procuring Entity shall issue to its employees, agents and representatives all such instructions as may be necessary or appropriate to facilitate the prompt and effective performance of the Services.
- 19.5 The Procuring Entity shall use its best efforts to ensure that the Government shall:



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- (a) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
- (b) exempt the Consultant and the Personnel from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Laws of Eswatini;
- (c) provide to the Consultant, Sub-contractors and Personnel any such other assistance as may be specified in the SCC.

19.6 The Procuring Entity shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in the Statement of Requirements at the times and in the manner specified in the Statement of Requirement.

20 Provision of Counterpart Staff

20.1 If so provided in the SCC, the Procuring Entity shall make available to the Consultant, as and when provided in the Contract, and free of charge, such counterpart Personnel to be selected by the Procuring Entity, with the Consultant's advice, as shall be specified in the Contract. Counterpart Personnel shall work under the exclusive direction of the Consultant. If any member of the counterpart Personnel fails to perform adequately any work assigned to such member by the Consultant which is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.

20.2 If counterpart Personnel are not provided by the Procuring Entity to the Consultant where specified in the Contract, the Procuring Entity and the Consultant shall agree:

- (a) how the affected part of the Services shall be carried out; and
- (b) the additional payments or time, if any, to be granted by the Procuring Entity to the Consultant as a result thereof.

20.3 Counterpart personnel are not liable for the poor performance of the Consultant.

D Payment

21 Contract Price and Currency

21.1 The Contract Price shall be expressed as a specific amount or amounts in the Agreement representing:

- (a) the total amount payable for a Lump Sum contract; or
- (b) the maximum amount for a Time Based contract.

21.2 Payments shall be made in the currency or currencies of the contract price, unless otherwise specified in the SCC.

21.3 The Contract Price may only be changed as provided for in GCC Clause 11.

22 General Payment Procedure

22.1 The provisions of this Clause apply to all contracts subject to these GCC. Additional provisions at GCC Clause 30 or 31 shall apply as follows:

- (a) the provisions of GCC Clause 30, Option 1 shall apply to Lump Sum contracts;
- (b) the provisions of GCC Clause 31, Option 2 shall apply to Time Based contracts.

The type of contract applicable is stated in the SCC.



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22.2 In consideration of the Services performed by the Consultant under the Contract, the Procuring Entity shall make to the Consultant such payments in such manner as is provided by the Contract.

23 Invoice Procedure

23.1 The Procuring Entity shall receive payment requests made by submission of invoices and all supporting documents and shall certify such invoices for payment. The Procuring Entity shall certify or reject such requests for payment within five days from receipt.

23.2 Where such payment requests are rejected, the Procuring Entity shall promptly advise the Consultant of the reasons for rejection.

23.2 The Procuring Entity shall not unreasonably withhold any undisputed portion of a request for payment. The Procuring Entity shall notify the Consultant of the inadmissibility of a request for payment due to an error, discrepancy, omission or any other reason so that the Parties may resolve such error, discrepancy, omission or other fault and agree a solution to enable payment of the corrected request for payment. Only such portion of the request for payment that is inadmissible may be withheld from payment. Should any discrepancy be found to exist between actual payment made and costs authorised to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from any subsequent payments.

24 Documentation to Support Invoices

24.1 Invoices shall be accompanied by the documentary requirements specified in the SCC.

25 Payment Schedule

25.1 All payments under the Contract shall be made in accordance with the payment schedule specified in the SCC.

26 Advance Payment Guarantee

26.1 Unless otherwise stated in the SCC, where any payment is made in advance of performance of Services, payment of the advance payment shall be made against the provision by the Consultant of a bank guarantee for the same amount, and shall be valid for the period stated in the SCC.

26.2 Should the advance payment guarantee cease to be valid and the Consultant fails to re-validate it, a deduction equal to the amount of the advance payment may be made by the Procuring Entity from future payments due to the Consultant under the contract.

26.3 If a Contract is terminated for any reason, the guarantee securing the advance may be invoked in order to recover the balance of the advance still owed by the Consultant.

27 Payment Terms

27.1 Unless otherwise specified in the SCC, payments shall be made by the Procuring Entity, no later than thirty days after submission and certification of a request for payment by the Consultant.

28 Final Statement and Payment

28.1 A final payment shall be made against submission by the Consultant of a final statement, identified as such and approved by the Procuring Entity. The final statement shall be deemed approved by the Procuring Entity ninety working days after receipt by the Procuring Entity unless the Procuring Entity, within this period, gives written notice to



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the Consultant specifying in detail deficiencies in the Services, the deliverables or the final statement.

- 28.2 Any amount which the Procuring Entity has paid or caused to be paid which is in excess of the amounts actually payable in accordance with the provisions of the Contract, shall be reimbursed by the Consultant to the Procuring Entity within thirty days after receipt by the Consultant of a notice thereof. Any such claim by the Procuring Entity for reimbursement must be made within twelve months after receipt by the Procuring Entity of a final statement approved by the Procuring Entity.
- 28.3 Upon termination of the Contract pursuant to GCC Clauses 15, the Procuring Entity shall make the following payments to the Consultant:
- (a) fees for Services satisfactorily performed prior to the effective date of termination;
 - (b) except in the case of termination pursuant to GCC Clauses 15.1(a) to (d) and 15.1(g) to (h) reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract including the cost of the return travel of the Personnel and their eligible dependents.

29 Accounts

- 29.1 All payments under the Contract shall be made to the accounts of the Consultant specified in the Invoice.

30 Option 1 - Payments in respect of Lump Sum remunerated Contracts

- 30.1 The Contract Price shall be a fixed total lump-sum including all Personnel costs, Sub-contractors' costs, printing, communications, travel, accommodation, and all other costs to be incurred by the Consultant in carrying out the Services described in the Contract.
- 30.2 Total payments under this Contract shall not exceed the Contract Price.
- 30.3 The Contract Price shall be claimed in lump-sum instalments against deliverables specified in GC Clause 25 and in accordance with the documentary requirement stated in GC Clause 24.

31 Option 2 - Payments in respect of Time Based remunerated Contracts

- 31.1 The Consultant's total remuneration shall not exceed the Contract Price stated in the Agreement.
- 31.2 The Consultant shall notify the Procuring Entity as soon as cumulative charges incurred for the Services have reached 80% of the Contract Price.
- 31.3 Separate invoices shall be submitted for fees and for reimbursable expenditure.
- 31.4 Fees for the Personnel shall be claimed in accordance with the documentary requirement stated in GC Clause 24.
- 31.5 Fees for the Personnel shall be determined on the basis of time actually spent by the Personnel in the performance of the Services after the date determined in accordance with the Commencement Date of the Services or such other date as the Parties may agree in writing. Personnel time spent in the performance of the Services shall include time for necessary travel via the most direct route, at the rates detailed in the Contract and subject to such additional provisions as are set forth, in the SCC.
- 31.6 Reimbursable expenditures shall include costs actually and reasonably incurred by the Consultant in the performance of the Services and are specified in the Contract.

32 Price Adjustments



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- 32.1 Prices charged by the Consultant for the Services performed under the Contract shall not vary from the prices quoted in the Contract, with the exception of any price adjustments authorised in the SCC.

33 Taxes and Duties

- 33.1 Except as otherwise specifically provided in the SCC, the Consultant shall bear and pay all taxes, duties, and levies imposed on the Consultant, by all municipal, state or national government authorities, both within and outside Eswatini, in connection with the provision of the Services to be supplied under the Contract.
- 33.2 If any tax exemptions, reductions, allowances or privileges may be available to the Consultant in Eswatini, the Procuring Entity shall use its best efforts to enable the Consultant to benefit from any such tax savings to the maximum allowable extent.
- 33.3 For the purpose of the Contract, it is agreed that the Contract Price specified in the Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of proposal submission in Eswatini (called “tax” in this clause). If any tax rates are increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of the Contract, which was or will be assessed on the Consultant, its Subcontractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

E Obligations of the Consultant

34 Obligations of the Consultant

- 34.1 The Consultant shall perform the Services under the contract with due care, efficiency and diligence, in accordance with best professional practices.
- 34.2 The Consultant shall submit to the Procuring Entity the reports and other deliverables, specified in the Contract.
- 34.3 The Consultant shall respect and abide by all laws and regulations in force and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Consultant shall indemnify the Procuring Entity against any claims and proceedings arising from any infringement by the Consultant, its employees and their dependants of such laws and regulations.
- 34.4 The Consultant shall treat all documents and information received in connection with the contract as confidential in accordance with GCC Clause 3.
- 34.5 The Consultant shall obtain the Procuring Entity’s prior approval in writing before taking any of the following actions:
- appointing any member of the Personnel that are not named in the Contract;
 - entering into a subcontract that is not specified in the Contract, for the performance of any part of the Services, it being understood that the Consultant shall remain fully liable for the performance of the Services by the Sub-contractor and its Personnel pursuant to the Contract;
 - any other action that may be specified in the SCC.

35 Eligibility



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35.1 The Consultant and its Subcontractors shall have the nationality of an eligible country. A Consultant or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.

35.2 The Consultant and its Sub-contractors shall provide Personnel who shall be citizens of eligible countries.

36 Joint Venture, Consortium or Association

36.1 Unless otherwise specified in the SCC, if the Consultant is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Procuring Entity for the fulfilment of the provisions of the Contract. The joint venture, consortium, or association shall designate one party to act as the Member in Charge with authority to bind the joint venture, consortium, or association and to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under the Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

36.2 The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Procuring Entity. Any alteration of the composition of the joint venture, consortium or association without the prior written consent of the Procuring Entity shall be considered to be a breach of contract.

37 Code of Conduct

37.1 The Consultant shall at all times act loyally and impartially and as a faithful adviser to the Procuring Entity in accordance with the rules and/or codes of conduct of its profession. It shall, in particular, refrain from making any public statements concerning the Services without the prior approval of the Procuring Entity, and from engaging in any activity which conflicts with its obligations towards the Procuring Entity under the contract. It shall not commit the Procuring Entity in any way whatsoever without its prior written consent, and shall, where appropriate, make this obligation clear to third parties.

37.2 For the period of execution of the contract, the Consultant and its personnel shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in Eswatini.

38 Conflict of Interests

38.1 The Consultant shall refrain from any relationship which would compromise its independence or that of its Personnel. If the Consultant fails to maintain such independence the Procuring Entity may terminate the contract in accordance with the provision contained in the GCC Clause 15.

38.2 The Consultant shall after the conclusion or termination of the Contract, be limited in its role in connection with the project and shall not be permitted any further involvement in the provision or procurement of works, supplies or further Services other than a continuation of the Services, for any project resulting from or closely related to the Services.

38.3 The Consultant shall not engage, and shall cause their Personnel and Subcontractors not to engage, either directly or indirectly, in any of the following activities:

- a) during the term of the Contract, any business or professional activities in Eswatini which would conflict with the activities assigned to them under the Contract; and



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- b) after the termination of the Contract, such other activities as may be specified in the SCC.
- 38.4 The payments to the Consultant under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.
- 38.5 The Consultant shall not have the benefit, whether directly or indirectly, of any royalty, gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the contract or the project, without the prior written approval of the Procuring Entity.

39 Indemnification

- 39.1 At its own expense, the Consultant shall indemnify, protect and defend, the Procuring Entity, its agents and employees, from and against all actions, claims, losses or damage arising from any act or omission by the Consultant in the performance of the Services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trade marks and other forms of intellectual property such as copyrights.
- 39.2 At its own expense, the Consultant shall indemnify, protect and defend the Procuring Entity, its agents and employees, from and against all actions, claims, losses or damages arising out of the Consultant's failure to perform its obligations provided that:
- the Consultant is notified of such actions, claims, losses or damages not later than 30 days after the Procuring Entity becomes aware of them;
 - the ceiling on the Consultant's liability shall be limited to an amount equal to the contract value, but such ceiling shall not apply to actions, claims, losses or damages caused by the Consultant's wilful misconduct;
 - the Consultant's liability shall be limited to actions, claims, losses or damages directly caused by such failure to perform its obligations under the contract and shall not include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.
- 39.3 The aggregate liability of the Consultant to the Procuring Entity shall not exceed the total contract value or such other amount specified in the SCC.
- 39.4 The Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by:
- the Procuring Entity omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Consultant, or requiring the Consultant to implement a decision or recommendation with which the Consultant disagrees or on which it expresses a serious reservation; or
 - the improper execution of the Consultant's instructions by agents, employees or independent contractors of the Procuring Entity.
- 39.5 The Consultant shall remain responsible for any breach of its obligations under the contract for such period after the Services have been performed as may be determined by the law governing the contract.

40 Insurance to be taken out by the Consultant

- 40.1 The Consultant shall take out, maintain and shall cause any Sub-contractors to take out and maintain, at their own cost insurance coverage against the risks and on terms and conditions approved by the Procuring Entity as shall be specified in the SCC.



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40.2 The Consultant shall at the Procuring Entity's request, provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained.

41 Accounting, Inspection and Auditing

The Consultant shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs.

F Performance of the Services

42 Scope of Services

42.1 The Services to be provided shall be as specified in the Statement of Requirements in the Contract.

42.2 The Services shall be performed at such locations as are specified in the Contract and, where the location of a particular task is not so specified, at such locations, whether in Eswatini or elsewhere, as the Procuring Entity may approve.

43 Specifications and Designs

43.1 The Consultant shall prepare all specifications and designs using accepted and generally recognised systems acceptable to the Procuring Entity and taking into account the latest design criteria.

43.2 The Consultant shall ensure that any specifications and designs and all documentation relating to procurement of Works, Supplies and Services are prepared on an impartial basis so as to promote competitive Bidding.

44 Property of Deliverables

44.1 All reports and data such as maps, diagrams, drawings, plans, designs, specifications, calculations and software containing data and information compiled, prepared and furnished by the Consultant for the Procuring Entity under the Contract shall become and remain the absolute property of the Procuring Entity. The Consultant shall deliver all such documents to the Procuring Entity on completion or termination of the Contract. The Consultant may retain a copy of such reports, data and software and any restrictions about the future use of such reports, data or software shall be specified in the SCC.

44.2 Equipment and materials made available to the Consultant, or purchased by the Consultant with funds provided by the Procuring Entity, shall be the property of the Procuring Entity. Upon completion of the Contract, the Consultant shall make available an inventory of such items and shall dispose of such equipment and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment and materials, the Consultant shall ensure the items are insured at the expense of the Procuring Entity in an amount equal to their full replacement value.

45 Extensions of Time

45.1 If at any time during performance of the Contract, the Consultant or its subcontractors should encounter conditions impeding timely completion of Services pursuant to GCC Clause 13, the Consultant shall promptly notify the Procuring Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Consultant's notice, the Procuring Entity may at its discretion extend the Consultant's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

46 Consultant's Personnel



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- 46.1 The Consultant shall employ and provide such qualified and experienced Personnel and Sub-contractors as are required to carry out the Services. The Consultant shall be responsible for the quality of the Personnel.
- 46.2 If required by the Contract, the Consultant shall ensure that a resident project manager, acceptable to the Procuring Entity, takes charge of the performance of the Services.
- 46.3 The Services shall be carried out by the Personnel specified in the Contract for the period of time indicated therein. The title, job description, and estimated period of engagement of each of the Consultant's Key Personnel shall be listed in the Contract.
- 46.4 The Key Personnel and Sub-contractors listed by title/position and by name in the Contract are hereby approved by the Procuring Entity. In respect of other Key Personnel which the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the Procuring Entity for review and approval a copy of their biographical data. If the Procuring Entity does not object in writing stating the reasons for the objection, within twenty-one days from the date of receipt of such biographical data, such Key Personnel shall be deemed to have been approved by the Procuring Entity.
- 46.5 The Consultant may with the prior approval of the Procuring Entity make minor adjustments to the periods of input for Key Personnel as may be appropriate to ensure the efficient performance of the Services, provided that such adjustments do not cause the payments made under the contract to exceed the Contract Price.
- 46.6 Adjustments with respect to the periods of engagement of Key Personnel which shall cause the total contract payments to exceed the Contract Price shall only be made with the Procuring Entity's written approval.
- 46.7 If additional work is required beyond the Statement of Requirements specified in the Contract, the estimated periods of engagement of Key Personnel set forth in the Contract may be increased by agreement in writing between the Procuring Entity and the Consultant, provided that any such increase shall not, except as otherwise agreed in writing, cause payments under the Contract to exceed the Contract Price specified in the Agreement.

47 Working Hours of the Personnel

- 47.1 Working hours and holidays for Key Personnel are set forth in the Contract. To account for travel time, foreign Personnel carrying out Services inside Eswatini shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in or after their departure from Eswatini.
- 47.2 The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave unless otherwise specified in the SCC. Except as specified in the Contract, the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in the Contract. Any taking of leave by Personnel shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

48 Replacement of Personnel

- 48.1 The Consultant shall not make changes in the Personnel without the prior written approval of the Procuring Entity. The Consultant must on its own initiative propose a replacement in the following cases:
- a) in the event of death, illness for an extended period or in the event of accident of a member of Personnel.



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- b) if it becomes necessary to replace a member of Personnel for any other reasons beyond the Consultant's control (e.g. resignation, etc.).
- 48.2 The Procuring Entity may request a replacement with a written and justified request if in the course of performance, it considers that a member of the Personnel does not perform its duties satisfactorily under the contract.
- 48.3 Where a member of Personnel must be replaced, the replacement must possess at least equivalent qualifications and experience, and the remuneration to be paid for the replacement cannot exceed that paid for the member of Personnel who has been replaced. Where the Consultant is unable to provide a replacement with equivalent qualifications and/or experience, the Procuring Entity may either decide to terminate the contract, if the proper performance of it is jeopardised, or, if it considers that this is not the case, accept a replacement with lesser qualifications, provided that the fees of the latter are reduced to reflect the appropriate remuneration level.
- 48.4 Additional costs incurred in the replacement of Personnel are the responsibility of the Consultant. Where the expert is not replaced immediately and it is some time before the new expert takes up its functions, the Procuring Entity may ask the Consultant to assign to the project temporary personnel pending the arrival of the new personnel, or to take other measures to compensate for the temporary absence of the missing personnel. The Procuring Entity shall make no payment for the period associated with the Personnel's absence while the position is not filled.
- 49 Medical and Insurance arrangements**
- 49.1 For the period of execution of the contract, the Consultant shall obtain medical insurance for its Personnel. The Procuring Entity shall be under no liability in respect of the medical expenses of the Consultant.

Section 8. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

GCC clause reference	Special Conditions of Contract
	The Procurement Reference Number is: ECESWA 08 of 2024/2025 Tender Name: Consultancy Services for Conducting Salary Review Exercise
GCC 1.2 (e)	The Eligible Countries are those listed in Section 5 of the Request for Proposals Document.
GCC 1.2(k)	Member in Charge: The Member in Charge is:
GCC 4.1(f)	Contract Documents: Other documents forming part of the contract are:
GCC 4.4	Authorised Representatives: The Authorised Representatives are: for the Procuring Entity:



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GCC clause reference	Special Conditions of Contract
	for the Consultant:
GCC 5.1	Law: The Contract shall be governed by the Laws of Eswatini.
GCC 7.1	<p>Notices: The addresses for Notices are: for the Procuring Entity: Examinations Council of Eswatini Street Address: Ngonini Road Floor/Room number: ECESWA Reception Town/City: Ezulwini P. O. Box No: 1394 Country: Eswatini Telephone: +268 2417 8000 Facsimile number: N/A Email: procurement@examsCouncil.org.sz copied manesi.c@examsCouncil.org.sz</p> <p>For the Consultant Street Address: Floor/Room number: Town/City: P. O. Box No: Country: Telephone: Facsimile number: Email:</p>
GCC 8.1	Commencement: The Period within which the Services shall have commenced is: August 2024
GCC 17.2	Dispute settlement: Dispute settlement shall be in accordance with the Laws of Eswatini.
GCC 18.1	Completion of the Services: The Period within which the Services shall have been completed following commencement of the Services is: 60 working days
GCC 19.5(c)	Further Assistance: ECESWA shall provide the following further assistance: Access to required documentation
GCC 20.1	Counterpart Staff: Counterpart Staff be provided where applicable
GCC 21.2	<p>Payment currencies: Payments shall be made in the currency of the contract price.</p> <p>The exchange rate for purposes of payment shall be the Central Bank of Eswatini exchange rate prevailing at the time of financial proposal opening</p>
GCC 22.1	The Contract is a Lump Sum contract



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GCC clause reference	Special Conditions of Contract
GCC 24.1	Documentation for Payment: The following documentation shall be required to support invoices requesting payments: Invoice and completion reports
GCC 25.1	Payment Schedule: The payment schedule shall be: on submission of required reports
GCC 26.1	Advance Payment Guarantee: An Advance Payment Guarantee is not required.
GCC 27.1	Payment Period: Payment shall be made by the Procuring Entity within 30 days of receipt and certification of the invoice accompanied by supporting documents.
GCC 31.5	Additional provisions: The additional provisions for Personnel time are: None
GCC 32.1	Price variation: The Contract Price including the remuneration rates is not subject to price variation for fluctuations in market, commodity or other variable rates.
GCC 33.1	Taxes and duties: The Consultant shall bear and pay all taxes, duties, and levies imposed on the Consultant, by all municipal, state or national government authorities:
GCC 34.5(c)	The Procuring Entity's prior approval: The Procuring Entity's prior approval is also required for:
GCC 36.1	Joint Venture requirements: The individuals or firms in a joint venture, consortium or association shall be jointly and severally liable.
GCC 38.3(b)	Additional activities prohibited: The following activities are prohibited:
GCC 39.3	Total Liability: The total liability under the Contract shall be the total contract value.
GCC 40.1	Insurance taken out by Consultant: The risks and coverage shall be: Consultant shall list insurance taken out.
GCC 44.1	Restrictions on the use of Deliverables: The future use of deliverables are restricted as follows: All documentation and reports emanating from this exercise shall be property of ECESWA.
GCC 47.2	Personnel entitlements: None