

QUESTIONS AND ANSWERS

INVITATION TO TENDER NO. ACER/OP/MMD/09/2013

IT consultancy services for the implementation of the Agency's REMIT information system (ARIS) for the Agency for the Cooperation of Energy Regulators

Contract notice: OJEU S 2013/S 156-271431 of 13/08/2013

Last update: 20/09/2013

Question 1:

Referring to the call for tenders in subject for the contract "ACER/OP/MMD/09/2013 - IT consultancy services for the implementation of the Agency's REMIT information system (ARIS) for the Agency for the Cooperation of Energy Regulators", published in the Official Journal 2013/S 156-271431, we would like to register our interest for the tender and inform you that we have already downloaded the available electronic copy of the tender specifications from ACER website

(http://www.acer.europa.eu/The_agency/Public_Procurement/Pages/Open-calls.aspx).

To the best of our understanding the electronic version downloaded is considered to be the only official one and no paper version and/or additional CD-ROM is dispatched for this call. Thank you in advance for registering our company in the list of potential tenderers (if so required) and for informing us for any additional material/documentation may be available.

Answer 1:

As stated in the contract notice published in the OJ/S S156 on 13/08/2013 tender documents are available on the Agency's website at the following address:

http://www.acer.europa.eu/The_agency/Public_Procurement/Pages/Open-calls.aspx. No additional paper version and/or additional CD-ROM shall be dispatched for this call.

Tenderers can download the tender documents and eventually any additional documents and information from this website. The site will be updated regularly and it is the tenderers' responsibility to check for updates and modifications during the tendering period.

The above mentioned tender does not require registering a company in the list of potential tenderers.

Question 2:

Referring to the call for tenders No. ACER/OP/MMD/09/2013, in document Tender Specifications is stated: "*Provision of evidence is required, that the tenderer has provided in the years 2011 and 2012 services of the type requested in this tender for a total invoiced amount of at least EUR 500,000.00.*"

- a) Does the required amount refers to the total sum of two years (2011+2012) or to amount of every single year per 500.000 EUR?
- b) In case of consortium: does this requirement apply to whole consortium (total invoiced amount of all partners in consortium is at least 500.000 EUR) or to each separate partner of consortium?

Answer 2:

- a) The required amount refers to the total sum of two years (2011 and 2012).
- b) In case of a consortium this requirement applies to the whole consortium, the total invoiced amount of all partners in a consortium is at least EUR 500,000.00.

Question 3:

Annex I - Tender Specifications, section 18.3 Technical Capacity, page 20 - "Experience of the tenderer in the business domains, including the number of years of activity in the domain and the staff involved." and Annex I A – Technical Specifications, section 3.2 Areas of activity, pages 4-6. and Annex I A – Technical Specifications, section 4.1 A-level profiles, page 7, "Extensive experience in the domain of studies (i.e. IT security and/or IT SDLC, and/or IT Architecture, and/or IT Quality, and/or Database/Data warehouse systems and/or Transactional systems)." and similar requirement for B-level and C-level profiles. Our understanding is that the business domains for which the Tenderer needs to demonstrate experience (as requested in section 18.3) are IT security, IT SDLC, IT Architecture, IT Quality, Database/Data warehouse systems and Transactional systems. Please confirm our understanding or clarify.

Answer 3:

The term "business domains" in Annex I - Tender Specifications, section 18.3 Technical Capacity (page 20) refers to the areas of activities in which the tenderer has been professionally involved. These may include activities related to IT, energy trading/monitoring, financial trading/monitoring.

The term "domain of studies" in Annex I A – Technical Specifications, section 4.1 for A-level, B-level and C-level profiles refer to the domain of studies as specified for each profile (i.e. IT security and/or IT SDLC, and/or IT Architecture, and/or IT Quality, and/or Database or Data warehouse systems and/or Transactional systems).

Question 4:

The company, which acted as a subcontractor of prime contractor, operates from 2012 onwards – are there potential formal barriers to act as a partner in the consortium, because they do not have balance sheets for at least two (2) years? (See document ANNEX I TENDER SPECIFICATIONS, Section 18.2 Financial and Economic capacity, page 20)?

Answer 4:

According to point 18.2 of the tender specifications "*Evidence of financial and economic capacity must be provided by means of one or more of the following documents: statements from the bank indicating good financial viability or evidence of professional risk insurance covers, balance sheets or extracts from balance sheets for at least the last two (2) years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established and/or a statement of overall turnover concerning the services covered by the Framework Contract during the last two (2) financial years. In case of a consortium, audited accounts for each consortium partner shall be presented.*"

Furthermore, according to section 18 of the tender specifications, an economic operator may, if necessary and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links he/she has with them. He/she must in this case prove to the awarding authority that he/she will have at his/her disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at his/her disposal.

In case the documents mentioned above are not available, the tenderer may prove his economic and financial capacity by other means which will be analysed by the contracting authority.

Question 5:

Would you be so nice and please let us know if tenders must be submitted in English language, or it can be submitted any of official languages of the Europe Union.

Since you have various instructions in tender documentation;

- In document Annex I, point 15 is stated : tenders may be drafted in any of the official languages of the Europe Union
- In document Invitation to tender, point 2 is stated: If you are interested in this contract you should submit a tender in one original and two copies in English language.

Answer 5:

Point 2 of the invitation to tender should read: „If you are interested in this contract, you should submit a tender in one original and two copies in one of the official languages of the European Union.”

Question 6:

We have request for additional information referring to Annex I:E – Declaration of honour on exclusion criteria and absence of conflict of interest, Point F: “is a subject of an administrative penalty...”.

For clarification purpose please clearly identify weather we have to confirm (i) that there was no penalty imposed upon us (that we haven't been found guilty of any wrongdoing) or (ii) that we are not subject of any pending procedure which could end in imposing an administrative penalty.

Answer 6:

The tenderer has to declare that at the time of submitting the offer that the tenderer is not a subject of an administrative penalty for being guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in a procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts covered by the Union's budget; for example that there was no penalty imposed upon the tenderer (that the tenderer was not found guilty of any wrongdoing).

Question 7:

Can you please extend the deadline for submission of tenders for at least five days, so that we can ensure that all tender documents to be enclosed.

Answer 7:

The time limit for receipt of tenders remains as stated in the contract notice and in the invitation to tender (that is either by post or by courier not later than 01.10.2013, in which case the evidence of the date of dispatch shall be constituted by the postmark or the date of the deposit slip, to the Agency's address or delivered by hand not later than 16:00 hours Ljubljana time on 01.10.2013, to the Agency's address).

Question 8:

Can we fulfil the human resource requirements with personnel, who are not permanent company employees, but they would work on project through copyright agreement?

Answer 8:

An economic operator may, if necessary and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links he/she has with them. He/she must in this case prove to the awarding authority that he/she will have at his/her disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at his/her disposal.

Question 9:

We have questions, referring to the Annex III (Draft framework contract):

- Do we need to fulfil the Annex III – Framework service contract – Draft?
- Do we need to sign Annex III – Framework service contract – Draft?
- And in case of consortium (all of partners, including subcontractors) – do they need to sign this document?

Answer 9:

No. The draft framework contract, which forms a part of the tender documentation, is attached to the tender documentation for information purposes. Section 15 of the tender specifications specifies what the tenderer's offer should include.

Question 10:

In Annex 1 Page 16 it states as follows: The questionnaire is divided in three (3) parts: A. Resource selection methodology, B. Personnel management, C. Account management. The document providing answers to each part of the questionnaire should not exceed 4 pages and all three documents together should not exceed 12 pages. However an additional topic is introduced (Page 17) D. Risk Management. Shall we assume that for each of the four sections 4 pages may be used for a maximum of 16 pages?

Answer 10:

Yes, for each of the four sections 4 pages may be used for a maximum of 16 pages in total.

Question 11:

In Annex 1 Page 21 it states as follows: A detailed description of the human resources available for the performance of the work required, including subcontractors. The tenderer shall include Curricula Vitae (CVs) showing clearly their qualifications and professional experience within the relevant business area. The Tenderer shall provide two CVs for each profile described in Annex I.A (see section 4). One CV can be presented for maximum two profiles requested.

3 sub questions:

- a) Are we expected to submit
 - only 2 CVs per A-Level, B-Level, C-Level profiles (total of 6 CVs, at least 3 unique)
 - or 2 CVs per A-Level, B-Level, C-Level profiles for each of the 6 requested Areas of Activity in Annex 1A Pages 4-6 (total of 36 CVs, at least 18 unique)
- b) If we are submitting only 6 CVs then should we include other human resources information in a separate table?
- c) Is it required to fill out Annex 1Ga for all human resources or is this form only to be used for subcontractors that operate as individuals?

Answer 11:

- a) The tenderers should provide at least 2 CVs per A-Level, 2 CVs per B-Level and 2 CVs per C-Level profiles; in total 6 CVs where at least 3 are unique.
- b) The tenderers have to provide a detailed description of the human resources available for the performance of the work required, including subcontractors. This has to include also the CVs.
- c) Document in Annex 1Ga relates to the selection criteria and needs to be filled in by the tenderers as explained in Section 18 of the tender specifications.

Question 12:

Referring to: Annex 1 Tender Specifications “11. PLACE OF PERFORMANCE OF THE SERVICES” - 11.1 Place of work: The principal place of performance of the Framework Contract(S) shall be at the contractor’s premises (working inside the country - WIC). The principal place of performance of specific contract(S) shall depend on each specific contract and shall be indicated in the relevant request for services (the place may either be at the Agency’s premises in Ljubljana, Slovenia or at the contractor’s premises). In cases where the performance of a specific contract shall take place outside the country where the contractor’s premises are located, this shall be considered as working outside the country – WOC.

Questions:

- a) Does the term “working outside of the country” Tender Specifications document mean work and presence of the experts only on the ACER premises in Slovenia or any other EU country?
- b) If any other locations than Ljubljana – Slovenia, could you please specify the other locations and the approximate proportion of WOC time in the reference price calculation (Annex I, Table I) that will be in Slovenia.

Answer 12:

- a) The term “working outside of the country” means working outside the country where the contractor’s premises are located.

- b) Other locations besides the Agency's premises in Ljubljana, Slovenia might be locations in other EU member states. The principal place of performance of specific contract(s) as well as other locations where relevant shall depend on each specific contract and shall be indicated in the relevant request for services.

Question 13:

Referring to point 18.2 Financial and economic capacity, page 20 of Tender specifications: Statements from the bank indicating good financial viability or evidence of professional risk insurance covers. We intend to submit XXX credit approvals (XXX). We want to know whether they should be in English language, or they can be submit in other EU language?

Answer 13:

Tenderers should submit offers in one of the official languages of the European Union therefore "Statements from the bank indicating good financial viability or evidence of professional risk insurance covers" can be submitted in any official languages of the European Union, not only English.

Question 14:

Tender specifications – 18.3 technical capacity – 4th bullet point Concerning your request "A declaration of any contractual relations during the last three (3) years with any stakeholders and/or companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Agency, to be evaluated under this invitation to tender and a statement that the tenderer shall during the validity period of the Framework Contract(s), declare any changes in their situation regarding the contractual relations referred to in this paragraph".

- a) Can you please disclose who are exactly the "stakeholders and/or companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Agency"? This is necessary in order to be able to produce a correct statement.
- b) Can you please confirm that subcontractors are not supposed to provide such a declaration?

Answer 14:

- a) The scope of 'any stakeholders and companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Agency, to be evaluated under this invitation to tender' refers to stakeholders directly involved in the Agency's work and includes National Regulatory Authorities, European industry associations (such as ENTSOG, ENTSO-E, Eurelectric etc.). It also includes energy companies either in the EU or beyond with whom the tenderers have had a contractual relationship over the last 3 years but only if the tenderer's contractual relationship with the energy company concerned related to the energy company's participation in the programmes, projects and legislative activities, conducted or subcontracted by the Agency.
- b) Section 18 of the tender specifications states "*Where the tender is submitted by a tenderer who intends to subcontract part of the tasks or entrust them to another economic operator, the subcontractors or economic operators involved must demonstrate that they have the requisite economic, financial, technical and professional capacity.*" In this respect subcontractors also have to provide such a declaration.

Question 15:

Annex I_C Reference table. We have noted that in the reference table there is no mention of technical tender and questionnaire. Can you please confirm that there is no need to reference them in the reference table, provided that both are submitted?

Answer 15:

There is no need to reference technical tender and questionnaire in Annex I_C Reference table. But both documents have to be included in the offer as stated in Section 15 of the tender specifications.

Question 16:

Can you please confirm that subcontractors are not supposed to provide the following statement "*A signed sworn statement specifying whether the tenderer or any of his/her staff worked on any project(s) commissioned by the Agency and directly related to this call for tender*". The statement is mentioned at point 18.3 of the tender specifications (6th bullet point) as well as in the reference table.

Answer 16:

The subcontractors have to provide the following statement: "*A signed sworn statement specifying whether the tenderer or any of his/her staff worked on any project(s) commissioned by the Agency and directly related to this call for tender*".