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DIRECTORATE-GENERAL INTERNAL POLICIES DIRECTORATE A - Economic and Scientific Policies

Open call for tender for the multiple framework service contract No. IP/A/ENVI/FWC/2014-027 for provision of external expertise on regulatory and policy issues in the fields of environmental policies (Lot 1), climate change (Lot 2), sustainable development (Lot 3), public health (Lot 4) and food safety (Lot 5)

QUESTIONS RECEIVED UNTIL 03 JULY 2014

Brussels, 04 July 2014

Ref. : Contract notice n°2014/S 103-179766

Until 03 July 2014, the European Parliament's services have received the following questions and have responded as follows:

Question 1: I understand that tenderers have to fill in and sign the administrative form.

My question is, in case of joint tenderers do partners that are not leading have to fill in the parts of the form concerning the bank account? More in general could you specify which sections of the administrative form do joint tenderers which are not leading should fill in? Am I right they should fill in and sign the declaration on exclusion criteria?

Yes, joint tenderers should fill in and sign the declaration on exclusion criteria. In principle, consortium partners have to fill in each an "administrative part of offer" as they officially are tenderers as well. However, certain sections, from their wording, are not applicable to them and can be omitted (especially section 4, which only relates to the lead tenderer).

We require in any case that consortium partners fill in:

- Section 1 (para 1.10 can be omitted if all payments are processed via the lead tenderer of the consortium)
- Section 2
- Section 3 (as a member of a consortium, just tick "Yes" but you do not have to fill in the names of the other members of the consortium as you are not the lead tenderer)
- Section 5 (if the tenderer, as a partner of a consortium, intends to subcontract certain services to other economic operators)
- Section 6
- Section 7 and the relevant documents to be attached
- Section 8

Question 2: In case the offer is presented by a consortium of companies, is there any provision in the tender documents or in the underlying regulation that prevent a company to participate to two different consortiums and therefore contribute to two different offers?

In principle nothing prevents a company from participating in two different consortia, as it would be contrary to the principle of competition to forbid an economic operator to participate within two different bids for the same lot. However in some cases, due to the participation of an economic operator in several bids, the impartiality and competitiveness of the bids could be questioned. In any case, the European Parliament will ensure, when evaluating the offers, that the presence of the same economic operator in two offers is not aimed at reducing competition and at increasing the price of both offers.

Question 3: We are interested in the quantity or scope of the contract. In particular, can you provide us with an estimate on how much of the contract quantity (“i.e. 625 000 EUR for 12 months + 1.875.000 in case of 3 years ‘renewal’”) would be allocated to LOT IV, Public Health?

As stated in section 1 of the global terms of reference for the multiple framework service contract IP/A/ENVI/FWC/2014-027, the total consulting budget is estimated to be €2.500.000 for all lots over the total duration (maximum 4 years). The multiple framework service contract does not commit the European Parliament to spend money. Only if specific contracts under the multiple framework service contract are signed, the European Parliament commits itself to spend money. Since it is not possible to foresee the specific requests of the ENVI Committee, we are unfortunately not in a position to give an estimation of how much money would be allocated to which lot.

Question 4: In order to demonstrate technical and professional capacity, it is necessary to give information about previous experience. Here we send you brief information of our centre and the kind of activities we develop, so as to confirm if they could meet the requirements for this tender.

Section 15.2 of the specific regulations lists the information to be provided by tenderers on the basis of which their technical and professional capacity will be assessed. The quality of the tenders received will be evaluated according to the parameters described in section 16 of the same document. The evaluation of all tenders received in time will be done only after the opening and cannot be done before. Therefore, at this stage we are not authorised even to have a look at any content-wise information provided.

Question 5: In order to obtain a better insight in the type of service requests that can be expected, could you provide us with an overview of the contracts (topic + value) that have been awarded under the current framework service contract (IP/A/ENVI/FWC/2010-003)?

You can find a list of all services provided for the ENVI committee under the current framework service contract (IP/A/ENVI/FWC/2010-003, as well as for IP/A/ FOOD SAFETY/FWC/2010-004 and IP/A/HEALTH/FWC/2010-005) on the ENVI webpage. For workshops please refer to: <http://www.europarl.europa.eu/committees/en/envi/events.html?id=workshops#menuzone> (in particular see their proceedings), for studies, please see the following link: <http://www.europarl.europa.eu/committees/en/envi/studies.html#menuzone>.

The threshold for obligatory publication of service contracts requested under the referred framework contracts lies at €200 000 and has not been exceeded in case of the ENVI committee contracts. Therefore this information is not publicly available.

Question 6: The description of Lot 2 - Climate change in the Global Terms of Reference is extremely brief (This lot covers all issues related to climate change and policies affected by it.) and provides little to no insight in the topics that should be covered. Could you, like for the other lots, supply a list of specific topics?

Unfortunately we are not able to foresee what kind of requests we will get from the ENVI Committee in the future. They will most likely be linked to the upcoming files (legislative and non-legislative); therefore you might find an indication in the European Commission's work programme in this field. However, in order to give you an idea about the kind of services requested under the current framework contract in the area of climate change, we would recommend to consult the ENVI webpage (see answer to question 5 above).

Question 7: I have a doubt concerning Section 1.8. (Project leader) of the administrative form. Should each Consortium partner (or joint tender) appoint a Project leader to the ends of this Tender procedure, or should they indicate as Project leader the same person? In brief, am I right that there can be only one Project leader for each Tender/Joint Tender and the name of this person should be included in each administrative form filled in by the different joint tenderers?

The project leader is the natural person responsible for the overall management from the part of the tenderer. Therefore it is only necessary to appoint a single project leader who can be either from the lead tenderer or from one of the consortium partners. The name of this person should be included in each administrative form filled in by the different joint tenderers.

Question 8: We would like to be informed about updates and FAQs regarding this tendering procedure.

A FAQs document answering all questions received on this tender procedure is published on the EP webpage <http://www.europarl.europa.eu/tenders/invitations.htm>. Any further questions received will be added to this document, so you are strongly advised to check this site regularly for updates.

Question 9: Please could you send me the terms of reference for this call.

The tender documents for the open call for tender for the multiple framework service contract for provision of external expertise on regulatory and policy issues in the fields of environmental policies (Lot 1), climate change (Lot 2), sustainable development (Lot 3), public health (Lot 4) and food safety (Lot 5) (IP/A/ENVI/FWC/2014-027, contract notice published in the Official Journal of the EU [2014/S 103-179766](https://eur-lex.europa.eu/eli/oj/2014/S_103-179766)) can be found at the EP tender website under the following link: <http://www.europarl.europa.eu/tenders/invitations.htm>.

Question 10: From the ‘Specific regulations governing the preparation and award of the multiple framework service contract IP/A/ENVI/FWC/2014-027,’ on page 14 under the heading 15.2. Technical and professional capacity, point iv. requests ‘A compilation of publications of the staff planned for the execution of the services on relevant issues in the specialised academic press carried out in the past three (3) years.’

- **What shall be included in the ‘compilation of publications’?**
- **Does ‘compilation’ refer to bibliographic references or excerpts from the publications? If the latter is desired, what is the preferred length of the excerpts?**

The 'compilation of publications' referred to in section 15.2 of the specific regulations means a simple bibliography of publications in the specialised academic press in the area of interest by the staff planned for the execution of the service and should include the standard information such as the scientific journals' title, book and chapter's title, names of the authors, date, etc.

Question 11: We have two queries regarding the “Specific regulations”, section 15.2.

- 1. Should each person responsible for carrying out the services (even those not qualifying as project leader or senior researcher) comply with all requirements, including five-year professional and/or academic experience, three-year experience in the specific area of the lot and in the provision of similar services, at least four contracts in the past three years, a publishing record, scientific/academic distinction and knowledge of EU institutional framework and decision-making processes? Could we interpret that we need to present a team where some members have a strong academic publishing record and distinction and others cover the requirements regarding previous contracts and EU-specific experience, or must we interpret that every single team member (except for support staff) must comply with all the specified requirements?**
- 2. Can we propose different possible project leaders, depending on the specific area (e.g. one for public health, another for pharmaceutical and cosmetics)?**

1. Each team member (except for support staff) needs to have a professional and/or academic experience of a minimum of five (5) years, of which at least three (3) years in the area covered by each lot the tenderer is applying for, obtained after their degree in an area of relevance for the lot tendered for. All the other criteria (at least three years experience in the provision of similar services, the successful completion of at least four international or national scientific contracts in the past three years, a publishing record in the field of the lot tendered for, scientific/academic distinction clearly relating to research in the fields relevant for the lot tendered for, knowledge of the EU institutional framework and decision-making process) have to be fulfilled by the team but not by every single team member.

2. Section 15.2 of the specific regulations specifies that 'at least one project leader is required within the proposed staff'. Thus it is possible to propose different project leaders for different areas.

Question 12: In Annex III, Technical offer, we observe that we should present a 5-page (max) methodology. We often introduce the methodology with a background section, aimed at providing a context of the works that would be performed within the framework contract. Are we allowed to present this additional section, or should we only present a 5-page methodology note, possibly including a description of the context therein?

As also stated in section 16.1 of the specific regulations, tenderers must describe the methodology they will apply to handle a potential future request for services *on a maximum of 5 pages*. Therefore no additional section should be presented, but tenderers are free to include the background section within this page limit.

Question 13: In case an expert who is to be included in the tender is not available (he/she cannot be reached before the time limit for receipt of the tenderers) for signing the statement of availability, is his/her institution allowed to sign at his/her place? If not what is the solution?

If the tenderer is a legal person they could sign the availability statement at once for all suggested team members within their organisation. In this case they should declare at the same time that these team members are in a current employment relationship with them. If however the proposed expert is a partner or subcontractor as a natural person then they need to sign the declaration themselves. By way of exception it is possible that the tenderer submits this signed statement at a later stage, but at the latest by 15 September 2014.

Question 14: In section 4.1 and 4.2 of the terms of reference it states that 'Where an economic operator refuses to perform a specific order, he may not cite any reasons other than those laid down in the contract.' and 'However, if the contractor does not submit any offers after three (3) requests without reasoned justifications, the European Parliament may terminate the contract.' What might these reasons/reasoned justifications be?

As regards the cascade system for briefings described in section 4.1 of the global terms of reference, an economic operator does not need to give substantial reasons when not taking up an assignment; Article I.7 of the draft framework contract indicates that a sufficient reason for refusing an assignment is that the contractor is not ready to perform the service. However, the contractor risks to be re-ranked if he does not reply *within the given deadline or at all* more than 3 times a year.

Concerning the reopening of competition for all other services (section 4.2 of the global terms of reference), the European Parliament may terminate the contract if the economic operator does not submit any offer after 3 requests *without reasoned justifications*. Such reasons could be for example lack of time or expertise. In essence, the European Parliament wants to preclude that contractors do not reply at all to requests for services.

Question 15: One of our partners cannot sign up to any contract where there is no liability specified. Would be possible, in the event the Consortium win the bid, to specify an amount of the liability? For example, this is a clause that could be used; ‘The Contractor’s aggregate liability under the contract shall be limited to 2,500,000 EUR (two million five hundred thousand Euros)’, i.e. the value of the contract.

In accordance with Article I.12 (2) of the draft framework contract, by signing the Framework Contract "the Contractor hereby waives his/her own contractual terms and conditions." Also given that it is a multiple framework contract signed in identical terms will all framework contractors, the terms of the framework contract cannot be changed. Therefore, the clauses on liability (I.15 and II.2) will apply. The consortium partners have joint and several liability and there is no limit on the liability. A possibility to avoid this problem is to have the partner as subcontractor, which prevents any liability vis-a-vis the EP.

Question 16: One of the partners of our Consortium is a public sector organisation which cannot accept unlimited liabilities. In the draft framework contract, no liability is stipulated, therefore it is assumed to be ‘unlimited’. In a recent contract this partner has had the following liability clause:

‘The contractor shall be held liable for any loss or damage sustained by the contracting authority in performance of the contract, including in the event of subcontracting, and for any claim by a third party, *but only to an amount not exceeding three times the total amount of the contract.* Nevertheless, if the damage or loss is caused by the gross negligence or wilful misconduct of the contractor or of its personnel or subcontractors, the contractor shall have unlimited liability for the amount of the damage or loss. Do you think that in the case our Consortium will be selected the liability clause can be changed?’

Please see answer to question 15 above.

Question 17: We have the following query regarding the ‘specific regulations’, section 15.2 Technical and professional capacity.

We will respond to this call for tenders in a Consortium of Partners with several organizations. On page 14, first element, you are mentioning that for each CV proposed a signed statement of availability (*declaring he/she is able and willing to.....his/her CV has been included in the offer of the framework contractor*), implying that each CV needs to be signed by each individual. Since our suggested team members are all part of the Consortium member organizations, we are wondering whether an authorised representative of a Consortium Partner can sign off the availability statement at once for all the staff members that are proposed by this Consortium Partner due to annual leave of key senior experts?

Please see answer to question 15 above.

Please be aware that the deadline for asking questions has expired, see specific regulations p.7: 'No response will be given to any request for additional information received after the 03 July 2014, 17h30 hrs.'