



**Invitation of expressions of interest for  
the provision of specific legal services**

## **1. Context and Overview**

### *1.1. The Authority*

The Irish Auditing and Accounting Supervisory Authority ('the Authority'/'IAASA') is an independent State body by virtue of having been established by the Companies (Auditing and Accounting) Act, 2003 ('the Act'). As provided for by the Act, the Authority operates through a company limited by guarantee and is responsible for the:

- (a) examination of certain entities' periodic financial reporting; and
- (b) supervision of the regulatory functions of the prescribed accountancy bodies ('PABs').

IAASA's principal goals are:

- i. to deliver independent and effective supervision of financial reporting which promotes high quality financial reporting and which responds to non-compliance robustly, promptly and proportionately;
- ii. to deliver independent and effective supervision of the regulatory activities of the prescribed accountancy bodies which promotes high quality regulation and which responds to poor regulatory practice robustly, promptly and proportionately;
- iii. to promote adherence to high professional standards by accountants, auditors and preparers of financial reports; and
- iv. to provide specialist advice and support to the Minister and high quality information to our stakeholders on key auditing and accounting matters.

### *1.2. Purpose of this invitation*

The Authority has the power to initiate Statutory Enquiries and Investigations pursuant to Sections 23 and 24 of the Act respectively and the associated regulations<sup>1</sup>. Pursuant to these regulations, the Board may appoint legal advisers to provide assistance to such Committees.

In accordance with public sector procurement norms, the primary purpose of this invitation is to facilitate the creation of a panel of legal advisors ('the Panel') to act as advisors to Section 23 and Section 24 Committees for a period of three years.

## **2. Nature of engagement(s)**

The respondents selected to join the Panel will be expected to deliver high quality legal advice and ancillary services and to do so within agreed timeframes.

Successful respondents will demonstrate a high level of knowledge of IAASA's statutory framework in particular the operation of Statutory Enquiries and Investigations under Sections 23 and 24 of the Act. They should also demonstrate sufficient experience and expertise in each of the following areas:-

- disciplinary and regulatory law generally (in the context of the regulation of professions and enforcement);
- constitutional law (including principles governing fair procedure and natural justice);
- administrative law and law affecting public bodies;
- statutory interpretation;
- civil litigation in the Superior Courts (including Judicial Review);

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<sup>1</sup> The Companies (Auditing and Accounting) Act 2003 (Procedures Governing the Conduct of Section 23 Enquiries) Regulations 2012 and the Companies (Auditing and Accounting) Act 2003 (Procedures Governing the Conduct of Section 24 Investigations) Regulations 2012, Statutory Instrument No. 96 of 2012 and Statutory Instrument No. 97 of 2012 respectively.

- rules of evidence / legal and professional privilege;
- company law; and
- other laws and regulations of relevance to the Authority's operations.

### **3. Information requested from interested parties**

Persons and/or firms who consider that they possess the requisite expertise and experience to meet the Authority's requirements are invited to provide the information set out hereunder:

- 3.1. Name, business address, email address and telephone contact details;
- 3.2. An assessment of a Section 23 and Section 24 Committee's legal advisory needs, as understood by the respondent;
- 3.3. A service provision proposal to include:
  - 3.3.1.a corporate biography (in the case of firms);
  - 3.3.2.details of the composition of the proposed engagement team, including
    - i. details of the qualifications and relevant experience of each team member and their proposed role within the team; and
    - ii. the extent to which the engagement team can call upon other expertise as required;
  - 3.3.3.details of the respondent's overall approach to service delivery;
  - 3.3.4.the respondent's proposed reporting and project management arrangements;
  - 3.3.5.details of the respondent's processes for identifying actual/possible conflicts of interest and for the management of such conflicts;
  - 3.3.6.an analysis of how the respondent believes that it can add value to Section 23 and 24 Committee activities, including, as applicable, details of proposed benefits, deliverables etc.;
- 3.4. A cost proposal to include:
  - 3.4.1.the respondent's proposed fee structure; and
  - 3.4.2.details of any assumptions used in preparing the cost proposal.

### **4. Selection criteria**

The selection criteria are detailed below. Without prejudice to any of the provisions of this document, the Authority reserves full discretion to consult with and appoint persons who are not on the Panel, or not the highest ranked respondent thereon, whenever it considers it advisable, or otherwise necessary or appropriate, to do so.

#### **4.1. Shortlisting**

Depending upon the number of expressions of interest received, the Authority may consider it necessary or otherwise appropriate to shortlist respondents. In the event that this is the case, shortlisting will be based solely on the material submitted. Accordingly, in supplying the information requested in section 3 above, respondents should ensure that they fully set out the basis upon which they consider themselves qualified to deliver each of the prerequisites detailed at section 2 above.

#### 4.2. Interview

Respondents, or in the event of shortlisting those respondents that have been shortlisted, shall be invited for interview. The purpose of the interview will be to:

- 4.2.1.verify insofar as possible, and obtain any clarifications considered necessary regarding, assertions made by respondents in their submissions;
- 4.2.2.assess respondents' overall understanding of, and operational capacity to deliver on a Section 23 and 24 Committee requirements;
- 4.2.3.assess respondents' ability to deliver services related to the considerations outlined in section 2 above;
- 4.2.4.ascertain and assess respondents' previous experience in the handling of a contract of this nature;
- 4.2.5.identify any conflicts or potential conflicts that might have a bearing on the appropriateness of the respondent acting as legal adviser to Section 23 and 24 Committees; and
- 4.2.6.respond to any clarifications sought by respondents.

#### 4.3. Cost

IAASA will assess the cost proposals of all respondents reaching the required minimum standard at interview, and shall award a cost mark based on these costs as compared with the cost proposals of all such respondents.

#### 4.4. Ranking

Following the foregoing assessments, the table below will be completed for each respondent. The highest-scored respondent deemed suitable by IAASA will be selected:

Criterion	Max score
<b>General understanding</b> <i>Understanding of IAASA's role and objectives, and of the service requirements of Section 23 and 24 Committees</i>	15
<b>Respondent's service delivery proposal</b> <i>Marks will be awarded based on the proposal detailed in section 3 above, and as expanded upon at interview.</i>	20
<b>Relevant experience</b> <i>Marks will be awarded in respect of relevant experience held by respondents</i>	30
<b>Cost</b> <i>A mark will be extrapolated for each respondent based on their proposed charges vis-à-vis other eligible respondents.</i>	25
<b>Overall suitability for appointment</b>	10
<b>TOTAL MARK AWARDED</b>	<b>100</b>

## **5. Payment terms and conditions**

- 5.1. All proposed fees should be quoted in euro, including VAT at the appropriate rate.
- 5.2. No additional fees, other than those originally quoted for the work when tendering for the project shall be paid.
- 5.3. To allow sufficient time for tender assessment, a tender validity period of 90 days is required, this period commencing on the closing date for submission of tenders.
- 5.4. Payment will be made in accordance with the provisions of Statutory Instrument No. 850 of 2012 (EU (Late Payment of Commercial Transactions) Regulations) on receipt by the Authority of a valid invoice from the Service provider.
- 5.5. The successful respondent will be required to produce a current Tax Clearance Certificate.
- 5.6. In accordance with the Irish Finance Acts, a deduction of tax at the specified rate may have to be made from all payments in respect of professional services (Professional Services Withholding Tax). The successful respondent will be required to submit details of their tax reference number.
- 5.7. The successful respondent will be required to enter into a written contract reflecting, *inter alia*, the cost of the engagement.

## **6. Respondents' costs and expenses**

The Authority shall not be liable for any costs or expenses howsoever incurred by respondents in pursuing this invitation.

## **7. Confidentiality**

Respondents should note that, as the appointee will be a professional adviser to the Authority, the appointee shall be bound by the statutory obligations with respect to the confidentiality of information imposed by section 31 of the Act and other relevant legislation. The successful respondent will be required to sign an acknowledgement that s/he/they is/are aware of the obligations imposed by section 31 and that all information that is obtained by the respondent in acting as advisor to the Authority and that has not otherwise come into the public domain shall not be disclosed except in accordance with law. **A breach of section 31(1) is an offence and may result in criminal liability.**

## **8. Other Information**

- 8.1. The Authority shall be free to accept any or none of the proposals tendered;
- 8.2. Intellectual content of any reports/documents produced shall become the sole property of the Authority;
- 8.3. The respondents shall maintain strict confidentiality in relation to the services being sought and the tendering process;
- 8.4. The work of the service provider shall be deemed to be carried out in Ireland and shall be governed by the laws of Ireland;
- 8.5. Failure to disclose any material interest at the time of its occurrence may disqualify a bidder or cause the termination of a contract and entitle the Authority to seek appropriate remedies, such as costs or compensation for loss;
- 8.6. Any conflicts of interest or potential conflict of interest on the part of a respondent must be fully disclosed to the Authority without delay.

8.7. The tender response as submitted and this Request for Tenders will form the basis of a contract of services to be agreed between the Authority and the successful respondent.

#### **9. Further information**

Relevant legislation, together with further information regarding the Authority and its activities, can be obtained at [www.iaasa.ie](http://www.iaasa.ie).

#### **10. Submission of tenders**

Expressions of interest, which should be clearly marked '***Tender – Provision of Legal Services to Section 24 Committees***', should be submitted by **5.00pm on 11 April 2014** to one of the contact points set out below:

**Irish Auditing & Accounting Supervisory Authority  
Willow House,  
Millennium Park  
Naas,  
Co. Kildare  
Ireland**

or

**by fax: +353 45 983 601**

or

**[submissions@iaasa.ie](mailto:submissions@iaasa.ie)**

Tenders received after the above deadline will not be considered.

The Authority is committed to a policy of equal opportunity and welcomes expressions from persons with disabilities.

**Irish Auditing & Accounting Supervisory Authority  
24 March 2014**