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PROJECT SCOPE

INVESTIGATION INTO ALLEGATIONS OF IRREGULAR EXPENDITURE DISCOVERED BY THE AUDITOR GENERAL SOUTH AFRICA FROM 2020/21 TO 2022/23



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1. INTRODUCTION AND BACKGROUND

- 1.1. The Department of Public Works and Infrastructure (DPWI) has a dedicated Anti-Corruption and Fraud Awareness Unit (ACU), which is mandated to conduct investigations on allegations of fraud, corruption, and serious maladministration. This Unit is placed within the Governance, Risk and Compliance Branch (GRC).
- 1.2. The Anti-Corruption and Fraud Awareness Unit received a request from management to conduct an investigation into allegations of suspected maladministration in procurement leading to the Department incurring irregular expenditure.
- 1.3. A report compiled by Auditor General of South Africa revealed several instances of suspected maladministration in procurement leading to the Department incurring irregular expenditure for the financial years 2021/22 to 2022/23.
- 1.4. The suspected transactions are as follows:-
 - 1.4.1. It is alleged in terms of bids awarded at the Cape Town Regional Office that:
 - Two tenders valued at R35m were awarded to bidders despite suspected irregular amendment of evaluation criteria.
 - One tender awarded to the value of R 1,5m was awarded to a bidder despite the bid not being subjected to a competitive bidding process.
 - 1.4.2. It is alleged that in terms of a bid awarded at the Durban Regional Office to the value of R 95,4m, it is suspected that the scoring of the bids were manipulated to favour the winning bidder.
 - 1.4.3. It is alleged in terms of bid awarded to the value of R 10,5m the awarded bidder made false declarations to the Department.



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2. PROJECT PURPOSE

- 2.1 The purpose of this exercise is to engage the services of an external service provider, who will assist the Department by conducting an investigation into allegations of suspected maladministration in procurement leading to the Department incurring irregular expenditure for the financial years 2021/22 to 2022/23.

3. OBJECTIVE AND SCOPE OF WORK

- 3.1. The objective is to conduct a comprehensive investigation into allegations of suspected maladministration in procurement leading to the Department incurring irregular expenditure for the financial years 2021/22 to 2022/23.

3.2. The scope of the investigation will, inter alia include the following:-

- 3.2.1. Investigate allegations of maladministration in respect of the procurement process followed in the award of tenders highlighted in Paragraph 1.4 above. Determine whether all prescribed prescripts, policies and procedures have been followed for the appointment of the successful bidders.
- 3.2.2. Identify criminal, irregular and/or improper conduct by DPWI officials and/or third parties involved in/benefiting from the incurrence of irregular contracting/conflicts of interest/irregular payments etc.;
- 3.2.3. Determine the extent of any irregular/illegal activity and the involvement of identified DPWI officials and/or third party service providers in relation to the scope of work stated at 3.2.1 – 3.2.2 above, specifically in relation to any fraud or corruption in any aspect of procurement, contract or service delivery;
- 3.2.4. Perform analysis in relation to transactions/payments, in order to quantify financial misconduct e.g. irregular expenditure.
- 3.2.5. Perform background intelligence searches to obtain strategic information on identified employee(s) and third party service providers



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as relevant to the investigation, in order establish possible links (direct or indirect) between the parties in terms of any unusual relationships/conflicts of interests involved;

- 3.2.6. Collect lawfully admissible evidence with a view to instituting disciplinary, civil and/or criminal charges against complicit parties; and
- 3.2.7. Recommend appropriate course of action to be instituted DPWI where irregularities have been confirmed (represent the Department during disciplinary hearing, criminal proceedings and civil recovery and also prepare an A1 statement on behalf of the Department in case of criminal referrals).

4. DURATION OF THE INVESTIGATION

- 4.1. The investigation timelines are estimated to be for a total period of six (6) weeks, effective from the date of the confirmation. No extension of the duration of the investigation shall however be valid unless it is reduced to writing and approved by the delegated authority within the Department.

5. LOCATION OF SERVICE:

- 5.1. The forensic investigation will be conducted at DPWI Head Office, Cape Town, Durban and Johannesburg Regional Offices.

6. PROJECT MANAGEMENT

- 6.1. The service provider will be responsible for co-ordinating the investigation activities in the Head Office and/or any other DPWI Regional Offices for reporting purposes.
- 6.2. The service provider will liaise with the Project Manager: Mr M.L Mahloko and the Director: Anti-Corruption and Fraud Awareness as the Senior Project Manager or any other Project Manager assigned by the DPWI. Further presentation to Project Committee by Lead Manager will be expected.



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7. REPORTING

7.1. The appointed service provider must submit to the Director: Anti-Corruption and Fraud Awareness of the Department the following:

- Progress reports on the service provider's activities in respect of this investigation (bi-weekly); and
- Draft and Final report directed to the Director-General and Deputy Director-General: Governance, Risk and Compliance on the investigation completed with clear findings, conclusions and recommendations.

8. IMPLEMENTATION PLAN

8.1. The service provider is required to submit a detailed Project Implementation Plan indicating the investigation approach and methodologies to be used to address the allegation(s).

8.2. The Implementation Plan should provide detailed activities over the period of the investigation, with time frames, and pricing in line with the scope of work.

8.3. The Implementation Plan should indicate in detail resource requirement needs of staff members at a full time position of 1 x Director, 1 x Manager and 3 x Investigators. Director should attend all project meetings.

8.4. For investigations/project at National key Points, due to the National Key Points Act of 1980, it is expected that the investigation team assigned by the service provider should be security cleared.

9. CONFIDENTIALITY

9.1. Ownership and copyright of all documentation developed during the period of the investigation will be vested in the National Department of Public Works and Infrastructure.

9.2. No information or documentation may be used for any other purpose other than for investigation purpose in line with the mandate provided, and no



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copies of any document may be made, except with prior written approval from the Department.

10. INTELLECTUAL PROPERTY AND OWNERSHIP OF MATERIAL

- 10.1. All intellectual property rights relating to any work produced by the service provider in relation to the performance of this Contract shall belong to **DPWI** and may not be used for any other purposes other than those provided for in these Terms of Reference by the service provider. The service provider shall give **DPWI** every assistance in protecting such intellectual property rights. All material, in paper, electronic or any recorded format produced by the service provider in the performance of this Contract shall remain the property of **DPWI** and must be handed over to **DPWI** within one month of the completion of the contract.
- 10.2. The service providers undertake not to infringe the intellectual property of third parties. Should any action or claim be instituted against the **DPWI** emanating from an infringement of intellectual property or an alleged infringement of intellectual property, the service providers hereby indemnify the **DPWI** against such claims or actions as well as all costs (including legal costs on an attorney and client scale).



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11. ENQUIRIES

All enquires relating to additional information on this project may be addressed to

SUPPLY CHAIN MANAGEMENT:

Department of Public Works and Infrastructure – Xolani Makhonco (012) 406 1760

DIRECTORATE: ANTI-CORRUPTION AND FRAUD AWARENESS:

<u>Project Manager</u>	<u>Senior Project Leader</u>
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APPROVED BY:



MR L. MAHLANGU

DESIGNATION: ADDG: GOVERNANCE, RISK AND COMPLIANCE

DATE:

18/01/2024