

## **Invitation to tender no. ACER/OP/ADMIN/12/2012**

### **Web applications development services and IT consultancy services for the implementation of REMIT Information System (ARIS) for the Agency for the Cooperation of Energy Regulators**

#### **Answers to questions 17 to 44**

##### **Question no. 17:**

If we intend to offer a solution which require sw licences, where (in financial offer), we can put prices for it?

##### **Answer no. 17:**

All prices quoted in Annex II to the invitation to tender shall be all inclusive.

##### **Question no. 18:**

Can we apply the same resources for LOT1 and LOT2?

##### **Answer no. 18:**

Yes, the tenderer may apply the same resources for LOT 1 and LOT 2. Please note that the resources must comply fully with the selection criteria for each specific lot.

##### **Question no. 19:**

In document "tender specifications" on page24, 19.3.1 – there is requirement "Provision of evidence.....for a total invoiced amount of at least EUR 2.000.000 in 2010 and 2011 – we are wondering, 2MIO for 2010 and 2 MIO for 2011 or 2 MIO for year 2010 and 2011 together?

##### **Answer no. 19:**

Point 19.3.1. of tender specifications

*"– Provision of evidence that the tenderer has in the recent past provided resources of the type as requested in this tender and for a total invoiced amount of at least EUR 2,000,000.00 in 2010 and 2011."*

should read:

*"- Provision of evidence that the tenderer has in the recent past provided resources of the type as requested in this tender and for a total invoiced amount of at least EUR 2,000,000.00 for the period of time including years 2010 and 2011."*

##### **Question no. 20:**

In document "Annex I.2", what exactly we have to put under "Description of statutory social security cover and non-statutory cover"? If we understand correctly, we have to provide a declaration that we are not in one of the situations listed in page 20, "18. Exclusion criteria" in

document "tender specification". One of those situations is obligation relating to the payment of social security contributions? Is that enough or we have to put there something else?

**Answer no. 20:**

The tenderer, either a natural or a legal person, has to include in its offer a duly filled in and signed declaration on honour relating to the exclusion criteria (Annex I.3).

Only in case where the tenderer is a natural person, when completing Annex I.2 »Identification of the tenderer«, he/she has to provide the information "Description of statutory social security cover and non-statutory cover".

**Question no. 21:**

In document "Tender specifications" under point 19.2. , there is evidence needed – "appropriate statements from banks...". What would be "appropriate" statements, could you please clarify?

**Answer no. 21:**

Point 19.2. of tender specifications "appropriate statements from banks..." should read "Statements from the bank indicating good financial viability...".

**Question no. 22:**

In document "Tender Specifications" under point 19.3.1, the last paragraph – " Confirmation that the Tenderer is able to develop and to provide support in and for an environment that replicates....." The environment will be set during the tender, it is not defined yet? Could you please clarify that request.

**Answer no. 22:**

Point 19.3.1 of tender specifications "*Confirmation that the Tenderer is able to develop and to provide support in and for an environment that replicates the architecture of the Agency at its own premises.*" means that the tenderer has to confirm that he is able to build and operate, at its own expenses and during the contract, the environment that replicates the architecture of the Agency in order to provide support.

**Question no. 23:**

Would the Agency consider the possibility of changing Annex II and the financial evaluation criteria to consider two different prices (for "on-site" and "off-site" services) per profile? This would enable the contractor to adapt to both on-site and off-site specific contracts, and would also make possible for the Agency to receive more competitive prices from contractors not sited in Slovenia.

**Answer no. 23:**

There will be no modifications to the tender documentation. Tenderers have to include in their offer the financial offer based on model in Annex II to the invitation to tender.

**Question no. 24:**

I have tried to send my question to [acer-op-admin-12-2012@acer.europe.eu](mailto:acer-op-admin-12-2012@acer.europe.eu). The answer I got:

"Delivery has failed to these recipient or groups:

[acer-op-admin-14-2014@acer.europe.eu](mailto:acer-op-admin-14-2014@acer.europe.eu) ([acer-op-admin-14-2012@acer.europe.eu](mailto:acer-op-admin-14-2012@acer.europe.eu))

your message couldn't be delivered because you weren't recognized as a valid sender. Make sure your sending address is set up correctly and try to send the message again."

Is there any pre-registration necessary?

**Answer no. 24:**

As specified in Invitation to tender “Any requests for additional information must be made (*in writing only*) for the attention of **Ms Mateja VAVTAR**, indicating clearly “**Invitation to tender No. ACER/OP/ADMIN/12/2012**”:

- By fax to the number: +386 (0)8 2053 413

- Or by e-mail to [ACER-OP-ADMIN-12-2012@acer.europa.eu](mailto:ACER-OP-ADMIN-12-2012@acer.europa.eu)”

No pre-registration is necessary, particular attention must be paid to the fact that the correct domain extension is europa.eu and not europe.eu.

**Question no. 25:**

Which fix price approach do you expect to be applied when requesting a service

- price per function point (Table 1)

- or daily rates (Table 2 and 3)

**Answer no. 25:**

The fix price approach shall be set in the request for services and it will depend on the content of the services requested.

**Question no. 26:**

In Tender specification chapter 9.2 Modus Operandi the process in selecting the service provider (1st, 2nd and 3rd ranked contractor) for a specific request is described. How should the 5 years maintenance of the application be guaranteed if

a) the contract is signed for 2 resp. 4 year maximum and

b) 3 different contractors may work on the development of ARIS application.

**Answer no. 26:**

Point 4.4 of tender specifications

*“The Contractor shall ensure that maintenance of a product delivered under a specific contract may be requested and provided for a period of at least five (5) years from the date of signature of a specific contract, or, where applicable, of an acceptance form signed by both parties.”*

should read

*“The Contractor shall ensure that maintenance of a product delivered under a specific contract may be requested and provided for a period of at least five (5) years from the date of signature of a specific contract, or, where applicable, of an acceptance form signed by both parties. The before mentioned maintenance is subject to the signature of a common agreed specific contract limited to the maintenance of the before mentioned delivered product.”*

After the signature of each specific contract, the signing contractor is responsible to comply with the before mentioned obligation at point 4.4 of the tender specification with the limitation to the parts of software that the same contractor has developed and/or modified during the execution of a specific contract.

**Question no. 27:**

Meetings are taking place in Ljubljana and with NRAs and other EU organization.

a) Who from a contractor is supposed to attend these meetings (Project manager, Solution architect, subject matter expert, ..)?

b) is only the 1st ranked contractor attending these meetings or do you expect the 2nd and 3rd as well?

**Answer no. 27:**

The participation at such meeting will depend on the content of the meetings and may request participation of any of the profiles, nevertheless the Project Manager may be the preferred Single Point of contact for the meetings. Only the contractor with whom the

specific contract for a specific request for services will be signed will participate in such meetings.

**Question no. 28:**

Do you expect the selection of a partner for a market monitoring tool as part of the proposal already or can we select this partner based on the analysis during the project in a later stage?

**Answer no. 28:**

The tenderer may choose to either include a partner for a market monitoring tool already in its offer or he may choose to select this partner at a later stage, or he may not to have such a partner at all.

In case the partner will be included in the tenderer's offer, the offer of the tenderer and his partner shall comply with all the provisions of the tender documentation in relation to the submission of the offers by a consortium or grouping of service providers or subcontracting. In case the tenderer intends to select the partner during the implementation of the contract the selected contractor shall inform the Agency about this change. In this case the Agency reserves the right to judge if such change would be acceptable.

**Question no. 29:**

How many market participants do you expect?

**Answer no. 29:**

This information will be provided in the relevant requests for services, as an Agency's estimate until the Implementing acts have been issued and the registration process has completed.

**Question no. 30:**

How many user (maximum) to you expect accessing ARIS?

**Answer no. 30:**

This information will be provided in the relevant requests for services, as an Agency's estimate until the Implementing acts have been issued and the registration process has completed.

**Question no. 31:**

What is the expected data volume (roughly) per year we may expect in future?

**Answer no. 31:**

This information will be provided in the relevant requests for services, as an Agency's estimate until the Implementing acts have been issued and the registration process has completed.

**Question no. 32:**

In Tender specification chapter 17.1 Case study for LOT 1 resp. 17.2 Case study for LOT 2 a simulation of a tenderer's offer is expected as part of the offer.

How is the financial part considered in the selection criteria's of the offer.

**Answer no. 32:**

The case study per lot is a part of the award criteria, namely technical quality of the offer. The financial part per lot is a part of the criteria »Consistency of the project structure and

capability of the tenderer to conduct a project from the start to the end in a structured and logical way«.

**Question no. 33:**

What is the total number of Market Participants (MPs) at the moment?

**Answer no. 33:**

This information is not available at the moment because the registration of market participants will start only after the Implementing acts enter into force.

**Question no. 34:**

What is the expected growth rate (if any) of Market Participants (MPs) within the next 4 years?

**Answer no. 34:**

This information is not available at the moment because the registration of market participants will start only after the Implementing acts enter into force.

**Question no. 35:**

Please indicate the data volume of the current application "Reporting of insider information delay".

**Answer no. 35:**

The actual data volume of the current application "Reporting of insider information delay" is in the order of 25 Giga Bytes of data.

**Question no. 36:**

Please indicate the data volume of the current application "Reporting of suspicious transactions".

**Answer no. 36:**

The actual data volume of the current application "Reporting of suspicious transactions" is in the order of 25 Giga Bytes of data.

**Question no. 37:**

Please give a more detailed description of "Other specific and system administration and coordination activities".

**Answer no. 37:**

Point 3 of Annex I.A- Technical specifications

*"d. Other specific system administration and coordination activities. "*  
should read

"d. Other specific and system administration (including installation and configuration activities mentioned in the specific service request associated with the specific contract related to all the components/products/deliverables considered essential requirements and deliverables for the correct deployment of the final product requested in the specific service request) and coordination activities (coordination with other contractors under the supervision of the Agency for the day-to-day deployment activities related to the components developed under specific contractor)"

**Question no. 38:**

Please indicate the expected number of concurrent users for REMIT?

**Answer no. 38:**

This information will be provided in the relevant requests for services.

**Question no. 39:**

Please indicate the expected data volume (number of records, total disk space) per year.

**Answer no. 39:**

This information will be provided in the relevant requests for services.

**Question no. 40:**

Is it correct, that the working times mentioned are given in the Central European Time Zone?

**Answer no. 40:**

The working times mentioned in the tender specifications are given in the Central European Time Zone.

**Question no. 41:**

Is it correct, that the term "holidays", valid for the definition of working times, refers to the holidays in Slovenia?

**Answer no. 41:**

Holidays valid for the definition of working times refer to the Agency's public holidays available at [http://acernet.acer.europa.eu/portal/page/portal/ACER\\_HOME/The\\_Agency/Public\\_procurement/General%20Documents%20for%20Procurement%20Procedures/19\\_Director%20Decision%202011-018%20on%20ACER%20holidays%202012.pdf](http://acernet.acer.europa.eu/portal/page/portal/ACER_HOME/The_Agency/Public_procurement/General%20Documents%20for%20Procurement%20Procedures/19_Director%20Decision%202011-018%20on%20ACER%20holidays%202012.pdf)

**Question no. 42:**

Given the Case Study for LOT 2 includes consultancy support to procure a market monitoring software tool, is it correct to assume that companies (including subcontractors and consortium members) awarded a framework contract for LOT 2 will be excluded from responding to the subsequent ITT for said tool? If this assumption is correct, does this restriction also apply to companies awarded contracts for LOT 1 or, even, ITT 14 (Hosting)?

**Answer no. 42:**

The restrictions applicable to the selected contractor under Lot 2 receiving a request for services are laid down in point 9.2 (Modus Operandi) and point 18 (Exclusion criteria of Annex I – Tender specifications).

Pursuant to the above-mentioned rules, in the event that a contract is awarded under Lot 2 and a specific contract related to consultancy to procure a Market Monitoring tool is signed between the Agency and the same contractor, the signing contractor would be excluded from a subsequent tender related to the procurement of such a Market Monitoring tool, based on the general rules and principles set by the Agency and related to conflict of interest.

**Question no. 43:**

If a tenderer includes human resources from his subsidiary, shall such tenderer's subsidiary be deemed as a subcontractor?

**Answer no. 43:**

A subcontractor is when there is a contractual obligation between two parties in which the tenderer intends to subcontract part of the tasks or entrust them to another economic operator.

A subsidiary identifies a relationship between two companies and a company form.

In the specific case, not having enough information about the contractual obligations of the two parties and the extent to which the use of the human resources could de facto be regarded as an outsourcing of the tenderer's work, we are not in a position to judge if the tenderer's subsidiary shall be deemed as a subcontractor.

For sure, a company can subcontract part of the tasks to a subsidiary as a separate legal entity, taking into account the rules and obligations set by the tender specifications in case of subcontracting.

**Question no. 44:**

The tender specifies that "Tenderers should include in their bid a technical tender detailing how they intend to perform the tasks covered by the contract, in compliance with all the requirements of these tender specifications. Bids that fail to comply with this requirement will be rejected. " Should tenderers include their own document in which they specify the solution in detail or do the answers to the questionnaire with the brief description of the tenderers proposal suffice ?

**Answer no. 44:**

As specified in the Tender Specifications at point 16 for both the lots, the tenderers should submit a technical tender showing the compliance with all the requirements of the tender specifications.

For this technical tender, no format is foreseen, any prescription about information which must be provided are already described at point 16 of tender specifications.

Tenderers are also requested to reply to the specific questionnaires in the way which is described under point 16.1, for Lot 1, and 16.2, for Lot 2.