

14. DATA SHEET

1	Eligibility criteria	<p>Tender documents must be submitted with the following:</p> <ol style="list-style-type: none"> 1. Tender form 2. Declaration of eligibility 3. Signed consortium agreement (if applicable) 4. Company profile 5. Certificate of incorporation 6. Power of attorney 7. Form J and Form C or equivalent 8. An original and valid Tax Compliance Certificate or equivalent 9. Certified copy of trading licence or equivalent 10. Police clearance or affidavits of directors. 11. Professional affiliation 12. Certified copy of labour compliance certificate or equivalent. 13. Certified copy of Eswatini National Provident Fund (ENPF) certificate or equivalent.
2.	Qualification Criteria	<ol style="list-style-type: none"> 1. Experience of Consultants/ consortium 2. Qualifications, experience and competence of team leader and support staff 3. Proposed approach or methodology 4. Local participation and knowledge transfer
3.	Validity	<p>The tender must be valid for 90 days from the submission deadline. Tenders with a validity less than this will be treated as non-responsive.</p>
4.	Prices	<p>Prices should be fixed and firm for the duration of the contract. The accepted currency is the Eswatini Lilangeni (SZL).</p>
5.	Enquires	<p>a. All enquiries relating to this tender should be directed in writing via email to: finance@snyc.org.sz or vusanim@snyc.org.sz before Friday, 13 December 2024.</p>
6.	Tender Submission	<p>Evaluation tenders A technical and a financial proposal shall be submitted in hard copy in an enclosed in plain, wrapped and sealed separate envelopes clearly marked with the Bid number and description on the outside and deposited into the ENYC tender box situated at the ENYC offices reception. The two envelopes should be in one outer envelope. It must be delivered on or before the Date of Closure as addressed to:</p> <p style="text-align: center;">The Entity Tender Board Eswatini National Youth Council Dairy Board Building, Ground floor, suite#3 Manzini</p>

7.	Evaluation of Tenders	Tenders will be evaluated according to the laid-out criteria in the “Evaluation Methodology” in part 8 of this tender document.
8.	Intention to Award contract	Intention to award will be advertised on the Eswatini Public Procurement Regulatory Authority’s website and local print media.

15. CONTRACT TERMS AND CONDITIONS

15.1 DEFINITIONS

15.1.1 The clause headings in this Contract are used for convenience and reference purposes only and shall not be used in the interpretation nor be deemed to modify or amplify the terms of this Agreement or any clause thereof.

15.1.2 14.1.2 Throughout this document:

- a) unless the context clearly indicates a contrary intention, any words importing or connoting any gender includes all genders;
- b) the term “in writing” means communicated in written form (e.g. by e-mail, fax) with proof of receipt;
- c) if the context so requires, “singular” means “plural” and vice versa;
- d) day” means Gregorian calendar day; and
- e) natural persons include artificial person and vice versa and shall in the eventuality of a change in the Laws of Eswatini to provide for the same, insolvency shall include judicial management.

15.1.3 The following expressions shall bear the meanings assigned to them below and cognate expression shall bear corresponding meanings:

- a. “ENYC “means The Eswatini National Youth Council, a Government parastatal established in 2002 with its principal place of business at Ground Floor, Dairy Board Building, Suite#03, Manzini, in the Manzini Region for purposes of executing this agreement into binding force, herein represented by Mr. Lwazi Mamba, in his capacity as the Chief Executive Officer, he being duly authorized to so representatively act herein and he too, hereby warranting his lawful authorization to so act herein.
- b. The “Consultant” means the individual that will be successful in the bid process.
- c. “The Parties” shall mean ENYC and the Consultant.
- d. “Commencement Date” means the date on which the last signature necessary to complete the formal signing of this agreement into existence is appended;
- e. “Project Manager” means a person appointed by ENYC to act as Project Manager for the purposes of this contract;
- f. “Contract Price” shall mean the fixed sum provided in the financial proposal of the successful bidder.

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- 15.1.4 Expressions or words defined in this agreement shall bear their ordinary meaning unless otherwise defined in this contract or by law.
- 15.1.5 Annexure to the Agreement shall be deemed to be incorporated into and to form part of the Agreement. Provided that in the event there is a conflict between a particular provision of the main body of this agreement and any annexure thereof, the provision in the main body of the agreement prevails and shall be deemed to state the final intention of the parties in that regard.
- 15.1.6 The terms of this agreement having been negotiated, the rule of construction that provisions are to be constructed against the Party drafting an agreement, or part of an agreement, or on whose behalf an agreement or part of an agreement has been drafted, shall not apply to this Agreement.

16 COMMENCEMENT, EXECUTION AND COMPLETION OF THE PROJECT

16.1 COMMENCEMENT

- 16.1.1 The services to be carried under the Contract are to commence from the date of signature of the Contract.
- 16.1.2 In the event that any delay in the completion of the project is occasioned by any fault and/or delay by either party, the project shall be completed within such extended time frame as the parties may agree in writing; provided that both parties shall avoid any delays to the project.

16.2 EXECUTION

- 16.2.1 ENYC will appoint a person to be a Project Manager to administer the Contract on her behalf.
- 16.2.2 The Project Manager shall be the liaison person for ENYC and shall be responsible for directing the performance of this contract. The Consultant shall constantly report and/or update ENYC on progress of the assignment at all material times where necessary or when required to do so.

16.3 SCOPE OF WORK

- 16.3.1 The consultant will be required to;
- Conduct comprehensive review of the existing policy documents
 - Engage with stakeholders; ENYC staff, board members, and relevant stakeholders to gather input and feedback
 - Develop new policy documents as identified
 - Present draft policies for review and validation by different stakeholders
 - Develop and present final policy documents

- 16.3.2 With any manner, details and as may be necessary in ensuring an excellent and satisfactory consultancy on behalf of ENYC.

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- 16.3.3 Subject to the Consultant’s due diligence and efficient execution and completion of the assignment, and/or the outputs specified herein above, the ENYC shall pay the sum of the contract price and the breakdown particularized as follows;
- a. Remuneration: As stated in the financial proposal of the successful bidder
 - b. Reimbursable expenses: As stated in the financial proposal of the successful bidder.

16.4 PAYMENT

16.4.1 When claiming payment, the Consultant shall submit an invoice to ENYC. The invoice shall be submitted together with supporting documentations, addressed to Eswatini National Youth Council

16.4.2 ENYC shall make payments to the Consultant within 30 days of receipt of a valid invoice.

16.4.3 Payment shall be made to an account specified by the Consultant free of any deductions, save for 15% withholding tax due under the tax laws of Eswatini; Provided that ENYC will provide the Consultant with all necessary documentation in order to enable the Consultant to claim any withholding tax withheld or deducted by ENYC on such invoice.

16.4.4 The payment terms shall be as follows:

Milestone	Payment Percentage
Presentation of First draft policies document	50%
Presentation of Final document	50%

16.4.5 ENYC is open to negotiating payment terms linked to final project plan but WILL NOT make any upfront payments. All payments under the contract shall be made by bank transfer into the bank account indicated by the Individual Consultant in her/his invoices.

16.4.6 The currency of payment of the Contract shall be in the Kingdom of Eswatini Lilangeni (SZL).

16.5 INDIRECT PAYMENT

16.5.1 The remuneration of the Consultant charged to the Contract shall constitute his only remuneration in connection with the Contract and the Consultant shall not accept any trade Commission, discount, allowance or indirect payment or other consideration in connection with or in relation to the Contract or to the discharge of Consultant’s obligations.

16.6 POSTPONEMENT, VARIATION AND TERMINATION

16.6.1 Postponement and Termination.

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16.6.1.1 Either party may, by written notice to the other party and at any time, give prior notice of his intention to postpone or abandon the project, in whole or in part, or terminate this contract.

16.6.1.2 The effective date of termination of the project shall not be less than fifteen (15) days after receipt of such notice, or such other longer or shorter period as may be agreed between the Parties.

16.6.1.3 Upon receipt of such notice the Consultant shall take immediate steps to bring the Services to a close and to reduce expenditure to a minimum.

16.6.1.4 Termination of the Contract, for whatever reasons, shall not prejudice or affect the accrued rights or claim and liabilities of either party to this Contract.

16.6.2 Variation

16.6.2.1 This agreement can only be varied by agreement in writing entered into by the parties.

16.6.2.2 Either one of the parties can initiate negotiations with a view to reach such said agreement.

16.6.3 Claims for Default

16.6.3.1 Any claim for damages arising out of default and termination shall be agreed between ENYC and the Consultant or, failing agreement, shall be referred to arbitration in accordance with Clause 16.14.

16.7 FORCE MAJEURE

16.7.1 Neither party shall be liable under this Contract if so far as either or both of them are prevented from carrying out the same by “force majeure”, that is to say an act of God, act of war, warlike operations, civil commotion, strikes or any industrial action whatsoever, fire, tempest or any other cause or happening beyond its control.

16.7.2 If conditions of force majeure persist in respect of a party for a period in excess of 60 (sixty) days and have material adverse effect on the other party, and the parties are within such period unable to reach written agreement on amendments to the relevant provisions of this contract to take into account such conditions, the other party may terminate this agreement with immediate effect on written notice.

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16.8 APPLICABLE LAW

16.8.1 This Contract shall be deemed to be concluded in the Kingdom of Eswatini and shall accordingly be governed and construed according to the laws for the time being in force in the Kingdom of Eswatini.

16.9 RELAXATION

16.9.1 No latitude, extension of time or other indulgence which may be given or allowed by any party to any other party in respect of the performance of any obligation hereunder or enforcement of any right arising from this agreement and no single or partial exercise of any right by any party shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from this contract or stop such party enforcing, strict and punctual compliance with each and every provision or terms hereof.

16.10 SKILLS, CARE AND DILIGENCE

16.10.1 The Consultant shall exercise all professional skills, care and diligence in the performance of the services under the Contract and shall carry out its responsibility at the best professional engagement.

16.11 COPYRIGHTS

16.11.1 The copyright of all documents prepared by the Consultant in connection with the Project shall be vested with ENYC.

16.11.2 The Consultant may take copies of such documents but shall not use the contents thereof for any purposes unrelated to the Contract without the prior written consent of ENYC.

16.12 OBLIGATIONS OF ENYC

16.12.1 Furnish data and information.

16.12.1.1 ENYC shall:

- Furnish without charge and within a reasonable time all pertinent data and information requests by the Consultant in executing this Contract.
- Give such assistance as shall be reasonably required by the Consultant for the carrying out of its duties under the Contract.
- Give decisions on all reports, documents, recommendations and other matters properly referred to for decision by the Consultant in such reasonable time as

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not to delay or disrupt the performance by the Consultant of its obligations under this Contract.

- Any data they may require.
- Any assistance with regard to making appointments with stakeholders and key participants

16.12.2 Approval of amended documents

16.12.2.1 Where ENYC approved a report or document subject to modification by the Consultant, the changes requested shall be incorporated into the document within a reasonable period and in any case before the end of the Contract period.

16.12.3 Assistance to the Consultant

16.12.3.1 ENYC shall whenever possibly assist the Consultant in obtaining necessary endorsements, visas, permits, and customs clearance.

16.12.3.2 ENYC shall deduct the withholding tax to ensure that the Consultant complies with the tax laws of Eswatini. ENYC shall provide the Consultant with the withholding Tax Certificate.

16.13 BREACH

16.13.1 Either one of the parties shall be entitled after giving the other one of the parties 10 (ten) days' notice in writing, to terminate this agreement and to claim damages from the other one of the parties, should such other one of the parties commit any breach of the agreement and fail to remedy such breach within the said 10 (ten) days of notice.

16.14 SETTLEMENT OF DISPUTES / ARBITRATION

16.14.1 This Agreement relies for its efficacy on the exercise by the Parties of utmost good faith. Therefore, the general and specific terms and conditions of this Contract are to be construed accordingly and will be interpreted where necessary by mutual agreement.

16.14.2 If the parties are unable to resolve any dispute resulting from this Contract by means of joint co-operation or discussion between them within two weeks after a dispute arises, then it shall be resolved by way Arbitration in accordance with the Arbitration Laws of Eswatini.

16.14.3 The arbitrator shall be chosen and appointed through consensus. The Arbitrator's decision shall be final and binding on

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both parties. The resulting award (if any) shall be in lieu of any other remedy.

16.15 PERSONNEL

16.15.1 The personnel of the Consultant shall all be involved, each within his/her expertise and experience in the execution of the project.

16.16 DOMICILIUM

16.16.1 The parties hereto choose domicilium citandi et executandi for all purposes of and in connection with this agreement.

16.16.2 Either party hereto shall be entitled to change its domicilium from time to time, provided that any new domicilium selected by it and any such change shall only be effective upon receipt of notice in writing by the other parties of such change.

16.16.3 All notice, demands, communications or payments intended for either party shall be made or given at such party's domicilium for the time being.

16.16.4 A notice sent by one party to another party shall be deemed to be received: Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen domicilium citandi et executandi.

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ANNEXURE 1

DECLARATION OF ELIGIBILITY

[The individual consultant must provide a signed declaration on its letterhead in the following format.]

[>>>Name of Consultant, Address, and Date>>>]

**To: The Entity Tender Board
Eswatini National Youth Council
Dairy Board Building, Ground floor, suite#3
Manzini**

Dear Sir/Madam,

Re: Tender Reference: ENYC/RFP/03/2024-2025

We hereby declare that: -

- a) I/We, including any joint venture partners or consortium partners, are a legal entity and have the legal capacity to enter into the contract;
- b) I/We are not insolvent, in receivership, bankrupt or being wound up, our affairs are not being administered by a court or a judicial officer, our business activities have not been suspended, and we are not the subject of legal proceedings for any of the foregoing;
- c) I/We have fulfilled our obligations to pay taxes and social security contributions;
- d) I/We have not, and our directors or officers have not, been convicted of any criminal offence related to our/their professional conduct or the making of false statements or misrepresentations as to their qualifications to enter into a contract within a period of five years preceding the commencement of the procurement proceedings; and
- e) I/We do not have a conflict of interest in relation to the procurement requirement.

Signed:

Authorised Representative

Date:

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ANNEXURE 2

TENDER FORM

DATE	
TENDER NO	
TO	The Entity Tender Board Eswatini National Youth Council Dairy Board Building, Ground floor, suite#3 Manzini
<p>Having examined the tendering documents the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide the consultancy services for facilitating the review and development of ENYC policies.</p> <p>We undertake, if our Tender is accepted, to deliver the services in accordance with the requirements of the tender document.</p> <p>We agree to abide by this Tender for a period of 90 days from the date fixed for Tender opening, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.</p> <p>Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.</p> <p>We understand that you are not bound to accept the lowest or any tender you may receive.</p>	
Signature	
Bidding Group Name	

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ANNEXURE 3

Financial Proposal Submission Sheet

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

Procurement Reference No: [insert Procurement Reference number]

To: [insert complete name of Procuring Entity]

We, the undersigned, declare that:

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

[or]

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

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

Name and address of recipient	Reason/Purpose	Currency and Amount

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

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

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

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

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

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

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