



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

1. Context and Overview

1.1 The Authority

The Irish Auditing and Accounting Supervisory Authority ('the Authority') is a statutory body by virtue of having been established by an Act of the Oireachtas (the Companies (Auditing and Accounting) Act, 2003 ('the Act')). As provided for by the Act, the Authority operates through a company limited by guarantee, designated for that purpose by the Minister for Trade & Commerce. The Authority's statutory objects, functions and powers are set out in sections¹ 8, 9 and 10 of the Act respectively.

The Authority has an annual Programme of Expenditure of approximately €2.5m and has a staff complement of 12, including the Secretary who is also the Authority's internal legal advisor. Pursuant to the Act, the Authority's core funding is provided through a combination of Exchequer funding (which accounts for 40% of the funding of the Authority's core activities) and a levy on the Prescribed Accountancy Bodies ('PABs') (which accounts for the remaining 60% of the funding of the Authority's core functions). In addition, the Authority has been designated as a competent authority for the purposes of:

- Article 24(4)(h) of the EU Transparency Directive (Directive 2004/109/EC) and certain of the costs associated with those responsibilities are funded in full by the Exchequer;
- The European Communities (Transitional Period Measures in Respect of Third Country Auditors) Regulations 2009²; and
- the European Communities (Statutory Audits) (Directive 2006/43/EC) Regulations 2010³.

1.2 Purpose of this invitation

Upon its establishment, the Authority appointed a firm of solicitors to act as its principal provider of external legal advice and ancillary services. In accordance with public sector procurement norms, the primary purpose of this invitation is to facilitate the selection of a principal provider of legal advice and ancillary services to the Authority for a period of three years.

From time to time the Authority also retains the services of providers of legal advice and ancillary services other than those of its primary provider of such services (for example, where a conflict or potential conflict arises). In that context, this invitation will also be used for the purpose of establishing a Panel of service providers interested in providing such services to the Authority from time to time.

2. Nature of engagement(s)

The respondent selected as the Authority's principal service provider will be expected to deliver high quality legal advice and ancillary services and to do so within agreed timeframes. Where services are, from time to time, required from a service provider other than the Authority's principal provider, the selected service provider will, similarly, be expected to deliver high quality legal advice and ancillary services and to do so within specified, and occasionally, onerous timeframes.

Successful tenderers will have a high level of experience and expertise in the following areas:-

- company law, including transparency law;
- constitutional law (including natural justice);
- statutory interpretation;
- formulation of legal strategy;
- litigation risk management;

¹ As amended

² Statutory Instrument No. 229 of 2009

³ Statutory Instrument No. 220 of 2010

- regulatory law generally (preferably, though not necessarily, in the context of the regulation of professions and enforcement);
- civil litigation in the Superior Courts (including Judicial Review);
- rules of evidence / legal and professional privilege;
- commercial and contract law; and
- other law and regulation of relevance to the Authority's operations, including legislation and regulatory requirements relating to:
 - employment;
 - data protection;
 - freedom of information;
 - standards in public office;
 - taxation; and
 - EU law.

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:

- a) Name, business address, email address and telephone contact details;
- b) An assessment of the Authority's legal advisory needs, as understood by the tenderer;
- c) A service provision proposal to include:
 - a corporate biography (in the case of firms);
 - details of the composition of the proposed engagement team, including (i) details of the qualifications and relevant experience⁴ 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;
 - details of the respondent's overall approach to service delivery;
 - the respondent's proposed reporting and project management arrangements;
 - details of the respondent's processes for identifying actual/possible conflicts of interest and for the management of such conflicts;
 - an analysis of how the respondent believes that it can add value to the Authority's activities, including, as applicable, details of proposed benefits, deliverables etc.;
- d) A cost proposal to include:
 - the respondent's proposed fee structure; and
 - details of any assumptions used in preparing the cost proposal.

⁴ It is the Authority's policy to seek references. References will not be sought without respondents' consent.

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

Dependent 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:

- a) verify insofar as possible, and obtain any clarifications considered necessary regarding, assertions made by respondents in their submissions;
- b) assess respondents' overall understanding of, and operational capacity to deliver on, the Authority's service requirements;
- c) assess respondents' ability to deliver services related to the considerations outlined in section 2 above;
- d) ascertain and assess respondents' previous experience in the handling of a contract of this nature & size;
- e) identify any conflicts or potential conflicts that might have a bearing on the appropriateness of the respondent acting for the Authority;
- f) respond to any clarifications sought by respondents.

4.3 Cost

Respondents reaching the required minimum standard at interview shall be awarded a ranking based on an assessment of their service proposal, interview and submitted costs.

4.4 Ranking

4.4.1 Principal Advisor

Following the foregoing assessments, the table below will be completed for each respondent. The highest-scored respondent deemed to have the capacity to act as principal advisor will be selected as such:

Criterion	Max score
General understanding <i>Understanding of IAASA's role and objectives, and of its service requirements</i>	20
Respondent's service delivery proposal <i>Marks will be awarded based on the proposal detailed in section 3(c) above, and as expanded upon at interview.</i>	25
Relevant experience <i>Marks will be awarded in respect of relevant experience held by respondents</i>	20

Criterion	Max score
Cost <i>A mark will be extrapolated for each respondent based on their proposed charges vis-à-vis other eligible respondents.</i>	25
Overall suitability for appointment	10
TOTAL MARK AWARDED	100

4.4.2 Other service providers

The foregoing table will also be used in the selection of legal advisors for other services as outlined in 1.2 above.

5. Payment terms and conditions

- a) All proposed fees should be quoted in euro, including VAT at the appropriate rate.
- b) No additional fees, other than those originally quoted for the work when tendering of the project shall be paid.
- c) 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.
- d) Payment will be made in accordance with the provisions of Statutory Instrument No. 388 of 2002 (EU (Late Payment of Commercial Transactions) Regulations) on receipt by the Authority of a valid invoice from the Service provider.
- e) The successful respondent will be required to produce a current Tax Clearance Certificate.
- f) 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.
- g) 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

- a) The Authority shall be free to accept any or none of the proposals tendered;
- b) Intellectual content of any reports/documents produced shall become the sole property of the Authority;
- c) The respondents shall maintain strict confidentiality in relation to the services being sought and the tendering process;
- d) The work of the service provider shall be deemed to be carried out in Ireland and shall be governed by the laws of Ireland;
- e) 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;
- f) 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.

10. Submission of tenders

Expressions of interest, which should be clearly marked '**Tender – Provision of external Legal Services**', should be submitted by **5.00pm on Friday, 18 June, 2010** 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

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
4 June, 2010