Volume 1: REQUEST FOR PROPOSAL | PROFESSIONAL SERVICES CONTRACT

REQUEST FOR PROPOSAL FOR AN ENABLING AGREEMENT BETWEEN:

ESKOM HOLDINGS SOC LIMITED

AND

THE CONTRACTOR

FOR:

FORENSIC & ANTI-CORRUPTION FRAUD RISK MANAGEMENT CONSULTING SERVICES ON AN AS AND WHEN REQUIRED BASIS.

CONTENTS:

T1.1: LETTER OF INVITATION

T1.2: TENDER DATA

T 1.3: ESKOM'S STANDARD CONDITIONS OF TENDER

ENQUIRY No. CORP2175

Deadline for submission: **10:00** hours on **11 May 2012**

Date: 17April 2012
Enquiries: Thembekile Matshaya
☎011 800-3046
E-mail : matshatb@eskom.co.za

REQUEST FOR PROPOSAL

The *services* are: **FORENSIC & ANTI-CORRUPTION FRAUD RISK MANAGEMENT CONSULTING SERVICES..**

Date: 17 April 2012 **Ref: CORP2175** **Enquiries: matshatb@eskom.co.za**

T1.1 LETTER OF INVITATION

Eskom Holdings SOC Limited ("Eskom") invites you to submit a proposal to provide the *services* as stated on the cover sheet. The list of documents provided for the purpose of the proposal is attached to this Request for Proposal (RFP).

The scope of work is provided in the **Services Information [C3 Scope of Work]**. The terms and conditions of the proposed contract are identified in the **Agreements and Contract Data [Part 1, Contract Data].**

Eskom Holdings SOC Limited Standard Conditions of Tender specifies the actions to be taken during the process of submitting a proposal. The section entitled **'Tender Data' [T1.2]** provides the details which make the standardised Conditions of Tender specific to the requirements of this enquiry, including the criteria you are required to comply with in order to be able to submit a proposal in response to this RFP.

The enquiry documents are supplied to you on the following basis: *[complete / delete / add as applicable].*

- Free of charge

Eskom has delegated the responsibility for this enquiry to the Eskom *Representative* whose name and contact details are stated in the Tender Data. Your submission of a proposal in response to this RFP will be deemed as acceptance of **Eskom's Standard Conditions of Tender.**

You are required to complete the attached Acknowledgement Form and return by facsimile as indicated on the form within five (5) days of receiving this RFP. If you do not intend submitting a proposal, kindly return all the enclosed documentation together with the Acknowledgement Form, stating your reasons for not wishing to participate.

Yours Faithfully

Fantas Mobu
General Manager Tactical Procurement

Group Commercial
Megawatt Park Maxwell Drive Sunninghill Sandton PO Box 1091 Johannesburg 2000 SA
Tel +27 11 800 3966 Fax +27 11 800 2509 www.eskom.co.za
Eskom Holdings SOC Limited Reg No 2002/015527/06

ACKNOWLEDGEMENT FORM

TO:	**ESKOM HOLDINGS SOC LIMITED's** ***Representative***	FROM	
Attention	**Thembekile Matshaya**	Sender	
		Tel No	
Fax No.	**086 665 2061**	Fax No.	
Email	**matshatb@eskom.co.za**	Email	

RFP ENQUIRY NO. CORP2175

ACKNOWLEDGEMENT: RECEIPT OF RFP FOR THE PROVISION OF: FORENSIC & ANTI-CORRUPTION FRAUD RISK MANAGEMENT CONSULTING SERVICES**.**

We are in receipt of the RFP from Eskom Holdings SOC Limited dated _____. We confirm that the documentation received by us is: ***(delete / complete as applicable)***

Either: Correct as stated in the attached list of Contents, and that each document is complete.
[tick box if documentation complete] ☐

Or: Incorrect or incomplete for the following reasons:

_____

_____

_____

Please select either statement 1 or 2 below and delete the other:

1. We have noted the *deadline for tender submission* (given in the Tender Data) and will be submitting our proposal before the closing date as instructed.
☐

2. We do not intend to submit a proposal for this work, and return all of the attached documentation herewith. Our reason for not wishing to submit a proposal is as follows:
☐

_____

_____

_____

_____

Yours faithfully

_____

for the *tenderer*

T1.2 Tender Data

Eskom's Standard Conditions of Tender makes several references to the Tender Data for details that apply specifically to this RFP. Each item of data provided below is cross-referenced in square brackets like these [ ] to the applicable clause in the Eskom Standard Conditions of Tender to which the data mainly applies.

1 General

[1.1] The Eskom *Representative* is

Name Ms Thembekile Matshaya
Address Megawatt Park, 1 Maxwell Drive, Sunninghill
Tel No. (011)800-3046
Fax No. 086 665 2061
E mail matshatb@eskom.co.za

[1.2] A *tenderer* is a person or sole proprietorship, partnership, close corporation, joint venture or company eligible to submit a tender / proposal in accordance with these *criteria*:

2 *Tenderer's* obligations

[2.1.] The *tender documents* are
Volume 1 : Request for Proposal
Volume 2 : Returnable documents
Volume 3 : Contract

[2.2] A compulsory clarification meeting has been arranged for tenderers as follows:

Commence at: 09:00 a.m. (South African Standard Time).
On: 25 April 2012
The venue: Sunninghill Park Building1 Ground Floor Letaba Auditorium.

Tenderers shall confirm their intention to attend by no later than 24 April 2012, by notification to:

Name Ms Thembekile Matshaya
E-mail. matshatb@eskom.co.za

stating the name, position and contact details of each proposed attendee.(Maximum of two per company)

[2.3] The closing date and time for clarification of queries is **02 May 2012.**

[2.4] The *conditions of contract*, are stated in the Contract Data.

[2.5] The proposal may be for the whole part of the *services*

[2.6] *Tender returnables* are generally in the document called **Tender Returnables [Volume 2]**, but may also be in other *tender documents* where the *tenderer* is requested to return something as part of his tender.

[2.7] The tender/proposal shall be submitted as one (1) original, one (1) copy and one (1) USB

[2.8] The request for proposal number is **CORP2175**

[2.9] The tender shall be addressed to Eskom Holdings SOC Limited as follows:

Confidential
Proposal No. **CORP2175**
1 Megawatt Park
Maxwell drive
Sunninghill

[2.10] The place for delivery of the tender is Eskom Holdings SOC Limited's Tender Box located at:

Eskom, Megawatt Park
DG West, New Entrance
Main Reception
Tender Office
1 Maxwell drive
Sunninghill

[2.11] The *deadline for proposal submission* is **10:00** am on **11 May 2012** (South African Standard Time).

[2.12] The *validity period* is twenty (20) weeks from tender closing date

[2.13] All tender(s) / proposal(s) must be based only on the following criteria and subject to acceptance by Eskom Holdings SOC Limited for evaluation purposes. Negotiations will be arranged after evaluation of tenders.

[2.14] A responsive tender will be evaluated on the following criteria:

Evaluation Criteria	Weight
Technical Criteria Procurement Quality Assurance	**40%** **10%**
Commercial • Pricing • Tender Returnables	**20%**
SD&L ***B-BBEE***	**20%** **10%**

[2.15]**Eskom's *Representative* will evaluate the proposal in accordance with the following:**

- Eskom reserves the right not to evaluate and award proposals that do not comply strictly with this proposal document.
- Eskom reserves the right to make a selection solely on the information received in the proposal or to enter into negotiations with any one or more Supplier(s).
- Should Suppliers be selected for further negotiations, they will be chosen on the basis of the greatest benefit to Eskom and not necessarily on the basis of the lowest costs.
- Eskom will use the table above to evaluate the tenders. The threshold for qualification is **67%** of the total combined score.

Eskom also reserves the right to:

- Cancel this proposal or any part thereof at any time.
- Accept any proposal in part or full at its own discretion.
- Contact a supplier during the evaluation process, in order to clarify any information, without informing any other supplier.
- Audit the contract from time to time.

Eskom's undertakings

- Making the specified correction for arithmetical errors.
- Excluding contingencies in any activity schedule.
- Making an adjustment based on the application of the quantitative information entered by *tenderers* in the Contract Data provided by the *Contractor* to provisional amounts assessed by Eskom's *Representative*. A model tender assessment schedule suitable for use with Option A of the NEC3 Professional Services Contract may be included in the *tender returnables* for this purpose.
- Making an appropriate adjustment for any other acceptable variations or deviations, submitted.
- Eskom reserves the right to negotiate with any one or more Tenderers post tender receipt.
- Eskom to appoint a panel of consultants.

The number of copies of signed contract documents to be supplied by Eskom is:

For the NEC3 Professional Services Contract: 1
For the NEC Adjudicator's Contract: ANNEXURE B: 1

4 Additional conditions of tender

- Eskom invites you to respond to the invitation to tender but does not promise to enter into a contract with the Supplier.
- All the information submitted would be treated as confidential.
- All Suppliers must familiarise themselves with the NEC3 Professional Services Contract (PSC) enclosed herein and confirm their acceptance of the Conditions of the contract.

5 Confidentiality

The information contained in this document is of a confidential nature, and may only be used for purpose of responding to this invitation. This confidentiality clause extends to partners, whom you may decide to involve in preparing a response to this invitation.
Your response and any supporting documents submitted as part of your response will become the property of Eskom.

6 Conditions of contract

Eskom will only accept proposals from interested parties that are prepared to comply with the contract conditions as per the New Engineering Contracts (NEC 3) - Professional Services Contract (PSC), 3rd Edition, as published by Thomas Telford Publishing on behalf of the Institution of Civil Engineers, United Kingdom. Copies are available from Thomas Telford Ltd, 1 Heron Quay, London. (ISBN 07277-3371-0) In South Africa, the published PSC can be purchased from Thomas Telford Publications, telephone number +27 (0) 11 803 3008, fax number +27 (11) 803 3009. See the attached Professional Services Contract.

Volume 2: RETURNABLE DOCUMENTS | PROFESSIONAL SERVICES CONTRACT

The *tenderer* must complete and return the following returnable documents:

No	Returnable Document / Schedule	*Tenderer's* Tick Box
1	Cover sheet	
2	Acknowledgement Form	
3	Contract Data: As per T2.1 No 2 List of Returnable Documents	
4	Contract Data Part 2: Data provided by the *Consultant*	
5	Original and valid SARS Tax Clearance Certificate	
6	A valid B-BBEE Verification Certificate from a Verification Agency and SD&L Matrix	
7	Certificate of Compliance with the Employment Equity Act	
8	Declaration Regarding Fair Bidding Practices	
9	Latest audited and signed annual financial statements	
10	Reference at least 3 Suppliers with the contact person, contract period and signed by the Project or Commercial Manager.	
11	Names and CV's of the Consultant who will be part of the panel	
12	Procurement Quality Assurance requirements as per the Eskom Std. QM58 attached	

Volume 3: CONTRACT	PROFESSIONAL SERVICES CONTRACT

1. AGREEMENTS AND CONTRACT DATA

1.1 Contract Data Part 1: Data provided by the *Employer*
1.2 *Adjudicator's* contacts. ANNEXURE B

2. PRICING DATA

C2.1 Pricing instructions Option A
C2.2 *the Activity Schedule*

3 EMPLOYER'S WORKS INFORMATION

3.1 See C3 Scope of Work

	Eskom's B-BBEE Policy	

Eskom's requirements regarding Black/Black Women-owned Suppliers are as follows:

Definitions:

Black: "Black people" are defined as African, Coloured or Indian persons who are natural persons and are citizens of the Republic of South Africa by birth or descent; or

are citizens of the Republic of South Africa by naturalization before the commencement date of the Constitution of the Republic of South Africa Act of 1993; or became citizens of the Republic of South Africa after the commencement date of the Constitution of the Republic of South Africa Act of 1993, but for the Apartheid policy that had been in place prior to that date, would have been entitled to acquire citizenship by naturalization, prior to that date.

- Black Women Owned (BWO): An EME (Exempted Micro Enterprises) or QSE (Qualifying Small Enterprises) that is 50% or more owned and effectively managed by Black women.
- People living with Disabilities: Person with a long term or recurring physical or mental impairment that substantially limits their entry into, or advancement in employment.
- Large Black Suppliers (LBS): An LME (Large Measured Enterprises) that is a minimum of a "Level Four Contributor" to BEE.
- Large Black Women Owned: An LME that is 50% or more owned and effectively managed by Black women.
- Small Black Enterprise (SBE): An EME or QSE that is 50% or more owned and effectively managed by Black persons.
- Verification Agency: A Verification Agencies that have applied for Accreditation licence through SANAS and have gone through to the recommendation stage.
- Verification Certificate: The certificate and accompanying documentary proof obtained from an Accredited Verification Agency or a Verification Agency (as defined herein) confirming the B-BBEE Status of a Supplier.

When determining the hierarchy of preference with respect to BEE, the steps are as follows:

Step 1: Determine preference with respect to size and turnover: i.e. EMEs before QSEs before LMEs. It must be noted that EMEs which are "Level Three Contributors" are Eskom's first preference as they represent very small businesses with more than 50% Black ownership, while EMEs which are "Level Four Contributors" are last on the Eskom hierarchy of preference as they represent a group that will be inclusive of non-Black Suppliers (OTH).

Step 2: Once Suppliers are sub-categorised with respect to their size / turnover, then EMEs and QSEs must once again be grouped based on whether they are Black Disabled, BWO, or SBE. Eskom's preference is Black Disabled over BWO over SBE.

Step 3: Within each category and sub-category, preference will be given to the Supplier with the highest B-BBEE Status - i.e. "Level One Contributor" before "Level Two Contributor" before "Level Three Contributor", etc. It must be noted that when dealing with EMEs which are "Level Three Contributors", the preference is the highest level of Black ownership (e.g. 100% Black ownership over 80% Black ownership over 51% Black ownership, etc) as the highest B-BBEE Status for an EME in terms of the Codes is that of a "Level Three Contributor".

Eskom will use the table below to evaluate all tenders.

Supplier Development & Localisation Requirements

Evaluation weight for SD & L is 30%, and is broken down in to the following manner:

Gate Keeper
B-BBEE: 10%

- B-BBEE Level 1 to 4 is a gate keeper
- Preference will be given to
  - Businesses owned by People Living with Disabilities and Black Youth Owned Businesses
- Tenderers have to submit CIPRO documents with copies of Identity documents for the Directors of the companies
- Confirmation that the business is owned by People Living with Disabilities

The B-BBEE scorecard below will be used to evaluate tenders on B-BBEE levels and black ownership.

1. **B-BBEE scoring matrix -10%**

Eskom will use the table below to evaluate this tenders on B-BBEE	Evaluation Criteria								
NOTE : 50% Black Male or Female	Ownership score	Zero (0)							
QSE and LME (Generic)	Scoring	Black Disabled	Black Youth	BWO	BWO	BWO	BEE / SBE	BEE / SBE	BEE / SBE
				76%-100%	50%+1- 75%	0%-50%	76%-100%	50%+1-75%	0%-50%
Level 1	5 +	1	1	3	2	0	2	1	0
Level 2	4 +	1	1	3	2	0	2	1	0
Level 3	3 +	1	1	3	2	0	2	1	0
Level 4	2 +	1	1	3	2	0	2	1	0
Level 5	0 +	1	1	3	2	0	2	1	0
Level 6	0 +	1	1	3	2	0	2	1	0
Level 7	0 +	1	1	3	2	0	2	1	0
Level 8	0 +	1	1	3	2	0	2	1	0
Level 9 non Compliant	0+	0	0	0	0	0	0	0	0
EME									
EME3	5+	1	1	3	2	0	2	1	0
EME4	2+	0	0	0	0	0	0	0	0

Localisation matrix:20%

A. Localisation matrix: 20%

- **Skills transfer:** This refers to Increasing the skill base (number and skill level) of South African workers in areas relevant to the energy sector and where there is a national scarcity of skills
- **Local content:** Utilisation of Eskom and suppliers' spend to develop South African based suppliers relevant to the energy sector (focusing primarily on B-BBEE and Black Owned suppliers)
- **Job creation:** This refers to Creation of new jobs by suppliers as a direct result of Eskom business
  - **Tenderers are requested to propose a number of jobs that will be created and those that will be retained as a direct result of tender**.

To ensure that we achieve maximum and sustainable skills transfer, the Localisation matrix below has to

be completed by the tenderers. The minimum acceptable score for this localisation matrix is 60%

Criteria	Weight %	Target	Proposed	Actual	Score
LBS	**25.00%**	10.00%			**0.00%**
BWO/SBE	**15.00%**	15.00%			**0.00%**
Local Content	**25.00%**	100.00%			**0.00%**
Skills Development Total	**35.00%**				**0.00%**
Total Score	**100.00%**			**SD & L Score**	**0.00%**

Skills Development	Weight	Target	Proposed	% Score	Weighted Score
Forensic investigator in Training 1. (skills transfer on benchmarking against well understood and reliable industry norms) 2. General Fraud investigations which include areas that are mentioned in the scope of work under Forensic investigations)	60%	8			
Risk Management/ Officer/Assessor (Skills transfer in Proactive Objectives)	40%	6			

Complete the Proposed column only.

Quality Assurance Matrix

SECTION 3				
Quality documents to be submitted with the tender				
No	**QM58 CONTRACT QUALITY REQUIREMENTS**	**COMMENTS**	**ACCEPTABLE**	
			YES	**NO**
3.2.1	**Quality management system**			
[A1]	The Contractor shall complete and sign Form A (Enquiry/Contract/Quality Requirements)			
[A2]	The Contractor shall complete and sign Form B (Quality Requirements for Quality Management ISO series)			
[A4]	A copy of the CV/Resume of the Contractor's quality management representative			
[A5]	The Contractor shall attach a copy of ISO 9001:2008 (or latest applicable revision). Certificate or objective evidence (e.g. copy of a compliance audit report) of a QMS that complies with ISO 9001:2008(or latest applicable revision).			
[A6]	The Contractor shall attach a copy of the latest structure/organogram of the quality function/ department, including an abridged indication of qualifications of personnel. This structure shall indicate to whom the organizations quality management representative reports in the organization			
[A10]	A sample of a corrective and preventive action report shall be attached to tender			
[A11]	A sample of an audit schedule and report on a sub-Contractor			
[A12]	A detailed description of the process and procedure for the evaluation, selection and control of suppliers and subcontractors shall be attached to the tender			

ANNEXURE A: NOTES TO CONSULTANTS -

This is guidance to Consultants to assist their decision making about what cover to arrange in the insurance to be provided by the Consultant. The guidance is not part of the contract and the Employer carries no liability for it.

1. For the purpose of works contracts, insurance provided by Eskom (the *Employer*) has been arranged on the basis of "project" or "contract" value, where the value is the total of the Prices at Completion of the whole of the works including VAT.

   A "project" is a collection of contracts or work packages to be undertaken as part of a single identified capital expansion or refurbishment of a particular asset or facility.

   A "contract" is a single contract not linked to or being part of a "project".

2. There are three main "formats" of cover and deductible structure; Format A, Format B and Format Dx.

   Format A is for a project or contract value less than or equal to R350M (three hundred and fifty million Rand) inclusive of VAT.

   Format B is for a project or contract value greater than R350M (three hundred and fifty million Rand) inclusive of VAT.

   In the case of contracts / packages within a project:

   - For a contract / package of R50M which is part of a R400M project, Format B will apply
   - For a contract / package of R250M which is part of a R6 billion project, Format B will apply;
   - For a contract / package of R120M which is part of a R350M project Format A will apply;

   For a contract which is not part of a project the same limits apply:

   - For a contract of R50M, Format A will apply
   - For a contract of R355M, Format B will apply.

   Format Dx applies only to Distribution Division projects and contracts. If a Distribution Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover. Cover and deductibles for Distribution Division are per the relevant policy available on the internet web link given below.

   Format A generally applies to Transmission Division projects and contracts. If a Transmission Division project or contract exceeds the Format A limit, the Eskom Insurance Management Services [EIMS] need to be contacted for advice on how to formulate the insurance cover.

3. **Further information and full details of all Eskom provided policies and procedures may be obtained from:**

   http://www.eskom.co.za/live/content.php?Item_ID=9248

4. **THE INSURANCE WHICH THE *CONSULTANT* IS TO PROVIDE AGAINST HIS LIABILITY FOR CLAIMS MADE AGAINST HIM ARISING OUT OF HIS FAILURE TO USE REASONABLE SKILL AND CARE (FIRST ROW IN THE INSURANCE TABLE OF CLAUSE 81.1 IN THE PSC3) SHOULD ALSO INDEMNIFY THE *CONSULTANT* FOR THOSE SUMS WHICH HE COULD BECOME LEGALLY LIABLE TO PAY AS DAMAGES ARISING FROM ANY CLAIM FIRST MADE AGAINST HIM AND REPORTED TO INSURERS SOME TIME AFTER COMPLETION OF THE WHOLE OF THE *SERVICES*. HENCE THE *CONSULTANT* NEEDS TO ENSURE THAT HIS COVER IS IN PLACE AT LEAST UNTIL ALL HIS LIABILITIES UNDER THE CONTRACT HAVE EXPIRED. SUCH CLAIMS COULD ARISE OUT OF ANY NEGLIGENT ACT, ERROR OR OMISSION COMMITTED OR ALLEGED TO HAVE BEEN COMMITTED BY THE *CONSULTANT* IN THE CONDUCT OF PROFESSIONAL SERVICES IN CONNECTION WITH THE CONTRACT.**

ANNEXURE B: THE *EMPLOYER'S* PANEL OF ADJUDICATORS

THE FOLLOWING PERSONS LISTED IN ALPHABETICAL ORDER OF THEIR SURNAME HAVE INDICATED THEIR WILLINGNESS TO BE INCLUDED IN THE ESKOM PANEL OF ADJUDICATORS. THEIR CV'S MAY BE OBTAINED BY USING THE CONTACT DETAILS PROVIDED.

Name	Location	Contact details (phone & e mail)
Nigel ANDREWS	Gauteng	+27 11 836-6760 nigela@quoin.net
Andrew BAIRD	Gauteng	+27 11 803 3008 andrewbaird@ecsconsult.co.za
Christopher BINNINGTON	Gauteng	+27 11 888-6141 cdb@bca.co.za
Peter HIGGINS	UK	+44 1293 873 868 peterhiggins@pdconsult.co.uk
Bruce LEECH	Gauteng	+27 11 290 4000 leech@counsel.co.za
Nigel NILEN	Gauteng	+27 11 465 3601; nilences@global.co.za
Peter THURLOW	Gauteng	+27 11 787 6226 info@thurlowassoc.com

Information about the Panel and appointment of the selected *Adjudicator* is available from Eskom Supply Chain Operations management, by contacting Leighton Itholeng on 011 800 4031 or [Leighton.Itholeng@eskom.co.za]

C3 Scope of work

3.1. Scope of Work

Eskom intends to establish a Panel of Consultants, and to appoint such Consultants from the Panel on a Task Order basis. The scope of work for each Task Order will vary based on the type of Consulting advice required at the time. As a guideline it should be noted that the scope of work, at any particular time is expected to include, but will not be limited to the following:

1. Forensic Investigations

- General fraud investigations-investigate suspicious transactions; perform accounting/commercial process/tender fraud/insurance related investigations
- Investigate possible syndicate criminal activities related to financial/tender/procurement matters
- Financial statement fraud – (overstating assets, revenues, profits and understanding liabilities, expenses, losses and contravention of companies act)
- Breach of contract investigations, establishing the losses, misrepresentation, non-performance, material breach, utilising loop holes, fraudulent acts, concealment, corruption and collusion
- Lifestyle audits
- Conflict of interest investigations
- Identify and trace of illicit financial transactions/funds/assets
- Interviewing and questioning of witnesses and suspects
- Compiling affidavits/taking statements, where necessary
- Collecting and safeguarding of evidence
- Facilitating of polygraph examinations if and when necessary
- Facilitating of computer forensic experts if and when necessary
- Facilitating of handwriting analysis experts if and when necessary
- Expert testimony in disciplinary and criminal hearings, if and when required
- Ensure adequate investigation resources are maintained in accordance with Eskom's requirements
- Interaction with Government Law enforcement agencies such as the various investigation units of the South African Police, National Prosecuting Authority, South African Revenue Services, etc.
- Support the criminal justice process during the prosecution process, in depth knowledge of relevant legislation

2. **Proactive Objectives**

- Carry out fraud risk assessments of Eskom's exposure to fraud and corruption and provide suggestions of how risk factors can be minimised
- Compile fraud risk registers where necessary
- Conduct data analytics exercises
- Conduct probity searches
- Evaluate preventative measures currently established to address lack of controls emanating from previous investigation experience
- Based on the results of the evaluation, determine whether additional and/or refined preventive measures may need to be considered in order to reduce to acceptable and or zero levels
- Due diligence reviews in order to determine whether requirements are met
- Assist to correct deficiencies determined in due diligence reviews

3. **Benchmarking Functions**

- Benchmarking against well understood and reliable industry norms

4. **Transfer of Skills**

- The consultants might be required to transfer relevant skills/knowledge to the Forensic and Anti-Corruption staff on certain projects on an if and when required basis

5. Deliverables

- Issue final report (minimum period of six weeks) on factual findings and recommendations for Eskom management. These should be substantiated with full supporting exhibits and documentary evidence
- Issue interim/progress report (minimum period of three weeks) on factual findings and possible recommendations as at that stage of the investigation. The consultant should issue a program of the remaining action steps of the investigation and how they plan to carry out such remaining action steps
- Presentation of final reports and recommendations to Eskom management

T2.1 - List of Returnable Documents

	The *tenderer* must complete and return the following returnable documents:	**Tenderer's tick box √**
1	**Documents which must be returned**	
1	The Cover Page to this tender	
2	Acknowledgement Form behind Request for Proposal (returned within 4 working days of receipt of tender documents)	
2	**Documents included which must be completed and returned**	
	T2.2a No1 Declaration of Fair Bidding	
	C1.1 Form of Offer and Acceptance (tenderer to complete Offer section only)	
	C1.2 Contract Data provided by Consultant	
	C2.1 PSC 3 Pricing Assumption: Option A	
	C2.2 PSC3 Option A - Activity Schedule	
3	**Documents to be developed and completed by the tenderer**	
	Your proposal	
	Names and CV's of the Consultant who will be part of the panel	
	Reference at least 3 Suppliers with the contact person, contract period and signed by the Project or Commercial Manager.	
4	**Other documents required for tender assessment purposes**	
	Original and valid SARS Tax Clearance Certificate	
	A valid B-BBEE Verification Certificate from a Verification Agency	
	SD&L Matrix	
	Quality Assurance Matrix	
	Declaration regarding fair bidding	
	Latest audited and signed annual financial statements	

	Declaration of Fair Bidding Practices	**Tender Schedule T2.2a No .1**

The essence of competitive tendering is that Eskom will receive *bona fide* competitive tenders from all tenderers.

In recognition of these principles, we hereby declare that this is a *bona fide* tender, intending to be competitive, and that we have not engaged in price-fixing with any other tenderer or person, or in any way colluded with any other tenderer or person in an attempt to alter or pre-empt the outcome of this competitive tender.

DECLARATION:

I, the undersigned [*insert full name of signatory*] _____, duly authorised to complete this tender in my capacity as [*insert capacity, i.e., member, director, partner, etc*] _____ on behalf of the tenderer [*insert full name of the business entity*]

_____

certify that, to the best of my knowledge, the information furnished herein is true and correct.

I accept that Eskom reserves its right to act against the tenderer or me personally in terms hereof, should this declaration prove to be false.

Signed _____ Date _____

	Certificate of attendance at tender clarification meeting	**Tender Schedule T2.2a No. 2**

This is to certify that

..... (Tenderer)

of ..... (address)

was represented by the person(s) named below at the compulsory tender clarification meeting

held at:		
On (date)	dd/mm/yy	Starting time: --:--

As the tenderer we undertake that by said persons attending the clarification meeting we have made it our business to familiarise ourselves with all aspects of the works / service / supply specified in the tender documents in order for us to take account of everything necessary to provide a responsive tender offer and to compile our rates and prices included in the tender offer.

We further understand that in addition to any queries raised on behalf of us at the meeting we may still approach the *Employer / Purchaser*'s Representative to request clarification of the tender documents until the *closing time for clarification of queries* stated in the Tender Data.

Particulars of person(s) attending the meeting:

Name ..... Signature .....

Capacity .....

Name ..... Signature .....

Capacity .....

Attendance of the above persons at the meeting was confirmed by the procuring organisation's representative as follows:

Name ..... Signature .....

Capacity ..... Date & time .....

NEC3 Professional Services Contract (PSC3)

Contract between **Eskom Holdings SOC Limited**
(Reg No. 2002/015527/06)

and **[To be inserted at award stage]**
(Reg No. _____)

for **FORENSIC & ANTI-CORRUPTION FRAUD RISK MANAGEMENT CONSULTING SERVICES "AS AND WHEN REQUIRED BASIS".**

Contents:		**No of pages**
Part C1	**Agreements & Contract Data**	**[.]**
Part C2	**Pricing Data**	**[.]**
Part C3	**Scope of Work: The Scope**	**[.]**

CONTRACT No. **[To be inserted at award stage]**

PART C1: AGREEMENTS & CONTRACT DATA

Document reference	Title	No of pages
C1.1	**Form of Offer & Acceptance**	**[21]**
	[to be inserted from Returnable Documents at award stage]	
C1.2a	**Contract Data provided by the *Employer***	**[23]**
C1.2b	**Contract Data provided by the *Consultant***	**[32]**
	[to be inserted from Returnable Documents at award stage]	

C1.1 Form of Offer & Acceptance

Offer

The Employer, identified in the Acceptance signature block, has solicited offers to enter into a contract for the procurement of: **Forensic & Anti-Corruption Fraud Risk Management Consulting Services.**

The tenderer, identified in the Offer signature block, has

either	examined the documents listed in the Tender Data and addenda thereto as listed in the Returnable Schedules, and by submitting this Offer has accepted the Conditions of Tender.
or	examined the draft contract as listed in the Acceptance section and agreed to provide this Offer.

By the representative of the tenderer, deemed to be duly authorised, signing this part of this Form of Offer and Acceptance the tenderer offers to perform all of the obligations and liabilities of the *Consultant* under the contract including compliance with all its terms and conditions according to their true intent and meaning for an amount to be determined in accordance with the *conditions of contract* identified in the Contract Data.

The offered total of the Prices exclusive of VAT is	**R**
Value Added Tax @ 14% is	**R**
The offered total of the Prices inclusive of VAT is	**R**
(in words)	

If Option A apply, for each offered total insert in brackets, "(Not Applicable – Cost reimbursable)"

This Offer may be accepted by the Employer by signing the Acceptance part of this Form of Offer and Acceptance and returning one copy of this document including the Schedule of Deviations (if any) to the tenderer before the end of the period of validity stated in the Tender Data, or other period as agreed, whereupon the tenderer becomes the party named as the *Consultant* in the *conditions of contract* identified in the Contract Data.

Signature(s) .....

Name(s) .....

Capacity .....

For the tenderer: .....

(Insert name and address of organisation)

Name & signature of witness

Date

Acceptance

By signing this part of this Form of Offer and Acceptance, the Employer identified below accepts the tenderer's Offer. In consideration thereof, the Employer shall pay the Consultant the amount due in accordance with the *conditions of contract* identified in the Contract Data. Acceptance of the tenderer's Offer shall form an agreement between the Employer and the tenderer upon the terms and conditions contained in this agreement and in the contract that is the subject of this agreement.

The terms of the contract, are contained in:

Part C1 Agreements and Contract Data, (which includes this Form of Offer and Acceptance)

Part C2 Pricing Data

Part C3 Scope of Work: The Scope

and drawings and documents (or parts thereof), which may be incorporated by reference into the above listed Parts.

Deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Returnable Schedules as well as any changes to the terms of the Offer agreed by the tenderer and the Employer during this process of offer and acceptance, are contained in the Schedule of Deviations attached to and forming part of this Form of Offer and Acceptance. No amendments to or deviations from said documents are valid unless contained in this Schedule.

The tenderer shall within two weeks of receiving a completed copy of this agreement, including the Schedule of Deviations (if any), contact the Employer's agent (whose details are given in the Contract Data) to arrange the delivery of any securities, bonds, guarantees, proof of insurance and any other documentation to be provided in terms of the *conditions of contract* identified in the Contract Data at, or just after, the date this agreement comes into effect. Failure to fulfil any of these obligations in accordance with those terms shall constitute a repudiation of this agreement.

Notwithstanding anything contained herein, this agreement comes into effect on the date when the tenderer receives one fully completed original copy of this document, including the Schedule of Deviations (if any).

Signature(s) .....

Name(s) .....

Capacity .....

for the Employer .....

(Insert name and address of organisation)

Name & signature of witness .....

Date .....

Note: If a tenderer wishes to submit alternative tenders, use another copy of this Form of Offer and Acceptance.

Schedule of Deviations

Note:

1. To be completed by the Employer prior to award of contract. This part of the Offer & Acceptance would not be required if the contract has been developed by negotiation between the Parties and is not the result of a process of competitive tendering.
2. The extent of deviations from the tender documents issued by the Employer prior to the tender closing date is limited to those permitted in terms of the Conditions of Tender.
3. A tenderer's covering letter must not be included in the final contract document. Should any matter in such letter, which constitutes a deviation as aforesaid be the subject of agreement reached during the process of Offer and Acceptance, the outcome of such agreement shall be recorded here and the final draft of the contract documents shall be revised to incorporate the effect of it.

No.	Subject	Details
1		
2		
3		
4		
5		
6		
7		

By the duly authorised representatives signing this Schedule of Deviations below, the Employer and the tenderer agree to and accept this Schedule of Deviations as the only deviations from and amendments to the documents listed in the Tender Data and any addenda thereto listed in the Tender Schedules, as well as any confirmation, clarification or changes to the terms of the Offer agreed by the tenderer and the Employer during this process of Offer and Acceptance.

It is expressly agreed that no other matter whether in writing, oral communication or implied during the period between the issue of the tender documents and the receipt by the tenderer of a completed signed copy of this Form shall have any meaning or effect in the contract between the parties arising from this Agreement.

	For the tenderer:	For the Employer
Signature	.....	.....
Name	.....	.....
Capacity	.....	.....
On behalf of	..... *(Insert name and address of organisation)*	..... *(Insert name and address of organisation)*
Name & signature of witness	.....	.....
Date	.....	.....
	.....	.....

C1.2 PSC3 Contract Data

PART ONE - DATA PROVIDED BY THE *EMPLOYER*

Clause	Statement	Data
1	**General**	
	The *conditions of contract* are the core clauses and the clauses for main Option	
		A: Priced Contract with Activity Schedule
	dispute resolution Option	**W1: Dispute resolution procedure**
	and secondary Options	
		X2: Changes in the law
		X7: Delay Damages
		X9: Transfer of rights
		X10 *Employer*'s *Agent*
		X11: Termination by the *Employer*
		X18: Limitation of liability
		Z: *Additional conditions of contract*
	of the NEC3 Professional Services Contract (June 2005)[1] with amendments June 2006	
10.1	The *Employer* is (Name):	**Eskom Holdings SOC Limited (reg no: 2002/015527/06), a juristic person incorporated in terms of the company laws of the Republic of South Africa**
	Address	**Registered office at Megawatt Park, Maxwell Drive, Sandton, Johannesburg**
	Tel No.	**011 800 3000**
11.2(9)	The *services* are	**Forensic & Anti-Corruption Fraud Risk Management Consulting Services.**
11.2(11)	The Scope is in	**Part C3: Scope of Work**
12.2	The *law of the contract* is the law of	**the Republic of South Africa**
13.1	The *language of this contract* is	**English**
13.3	The *period for reply* is	**Two (2) weeks**

[1] Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009

2	**The Parties' main responsibilities**		
25.2	The *Employer* provides access to the following persons, places and things	**access to be arranged as and when required.**	
		1 [●]	**[●]**
		2 [●]	**[●]**
		3 [●]	**[●]**
3	**Time**		
31.2	The *starting date* is.	**July 2012**	
11.2(3)	The *completion date* for the whole of the *services* is.	**June 2015**	
11.2(6)	The *key date*s and the *condition*s to be met are:	***Condition* to be met**	***key date***
		1 [●]	**[●]**
		2 [●]	**[●]**
		3 [●]	**[●]**
31.1	The *Consultant* is to submit a first programme for acceptance within	**Two [2] Weeks of the Contract Date.**	
32.2	The *Consultant* submits revised programmes at intervals no longer than	**One [1] Week.**	
4.	**Quality**		
40.2	The quality policy statement and quality plan are provided within	**[●] weeks of the Contract Date.**	
5	**Payment**		
50.1	The *assessment interval* is	**between the 25th day of each successive month.**	
50.3	The *expenses* stated by the *Employer* are	**Item**	**Amount**
		[●]	**[●]**
		[●]	**[●]**
		[●]	**[●]**
		[●]	**[●]**
51.1	The period within which payments are made is	**4 weeks from receipt of a valid VAT invoice.**	
51.2	The *currency of this contract* is the	**South African Rand**	

51.5 The *interest rate* is

(i) the publicly quoted prime rate of interest (calculated on a 365 day year) charged by from time to time by the Standard Bank of South Africa (as certified, in the event of any dispute, by any manager of such bank, whose appointment it shall not be necessary to prove) for amounts due in Rands and

(ii) the LIBOR rate applicable at the time for amounts due in other currencies. LIBOR is the 6 month London Interbank Offered Rate quoted under the caption "Money Rates" in The Wall Street Journal for the applicable currency or if no rate is quoted for the currency in question then the rate for United States Dollars, and if no such rate appears in The Wall Street Journal then the rate as quoted by the Reuters Monitor Money Rates Service (or such service as may replace the Reuters Monitor Money Rates Service) on the due date for the payment in question, adjusted *mutatis mutandis* every 6 months thereafter (and as certified, in the event of any dispute, by any manager employed in the foreign exchange department of The Standard Bank of South Africa Limited, whose appointment it shall not be necessary to prove.

8 Indemnity, insurance and liability

81.1 The amounts of insurance and the periods for which the *Consultant* maintains insurance are

Event	Cover	Period following Completion of the whole of the *service*s or earlier termination
Liability for failure by the *Consultant* to use the skill and care normally used by professionals providing services similar to the *service*s	**Whatever the *Consultant* deems necessary in respect of each claim, without limit to the number of claims**	**See Notes to Consultants in Annexure A**
death of or bodily injury to a person (not an employee of the *Consultant*) or loss of or damage to property arising from or in connection with the *Consultant*'s Providing the Services.	**Whatever the *Consultant* deems necessary for any occurrence or series of occurrences arising out of one event without limit to the number of claims.**	**See Notes to Consultants in Annexure A**

	death of or bodily injury to employees of the *Consultant* arising out of and in the course of their employment in connection with this contract	**As prescribed by the Compensation for Occupational Injuries and Diseases Act No. 130 of 1993 and the *Consultant's* common law liability for people falling outside the scope of the Act with a limit of indemnity of not less than R500 000-00 (five hundred thousand) in respect of each claim, without limit to the number of claims**	**As *Consultant* deems necessary**
81.1	The *Employer* provides the following insurances	**Refer to Annexure A for details of insurance provided by the *Employer*.**	
82.1	The *Consultant*'s total liability to the *Employer* for all matters arising under or in connection with this contract, other than the excluded matters, is limited to	**The greater of : The total of the Prices, or The amount of the Consultant`s applicable liability insurance cover**	
	The *Consultant* provides these additional insurances.		
	1Insurance against:	**Whatever the *Consultant* deems necessary including cover provided for payment of deductibles**	
9	**Termination**		
10	**Data for main Option clause**		
A	**Priced contract with activity schedule**		
21.3	The *Consultant* prepares forecasts of the total of the *expenses* at intervals of no longer than	**[●] weeks.**	
11	**Data for Option W1**		
W1.1	The *Adjudicator* is	**to be appointed at the time a dispute arises**	
	Address		
	Tel No.		
	Fax No.		
	e-mail		

W1.2(3)	The *adjudicator nominating body* is:	**the Chairman of the Joint Civils Division of the South African Institution of Civil Engineering. (See www.jointcivils.co.za)**.
W1.4(2)	The *tribunal* is:	**arbitration**
W1.4(5)	The *arbitration procedure* is	**the latest edition of Rules for the Conduct of Arbitrations published by The Association of Arbitrators (Southern Africa) or its successor body.**
	The place where arbitration is to be held is	**South Africa**
	The person or organisation who will choose an arbitrator ❑ if the Parties cannot agree a choice or ❑ if the *arbitration procedure* does not state who selects an arbitrator, is	**the Chairman for the time being or his nominee of the Association of Arbitrators (Southern Africa) or its successor body.**
12	**Data for secondary Option clauses**	
X2	**Changes in the law**	
X2.1	The law of the project is	any law within the Republic of South Africa which applies to the *Consultant*'s Providing the Services
X7	**Delay damages**	
X7.1	Delay damages for late Completion of the whole of the *services* are	**2.5% per task order**
X9	**Transfer of rights**	The *Employer* owns the *Consultant's* rights over materials prepared for this contract by the *Consultant* except as stated in the Scope.
X10	**The *Employer's Agent***	
X10.1	The *Employer's Agent* is	
	Name:	
	Address	
	The authority of the *Employer's Agent* is	

X11	**Termination by Employer**	
X11.1		The Employer may terminate the Consultant's obligation to provide the services for a reason not stated in this contract by notifying the Consultant.

X11.2		If the Employer terminates for a reason not stated in this contract, an additional amount is due on termination which is 5% of the difference between • the forecast of the final total of the prices in the absence of termination and • the total of the other amounts and costs included in the amount due on termination.

X18	**Limitation of liability**	
X18.1	The *Consultant's* liability to the *Employer* for indirect or consequential loss is limited to:	**R0.00 (Zero Rand)**
X18.2	The *Consultant's* liability to the *Employer* for Defects that are not found until after the *defects date* is limited to:	**The total of the Prices**
X18.3	The *end of liability date* is	**Fifty two (52) weeks after Completion of the whole of the *services*.**

Z	**The *Additional conditions of contract* are**	**Z1 to Z11 always apply.**

Z1 Cession delegation and assignment

Z1.1 The *Consultant* does not cede, delegate or assign any of its rights or obligations to any person without the written consent of the *Employer.*

Z1.2 Notwithstanding the above, the *Employer* may on written notice to the *Consultant* cede and delegate its rights and obligations under this contract to any of its subsidiaries or any of its present divisions or operations which may be converted into separate legal entities as a result of the restructuring of the Electricity Supply Industry and the Electricity Distribution Industry.

Z2 Joint ventures

Z2.1 If the *Consultant* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations then these persons or organisations are deemed to be jointly and severally liable to the *Employer* for the performance of this contract.

Z2.2 Unless already notified to the *Employer*, the persons or organisations notify the *Employer* within two weeks of the Contract Date of the key person who has the authority to bind the *Consultant* on their behalf.

Z2.3 The *Consultant* does not substantially alter the composition of the joint venture, consortium or other unincorporated grouping of two or more persons without the consent of the *Employer* having been given to the *Consultant* in writing.

Z3 Change of Broad Based Black Economic Empowerment (B-BBEE) status

Z3.1 Where a change in the *Consultant's* legal status, ownership or any other change to his business composition or business dealings results in a change to the *Consultant's* B-BBEE status, the *Consultant* notifies the *Employer* within seven days of the change.

Z3.2 The *Consultant* is required to submit an updated verification certificate and necessary supporting documentation confirming the change in his B-BBEE status to the *Employer* within thirty days of the notification or as otherwise instructed by the *Employer*.

Z3.3 Where, as a result, the *Consultant's* B-BBEE status has decreased since the Contract Date the *Employer* may either re-negotiate this contract or alternatively, terminate the *Consultant's* obligation to Provide the Services.

Z3.4 Failure by the *Consultant* to notify the *Employer* of a change in its B-BBEE status may constitute a reason for termination. If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the *service*s in addition to the amounts due in terms of core clause 92.1.

Z4 Ethics

Z4.1 Any offer, payment, consideration, or benefit of any kind made by the *Consultant* which constitutes or could be construed either directly or indirectly as an illegal or corrupt practice, as an inducement or reward for the award or in execution of this contract constitutes grounds for terminating the *Consultant's* obligation to Provide the Services or taking any other action as appropriate against the *Consultant* (including civil or criminal action).

Z4.2 The *Employer* may terminate the *Consultant's* obligation to Provide the Services if the *Consultant* (or any member of the *Consultant* where the *Consultant* constitutes a joint venture, consortium or other unincorporated grouping of two or more persons or organisations) is found guilty by a competent court, administrative or regulatory body of participating in illegal or corrupt practices.

Such practices include making of offers, payments, considerations, or benefits of any kind or otherwise, whether in connection with any procurement process or contract with the *Employer* or other people or organisations and including in circumstances where the *Consultant* or any such member is removed from the an approved vendor data base of the *Employer* as a consequence of such practice.

Z4.3 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the *service*s in addition to the amounts due in terms of core clause 92.1.

Z5 Confidentiality

Z5.1 The *Consultant* does not disclose or make any information arising from or in connection with this contract available to Others. This undertaking does not, however, apply to information which at the time of disclosure or thereafter, without default on the part of the *Consultant*, enters the public domain or to information which was already in the possession of the *Consultant* at the time of disclosure (evidenced by written records in existence at that time). Should the *Consultant* disclose information to Others in terms of clause 23.1, the *Consultant* ensures that the provisions of this clause are complied with by the recipient.

Z5.2 If the *Consultant* is uncertain about whether any such information is confidential, it is to be regarded as such until notified otherwise by the *Employer.*

Z5.3 In the event that the *Consultant* is, at any time, required by law to disclose any such information which is required to be kept confidential, the *Consultant*, to the extent permitted by law prior to disclosure, notifies the *Employer* so that an appropriate protection order and/or any other action can be taken if possible, prior to any disclosure. In the event that such protective order is not, or cannot, be obtained, then the *Consultant* may disclose that portion of the information which it is required to be disclosed by law and uses reasonable efforts to obtain assurances that confidential treatment will be afforded to the information so disclosed.

Z5.4 The taking of images (whether photographs, video footage or otherwise) of the *Employer*'s project works or any portion thereof, in the course of Providing the Services and after Completion, requires the prior written consent of the *Employer*. All rights in and to all such images vests exclusively in the *Employer*.

Z6 Waiver and estoppel: Add to core clause 12.3:

Z6.1 Any extension, concession, waiver or relaxation of any action stated in this contract by the Parties, or the *Adjudicator* does not constitute a waiver of rights, and does not give rise to an estoppel unless the Parties agree otherwise and confirm such agreement in writing.

Z7 Provision of a Tax Invoice and interest. Add to core clause 51

Z7.1 The *Consultant* (if registered in South Africa in terms of the companies Act) is required to comply with the requirements of the Value Added Tax Act, no 89 of 1991 (as amended) and to include the *Employer*'s VAT number 4740101508 on each invoice he submits for payment.

Z8 Notifying compensation events

Z8.1 Delete from the last sentence in core clause 61.3, "unless the *Employer* should have notified the event to the *Consultant* but did not".

Z9 *Employer's* limitation of liability

Z9.1 The *Employer's* liability to the *Consultant* for the *Consultant's* indirect or consequential loss is limited to R0.00 (zero Rand)

Z10 Termination: Add to core clause 90.1, at the second main bullet point, fourth sub-bullet point, after the words "against it":

Z10.1 or had a judicial management order granted against it.

Z11 Delay damages: Addition to secondary Option X7 Delay damages (if applicable in this contract)

Z11.1 If the *Consultant's* payment of delay damages reaches the limits stated in this Contract Data for Option X7 or Options X5 and X7 used together, the *Employer* may terminate the *Consultant's* obligation to Provide the Services.

Z11.2 If the *Employer* terminates in terms of this clause, the procedures on termination are those stated in core clause 91. The payment on termination includes a deduction of the forecast of the additional cost to the *Employer* of completing the whole of the *service*s in addition to the amounts due in terms of core clause 92.1.

C1.2b Contract Data

PART TWO - DATA PROVIDED BY THE *CONSULTANT*

1. The tendering consultant is advised to read both the NEC3 Professional Services Contract (June 2005) and the relevant parts of its Guidance Notes (PSC3-GN)[2] in order to understand the implications of this Data which the tenderer is required to complete. An example of the completed Data is provided on pages 146 to 150 of the PSC3 Guidance Notes. The number of the clause in the PSC3 which requires the data is shown in the left hand column for each statement however other clauses may also use the same data.
2. Whenever a cell is shaded in the left hand column it denotes this data is optional and would be required in relation to the option selected. The *Employer* should already have made the selection and deleted the rows not required.

Completion of the data in full, according to Options chosen, is essential to create a complete contract.

Clause	Statement	Data
10.1	The *Consultant* is (Name): Address Tel No. Fax No.	
22.1	The *Consultant's key persons* are: 1 Name: Job: Responsibilities: Qualifications: Experience: 2 Name: Job Responsibilities: Qualifications: Experience:	
Info.		**CV's (and further *key persons* data including CVs) are appended to Tender Schedule entitled .**
11.2(3)	The *completion date* for the whole of the *services* is	
11.2(10)	The following matters will be included in the Risk Register	

[2] Available from Engineering Contract Strategies Tel 011 803 3008 Fax 011 803 3009

11.2(13)	The *staff rates* are:	**name/designation**	**rate**
	Either complete here or cross refer to a schedule in Part C2.2		

25.2	The *Employer* provides access to the following persons, places and things	**access to**	***access date***
		1	
		2	
		3	

31.1	The programme identified in the Contract Data is		
50.3	The *expenses* stated by the *Consultant* are	**item**	**amount**

A	**Priced contract with activity schedule**	
11.2(14)	The *activity schedule* is in	
11.2(18)	The tendered total of the Prices is	**(in figures)**
		(in words), excluding VAT

PART 2: PRICING DATA

PSC3 Option A

Document reference	Title	No of pages
C2.1	Pricing assumptions: Option A	
C2.2	The *activity schedule*	

C2.1 Pricing assumptions: Option A

HOW WORK IS PRICED AND ASSESSED FOR PAYMENT

Clause 11 in NEC3 Professional Services Contract, June 2005 (PSC3) Option A states:

Identified and defined terms	11 11.2	(14) The Activity Schedule is the *activity schedule* unless later changed in accordance with this contract. (15) The Price for Services Provided to Date is the total of the Prices for the activities which have been completed. A completed activity is one which is without Defects which would delay immediately following work. (18) The Prices are the lump sum prices for each of the activities on the Activity Schedule unless later changed in accordance with this contract.

This confirms that Option A is a lump sum form of contract where the work is broken down into activities, each of which is priced by the tendering consultant as a lump sum. Only completed activities are assessed for payment at each assessment date; no part payment is made if the activity is not completed by the assessment date.

FUNCTION OF THE ACTIVITY SCHEDULE

Clause 53.1 in Option A states: "Information in the Activity Schedule is not Scope." This confirms that instructions to do work or how it is to be done are not included in the Activity Schedule but in the Scope. This is further confirmed by Clause 21.1 which states, "The *Consultant* Provides the Services in accordance with the Scope". Hence the *Consultant* does **not** Provide the Services in accordance with the Activity Schedule. The Activity Schedule is only a pricing document.

LINK TO THE PROGRAMME

Clause 31.4 states that "The *Consultant* provides information which shows how each activity on the Activity Schedule relates to the operations on each programme which he submits for acceptance". Hence when compiling the *activity schedule*, the tendering consultant needs to show each activity on the programme he submits with his tender.

PREPARING THE ACTIVITY SCHEDULE

The tendering consultant prepares the *activity schedule* and should study the PSC3 Guidance Notes pages 2 and 24 before doing so. The *Employer* may have instructed the tendering consultant to include particular activities which he has specified and requires the *Consultant* to identify them in his *activity schedule*.

1 Generally it is the *Consultant* who prepares the Activity Schedule as part of his tender by breaking down the work described within the Scope into suitable activities which can be well defined, priced as a lump sum and shown on the programme. The *Employer*, in his Conditions of Tender or in a Tender Schedule, may have listed some items that he requires the *Consultant* to include in his *activity schedule* and be priced accordingly.

2 The Prices are defined in clause 11.2(18) as the lump sum for each activity in the activity schedule and the Price for Services Provided to Date (PSPD) (the amount due to the *Consultant*) is defined in clause 11.2(15) as the total of the Prices for each activity that has been completed. Hence activities in the activity schedule should be structured so as to provide an acceptable monthly cash flow as they are only assessed for payment on the assessment date if they have been completed.

3 As the *Consultant* has an obligation to correct Defects (core clause 41) the lump sum Prices must also include for the correction of Defects except if the Defect is one for which the *Consultant* is not liable which is compensation event 60.1(12).

4 If the *Consultant* has decided not to identify a particular activity, the cost to the *Consultant* of doing the work must be included in, or spread across, the other Prices in order to fulfil the obligation to complete the *services* for the tendered total of the Prices.

5 There is no adjustment to the lump sum activity schedule price if the amount, or quantity, of work within that activity later turns out to be different to that which the *Consultant* estimated at time of tender. The only basis for a change to the Prices is as a result of a compensation event. See Clause 60.1.

6 Hence the Prices tendered by the *Consultant* in the *activity schedule* are inclusive of everything necessary and incidental to Providing the Services in accordance with the Scope, as it was at the time of tender, as well as correct any Defects except those for which he is not liable.

7 However, the *Consultant* does not have to allow in his Prices for matters that may arise as a result of a compensation event.

EXPENSES

Expenses are not included in the activity schedule items and are assessed separately at each assessment date.

Expenses associated with employing a staff member in Providing the Services are listed separately either by the *Employer* in Contract Data provided by the *Employer* or by the *Consultant* in Contract Data provided by the *Consultant*. As only the *expenses* listed may be claimed by the *Consultant*, all other cost to the *Consultant* associated with Providing the Services must be included within the activity schedule or *staff rates*.

Rate adjustment for inflation of *expenses* is explained on page 13 of the Guidance Notes.

STAFF RATES

When a compensation event occurs changes to the affected Activity Schedule item or new priced items in the Activity Schedule are assessed as the actual Time Charge for work already done and the forecast Time Charge for work not yet done. (See clause 63.1 and 63.14 in Option A)

The Time Charge is the sum of the products of each of the *staff rates* multiplied by the total staff time appropriate to that rate properly spent on work in this contract. (Clause 11.2(13))

Tendering consultants are advised to consult the NEC3 Professional Services Contract (June 2005) Guidance Notes and Flow Charts page 28 before entering *staff rates* into Contract Data, or in C2.2 below.

This is because *staff rates* can be established in one of three ways:
rates for named staff,
rates for categories of staff or
rates related to salaries paid to staff.
Rate adjustment for inflation, if necessary, can be based either on actual salary adjustments or by using

C2.2 the *activity schedule*

Use this page as a cover page to the *Consultant's activity schedule* or include here in this format:

This section can be used when the *staff rates* and *expenses* are considerable in number and more conveniently located here than in the Contract Data. Entries in the Contract Data should refer to this section of Part 2. Remember to state whether the *staff rates* and *expenses* exclude or include VAT.

THE *STAFF RATES* ARE:

No.	Designation (or category)	Rate per hour, excluding VAT
1	Director	
2	Associate Director	
3	Senior Manager	
4	Manager	
5	Investigative Accountant	
6	Investigators	
7	Consultant	
8	Officer/Support Staff	

ESKOM TRAVEL AND SUBSISTENCE ALLOWANCE GUIDELINES APPLICABLE TO SUPPLIERS/CONSULTANTS

Km's:	• When Eskom provides offices for the duration of the contract, then km's from Suppliers home to Eskom office cannot be claimed.
Km rates:	• R3.05/km
Accommodation	• Maximum 3 star, bed and breakfast.
Car rentals:	• Group B, the car should at least have 2 airbags, air-conditioning and ABS brakes for safety purposes.
Flights:	• Economy class.
Cost of Meals:	• Travelling on Eskom business: the cost of a meal should not exceed R108.00 (including VAT plus 10% gratuity) • No alcoholic beverages can be claimed for.
Telephone calls:	• When Eskom provides office and telephone facilities, then any telephone call claims (landline or cell) must be motivated. Claims will be paid only if the details are specified.
Travel bookings:	• To be made and paid for by Suppliers. This must then be claimed back once a month together with all other T&S expenses on a VAT invoice.
Hours worked	• Overtime: A Supplier must inform the project manager if they intend working any overtime which is more than 8 hours a day. • Timesheets: Daily sheets to specify hours worked per Supplier and tasks or deliverables

***Notes*:**

- A VAT invoice to be submitted for payment of T&S.
- Expenses must clearly indicate VAT-able and Non-VAT-able charges.