

# **ANNEX A**

**F-SE-13-T01**

**Web Development Services**

**TENDER SPECIFICATIONS**



## 1. Description of the tender

The present call for tender is inter-institutional and its subject is the provision of Web Development Services to the European Union Agency for Fundamental Rights (FRA) and the European Network and Information Security Agency (ENISA), hereinafter collectively referred to as “the Contracting Authority”, covering software development services, including analysis, design, development and project management.

The lead Contracting Authority is the FRA, that will act on its own behalf and on behalf of ENISA during the tendering and contracting phases.

The Contract Notice for the present call for tenders was published on 13/02/2013 with reference number 2013/S 031-047790.

## 2. Division into lots

This tender is divided into two (2) Lots, as follows:

- Lot 1: Intranet Web Development Services
- Lot 2: Internet Web Development Services

Tenderers can apply for one or for more lots. However, a separate tender must be submitted for each lot, and each tender must cover all the tasks in the lot to which it refers. Submission of a tender for only some of the tasks to be performed under the contract will lead to the rejection of the tender.

## 3. Purpose of the tender

The purpose of this invitation to tender is to award a multiple framework services contract for the provision of Web Development services.

The Contracting Authority intends to award a minimum of three (3) and a maximum of five (5) framework contracts, in cascading and descending order, for the provision of services as specified in Annex A.1 Technical Specifications, provided that there is a sufficient number of economic operators that satisfy the selection criteria or a sufficient number of admissible tenders which meet the award criteria.

The multiple framework contracts will take the form of contracts which are separate but concluded on identical terms with each of the successful tenderers.

Being this call of an inter-institutional nature, the lead Contracting Authority will sign the framework contract(s) and possible amendments on its behalf and on behalf of the other Contracting Authority.

Framework contracts involve no direct commitment and, in particular, do not constitute orders per se. Instead, they lay down the legal, financial, technical and administrative provisions





governing the relations between the Contracting Authority and the Contractor during the period of its validity. Specific contracts or order forms will be issued throughout the validity of the Framework contract. Such specific contracts or orders will be attached to the Framework Contract. The draft Framework Contract (Annex B) specifies the basic conditions applicable to any assignment placed under its terms. Signature of a Framework Contract does not oblige the Contracting Authority to place an assignment. The Framework Contract does not preclude the Contracting Authority from assigning tasks in the areas set out above to the other Contractors or from having these tasks carried out by Contracting Authority's staff.

#### **4. Place of delivery or performance**

The place of performance of the tasks shall be the Contractors premises or any other place indicated in Annex A.1 Technical Specifications.

#### **5. Duration**

The framework contract(s) resulting from the present call for tenders shall enter into force the date on which it is signed by the last contracting party.

Implementation of the contract(s) may not start before the date on which the contract enters into force.

#### **6. Volume**

The maximum contract amount has been estimated at 1,280,000.00 EUR excluding VAT for four years. The estimated contract amount is split between lots and Contracting Authority as follows:

<b>Contracting Authority</b>	<b>Lot 1</b>	<b>Lot 2</b>
FRA	500,000.00	400,000.00
ENISA	180,000.00	200,000.00
<b>TOTAL</b>	<b>680,000.00</b>	<b>600,000.00</b>

The Contracting Authority may exercise the option to increase the estimated contract amount at a later stage via negotiated procedure with the successful tenderer(s) in accordance with Article 134 (1) (e) and (f) of the Rules of Application of the Financial Regulation<sup>1</sup>.

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<sup>1</sup> Commission delegated Regulation No 1268/2012 of 29 October 2012 on the rules of application of Regulation No 966/2012 of the European Parliament and the Council on the financial rules applicable to the general budget of the Union.





## **7. Terms of payment**

The payment arrangements governing the framework contract(s) resulting from the present call for tenders are detailed in the relevant articles of Annex B - Draft Framework contract. Tenderers are strongly advised to carefully read those articles before submitting their tenders.

## **8. Financial guarantees**

No guarantees are foreseen.

## **9. Participation in the tendering procedure**

Participation in tendering procedures is open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has a special agreement with the Communities in the field of public procurement on the conditions laid down in that agreement.<sup>2</sup>

## **10. Consortia or group of service providers**

Joint tenders submitted by several economic operators (a consortium or a group of companies) are allowed. In such cases, one of the members must be designated as the group leader or group manager. All members of a consortium or a group of companies (i.e. the leader and all other members) are jointly and severally liable towards the Contracting Authority. Changes in the composition of the consortium or group of companies must be expressly authorised by the Contracting Authority.

Tenderers submitting joint bids shall describe how their cooperation will be organised in order to perform the tasks specified in Annex A.1 Technical Specifications.

Joint tenders will be assessed as follows:

- The exclusion criteria will be assessed in relation to each economic operator individually. The Declaration of Honour with respect to the Exclusion Criteria and Absence of Conflict of Interest included in Annex C, duly signed and dated, stating that the tenderer is not in one of the exclusion situations, must be provided by each member of the consortium or the group.
- The selection criteria for economic and financial capacity will be assessed in relation to each economic operator individually. However, economic and financial criteria that shall be achieved above a certain minimum threshold (as specified in the selection criteria mentioned below) will be assessed in relation to the consortium or group of companies as a whole.

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<sup>2</sup> Please note that the European Union Agency for Fundamental Rights is not part of the Agreement on Government Procurement (GPA) concluded within the World Trade Organisation. Therefore, the Agency's procurement procedures are not open to tenderers from GPA countries.





- The selection criteria for technical and professional capacity will be assessed in relation to the consortium or group of companies as a whole.

### **11. Subcontracting**

Any intention to subcontract part of the contract must be clearly stated by the tenderer in Annex C. Tenderers must indicate the maximum percentage of the contract they intend to subcontract and the identity of those subcontractors they intend to work with whose intended share of the contract is above 10% of the total contract amount, and clearly state the nature of their links to those subcontractors.

For each subcontractor identified in the tender, tenderers must provide a Letter of Intent signed by the subcontractor stating their unambiguous undertaking to collaborate with the tenderer.

Offers involving subcontracting will be assessed as follows:

- The exclusion criteria of all identified subcontractors whose intended share of the contract is above 10% will be assessed. The Declaration of Honour with respect to the Exclusion Criteria and Absence of Conflict of Interest included in Annex C, duly signed and dated, stating that the subcontractor is not in one of the exclusion situations, must be provided by each identified subcontractor.
- Where the tenderer relies on the economic, financial, technical and professional capacity of the identified subcontractor(s) to meet the selection criteria, subcontractors shall be treated as if they were partners in a consortium or a group of companies for the purposes of the evaluation of the selection criteria, and therefore, they shall provide proof of economic, financial, technical and professional capacity as well.

Tenderers must inform the subcontractor(s) and include in their Letter of Intent that the provisions referring to checks and audits included in the Draft Contract (Annex B) may be applied to them.

Once the contract has been signed, the provisions regarding subcontracting included in the Draft Contract will apply. The Contracting Authority retains the right to approve or reject the proposed subcontractors.

If the tender includes subcontracting, it is recommended that contractual arrangements with subcontractors include mediation as a method of dispute resolution.

### **12. Visits to premises**

A visit to premises is not foreseen.

### **13. Date and place of opening of the tenders**

Tenders will be opened at 11:00 hrs on 11/04/2013 at the Contracting Authority's address. An authorised representative of each tenderer may attend the opening of the bids. Companies wishing to attend are requested to notify their intention by sending a fax or e-mail at least 72





hours in advance to the fax or e-mail. This notification must be signed by an authorised officer of the tenderer and specify the name of the person who will attend the opening of the bids on the tenderers behalf.

#### **14. Contacts between the tenderer and the Contracting Authority**

In principle, no contact is permitted between the Contracting Authority and the tenderers during the tendering procedure.

However, in exceptional circumstances contact may be made on the tenderers initiative before the final date for the submission of bids, in order (and only for this reason) to clarify the nature of the contract.

Such requests for further information may be made by fax, e-mail or to the address below:

European Union Agency for Fundamental Rights  
Invitation to tender No: F-SE-13-T01  
Administration  
Schwarzenbergplatz 11  
Vienna 1040 – Austria  
Fax: +43 (0)1 580 30 691 ; e-mail: [procurement@fra.europa.eu](mailto:procurement@fra.europa.eu)

Insofar as it has been requested in good time, the additional information will be sent simultaneously to all economic operators who requested the tender documents or who have expressed interest in submitting a tender as soon as possible and no later than six calendar days before the deadline for the submission of tenders or, in the case of requests for information received less than eight calendar days before the deadline for the submission of tenders, as soon as possible after the request for information has been received. The Contracting Authority is not bound to reply to requests for additional information made less than five working days before the deadline for submission of tenders.

The answers to the requests for additional information will also be posted on <http://fra.europa.eu/en/about-fra/procurement>. The website will be updated regularly and it is the tenderers' responsibility to check for updates and modifications during the tendering period.

Similarly, contact may in exceptional circumstances be made on the Contracting Authority's initiative:

- a. before the final date for the submission of bids, in order to inform interested parties of an error, a lack of precision, an omission or any other material shortcoming in the drawing up of the documents of the invitation to tender; or
- b. after the opening of bids, where a bid requires clarification or in order to correct material errors made in drawing up a bid.



Please note that in any event such contact may not result in a modification of the terms of the bid.

## **15. Alteration or withdrawal of tenders**

Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders. No tender may be altered after the deadline for submission. Withdrawals must be unconditional and will end all participation in the tender procedure.

Any such notification of alteration or withdrawal must be prepared and submitted in accordance with the instructions on how to submit tenders included in the Invitation to tender, and the envelope must also be marked with "alteration" or "withdrawal" as appropriate.

## **16. Variants**

Variant solutions are not allowed and will not be taken into consideration.

## **17. Assessment of the tenderers**

Tenderers will be assessed on the basis of the exclusion (Phase I) and selection (Phase II) criteria described below.

### **17.1 Exclusion criteria (Phase I)**

The aim of this phase is to assess if tenderers fall in any of the exclusion situations listed below and therefore, cannot take part in the tender procedure.

#### **17.1.1 Exclusion situations**

Tenderers shall be excluded from participation in the present procurement procedure if:

- a. they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b. they or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
- c. they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify including by decisions of the EIB and international organisations;
- d. they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;



- e. they or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests, and
- f. following another procurement procedure or grant award procedure financed by the Union's budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Tenderers shall be excluded from the award of the contract if, during the present procurement procedure:

- g. are subject to a conflict of interest, and
- h. are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

### **17.1.2 Documentary evidence**

At the tendering stage, tenderers shall declare that they are not in one of the situations listed above by submitting a signed Declaration of Honour and Absence of Conflict of Interest, in accordance with the form included in Annex C.

In addition, the tenderer to whom the contract is to be awarded (including all members of the consortium or group of companies and identified subcontractors whose intended share of the contract is above 10%) shall provide, within fourteen (14) calendar days and preceding the signature of the contract, the following documents as proof that the tenderer is not in one of the situations described above:

- for points (a), (b) and (e) above, recent extract(s) from the judicial record or, failing that, an equivalent document(s) recently issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied
- for points (a) or (d) above, a recent certificate issued by the competent authority of the State concerned.

Where the document or certificate referred to in the first two bullet points is not issued in the country concerned and for points (c) and (f) above, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

Depending on the national legislation of the country in which the tenderer is established, the document referred to above shall relate to legal persons and/or natural persons including, where considered necessary by the Contracting Authority, company directors or any person with powers of representation, decision-making or control in relation to the tenderer.

The Contracting Authority may waive the obligation of a tenderer to submit the documentary evidence referred to above if such evidence has already been submitted to it for the purposes of



another procurement procedure and provided that the issuing date of the documents does not exceed one year and that they are still valid. In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes in his situation have occurred.

Administrative or financial penalties may be imposed by the Contracting Authority on tenderers who are in one of the exclusion situations after they have been given the opportunity to present their observations.

These penalties are detailed in Article 109 of the Financial Regulation No 966/2012 of 25 October 2012 (OJ L 298 of 26 October 2012) and Article 145 of the Commission Delegated Regulation No 1268/2012 of 29 October 2012 on the rules of application of the Financial Regulation (OJ L 362 of 31 December 2012).

## **17.2 Selection criteria – Phase II**

The aim of this phase is to assess if tenderers have sufficient economic and financial capacity and sufficient technical and professional capacity to perform the contract.

### **17.2.1 Economic and financial capacity (per Lot)**

Proof of economic and financial capacity of the tenderers shall be furnished by the following documents and minimum requirements:

(a) Copy of the financial statements (balance sheets and profit and loss accounts) for the last two (2) financial years for which accounts have been closed, where publication of the accounts is required under the company law of the country in which the economic operator is established. In case of a consortium, each consortium member shall present their financial statements.

If the tenderer is not obliged to publish its accounts under the law of the state in which it is established, a copy of audited accounts for the last two (2) financial years should be presented. In case of a consortium, audited accounts for each consortium partner shall be presented.

(b) A statement of the average turnover of the last two (2) financial years for which accounts have been closed. The minimum annual average turnover of the tenderer shall be of 500,000.00 EUR. In case of a consortium, the annual average turnover for each of the partners shall be presented. The sum of the annual average turnovers of each partner will be taken into account to reach the annual average turnover of 500,000.00 EUR.

If for some exceptional reason which the Contracting Authority considers justified, the tenderer is unable to provide the documentary evidence requested above, he may prove his economic and financial capacity by any other means which the Contracting Authority considers appropriate.

The Contracting Authority may waive the obligation of a tenderer to submit the documentary evidence referred to above if such evidence has been submitted to it for the purposes of another procurement procedure and still complies with the requirements above.

An economic operator may, where appropriate and for a particular contract, rely on the economic and financial capacities of other entities, regardless of the legal nature of the links it has with them. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for the performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal. The Contracting Authority may require that the economic operator and the entities referred to above are jointly liable for the execution of the contract.

### 17.2.2 Technical and professional capacity (per Lot)

Proof of the technical and professional capacity of the tenderers shall be furnished by the following documents and minimum requirements:

(a) The educational and professional qualifications of the service provider or contractor and/or those of the firms managerial staff, in particular, those of the person or persons responsible for providing the services or carrying out the works.

(a.1) The tenderer is requested to include the CVs in Europass format of the profiles described in Annex A.1 Technical Specifications. The proposed CVs must possess the following minimum educational and professional requirements as stated in Annex A.1:

Profile	Minimum education and professional experience required
<b>Project Manager</b>	<ul style="list-style-type: none"> <li>• University degree followed by 8 years of professional experience or secondary education followed by 12 years of professional experience</li> <li>• Minimum 8 years of professional experience in IT.</li> <li>• Minimum 4 years' professional experience in IT Project Management.</li> <li>• Excellent knowledge of written/spoken English (minimum level C1)</li> </ul>
<b>Senior Analyst</b>	<ul style="list-style-type: none"> <li>• University degree followed by 5 years of experience or secondary education followed by 7 years of professional experience</li> <li>• Minimum 5 years of professional experience in IT.</li> <li>• Minimum 3 years' professional experience in technical analysis tasks and working with the technologies applicable for each Lot</li> <li>• Experience in analysis and programming, databases and web application development.</li> <li>• Good knowledge of written/spoken English (minimum level B2)</li> </ul>
<b>Senior Developer</b>	<ul style="list-style-type: none"> <li>• University degree followed by 5 years of professional experience or secondary education followed by 7 years of professional experience</li> <li>• Minimum 5 years of professional experience in IT.</li> <li>• Minimum 3 years in web development and database experience working with technologies and tools applicable to each Lot.</li> <li>• Good knowledge of written/spoken English (minimum level B2)</li> </ul>



<b>Developer</b>	<ul style="list-style-type: none"> <li>• University degree followed by 3 years of professional experience or secondary education followed by 5 years of professional experience</li> <li>• Minimum 3 years of professional experience in IT.</li> <li>• Minimum 2 years of professional experience in web development and database experience working with technologies and tools applicable to each Lot.</li> <li>• Good knowledge of written/spoken English (minimum level B2)</li> </ul>
<b>Graphic Interface Designer</b>	<ul style="list-style-type: none"> <li>• Complete training courses on web design at a specialized institute/school followed by 4 years of professional experience.</li> <li>• Minimum 3 years of professional experience in the tasks assigned to this profile under Section 8 of Annex A.1 Technical Specifications.</li> <li>• Good knowledge of written/spoken English (minimum level B2)</li> </ul>

The number of CVs per profile to be provided is as follows:

<b>Profile</b>	<b>CVs for Lot 1</b>	<b>Cvs for Lot 2</b>
<b>Project Manager</b>	2	2
<b>Senior Analyst</b>	2	2
<b>Senior Developer</b>	4	4
<b>Developer</b>	4	4
<b>Graphical Interface Designer</b>	2	2

The same CV can be proposed for each Lot, but the same CV can only cover one of the above profiles. All CVs proposed must meet the minimum educational and professional requirements per profile described above.

(a.2) The professional experience and fields of expertise described in the CVs of the proposed profiles must cover, as a team, all technologies and fields of expertise described under Section 6 of Annex A.1 – Technical Specifications.

(b) A list of the principal services provided and supplies delivered in the past three (3) years, with the sums, dates and recipients. Tenderers are required to prove that they have performed at least 3 projects of nature or scope similar to the services to be carried out under this tender and of an amount of at least EUR 50,000.00 each.

The list of the principal services shall be accompanied by certificates of satisfactory performance and completion of the services.

(c) Description of the quality assurance measures to be employed during contract implementation.





(d) A statement of the annual average manpower and the number of managerial staff of the tenderer in the last three (3) years. The minimum annual average number of employees in the last three (3) years shall be at least 25.

An economic operator may, where appropriate and for a particular contract, rely on the technical and professional capacities of other entities, regardless of the legal nature of the links it has with them. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for the performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal. The Contracting Authority may require that the economic operator and the entities referred to above are jointly liable for the execution of the contract.

## 18 Assessment of tenders – Phase III

The aim of this phase is to evaluate from the technical and the financial points of view the offers submitted by the tenderers. The award method for both lots is based on the most economically advantageous offer.

### 18.1 Technical evaluation

Tenderers technical offers<sup>3</sup> will be evaluated on the basis of the following technical award criteria and their corresponding weightings:

#### Lot 1: Intranet Web Development Services

Technical Award Criteria/Sub-criteria	Weighting in %
<b>A. Fixed price service request proposal</b>	<b>40</b>
A.1 The methodology and approach used to analyse, develop and test the information system	25
A.2 The methodology, organisation of the team and tools to be put in place to deliver the project requirements	10
A.3 The methodology used for the hand-over of the application including documentation and source codes	5
<b>B. Quoted Times and Means services request proposal</b>	<b>60</b>
B.1 The methodology and approach to be used to take over the application and to perform the proposed tasks	15
B.2 The methodology, organisation of the team and tools to be put in	30

<sup>3</sup> Please read carefully Part 2 – Technical proposal of Section 23 How to prepare a tender, to be informed about the required content of your technical offer.





place to deliver the requested activities	
B.3 Approach to be followed to address the requested reporting needs	15
<b>TOTAL</b>	<b>100</b>

For each criterion (and sub-criterion) a number of points in a range between 0 to 100 points will be given. A tender can reach a maximum of 100 points per criterion and a maximum of 100 points in total. After the application of the corresponding weightings per criterion and sub-criterion as per the grid above, tenders scoring less than 60% in the total overall points or less than 50% in the points awarded for a single criterion will be excluded from the rest of the assessment procedure.

### Lot 2: Internet Web Development Services

Technical Award Criteria/Sub-criteria	Weighting in %
<b>A. Fixed price service request proposal</b>	<b>40</b>
A.1 The methodology and approach used to analyse, develop and test the requirements and design of WCM	25
A.2 The methodology, organisation of the team and tools to be put in place to deliver the project requirements	10
A.3 The methodology used for the hand-over of the application including documentation and source codes	5
<b>B. Quoted Times and Means services request proposal</b>	<b>60</b>
B.1 The methodology and approach to be used to take over the application and to perform the requested activities	15
B.2 The methodology, organisation of the team and tools to be put in place to deliver the requested activities	30
B.3 Approach to be followed to address the requested reporting needs	15
<b>TOTAL</b>	<b>100</b>

For each criterion (and sub-criterion) a number of points in a range between 0 to 100 points will be given. A tender can reach a maximum of 100 points per criterion and a maximum of 100 points in total. After the application of the corresponding weightings per criterion and sub-criterion as per the grid above, tenders scoring less than 60% in the total overall points or less than 50% in the points awarded for a single criterion will be excluded from the rest of the assessment procedure.





## 18.2 Financial evaluation

### 18.2.1 Financial award criteria

Tenderers financial offers will be evaluated on the basis of the following financial award criteria and their corresponding weightings:

#### Lot 1: Intranet Web Development Services

<b>Financial Award Criteria for Lot 1</b>			
<b>Profile</b>	<b>Fixed Price financial offer (Weighting in %) 35%</b>	<b>Quoted Times and Means financial offer Extra-muros (Weighting in %) 50%</b>	<b>Times and Means financial offer Intra-muros (Weighting in %) 15%</b>
Project Manager (PM)	10	10	2
Senior Analyst (SA)	10	10	5
Senior Developer (SD)	45	45	60
Developer (DEV)	30	30	30
Graphical Interface Designed (GID)	5	5	3
<b>FINANCIAL POINTS FOR LOT 1</b>	<b>100</b>	<b>100</b>	<b>100</b>

**Total financial score Lot 1:** Fixed Price Financial Score \* 35% + Quoted Times and Means Financial Score \* 50% + Times and Means Financial Score \* 15%

The tender with the lowest financial points will receive a score of 100 points in the financial evaluation. The remaining tenders will receive their financial score in accordance with the following formula:

Financial score for tender X = (lowest financial points / financial points of tender X) \* 100.



**Lot 2: Internet Web Development Services**

<b>Financial Award Criteria for Lot 2</b>			
<b>Profile</b>	<b>Fixed Price financial offer (Weighting in %) 35%</b>	<b>Quoted Times and Means financial offer Extra-muros (Weighting in %) 50%</b>	<b>Times and Means financial offer Intra-muros (Weighting in %) 15%</b>
Project Manager (PM)	10	10	2
Senior Analyst (SA)	10	10	5
Senior Developer (SD)	45	45	60
Developer (DEV)	30	30	30
Graphical Interface Designed (GID)	5	5	3
<b>FINANCIAL POINTS FOR LOT 2</b>	<b>100</b>	<b>100</b>	<b>100</b>

**Total financial score Lot 2:** Fixed Price Financial Score \* 35% + Quoted Times and Means Financial Score \* 50% + Times and Means Financial Score \* 15%

The tender with the lowest financial points will receive a score of 100 points in the financial evaluation. The remaining tenders will receive their financial score in accordance with the following formula:

$$\text{Financial score for tender X} = (\text{lowest financial points} / \text{financial points of tender X}) * 100.$$

**18.2.2 Information concerning prices**

The financial evaluation of the offers will be based on the prices quoted by the tenderers in their financial proposals. Tenderers must fill in the Financial Offer Form included in Annex C.

When filling in the Financial Offer Form, tenderers must take into consideration that prices shall be:

- expressed in euro. For tenders in countries which do not belong to the euro zone, tenderers shall quote their prices in euro and the price quoted may not be revised in line with exchange rate movements. It is for the tenderer to select an exchange rate and assume the risks or benefits deriving from any variation.





- inclusive of all costs and expenses, directly and indirectly connected with the goods and/or services to be supplied/provided and including all the charges (travel and subsistence), unless otherwise stated in the tender documents.
- free of all duties and taxes (in particular VAT). According to Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities, the European Union Agency for Fundamental Rights is exempt from all charges, taxes and dues, including value added tax; such charges may not therefore be included in the calculation of the price quoted; the VAT amount must be indicated separately.

Prices shall be fixed and not subject to revision during the first year of performance of the contract. From the beginning of the second year of performance of the Contract, each price may be revised upwards or downwards each year in accordance with the provisions of the Draft Contract in Annex B.

The prices quoted by the tenderer in their financial offer are binding and will be applicable to the requested services/supplies by means of specific contracts or order forms. If the tenderer is requested to quote unit prices in the Financial Offer Form included in Annex C, these unit prices are binding as well, and will be applicable to the services requested by means of specific contracts and orders forms.

## **19 Contract award – Phase IV**

The contract will be awarded to the tenderer offering the best value for money, on the basis of the following quality-price ratio:

Score for tender X = (Financial Score of tender X) \* 100 \* 40 % + total quality score (out of 100) for all award criteria of tender X \* 60 %

## **20 Information to tenderers on the outcome of the tender**

The Contracting Authority will inform tenderers of decisions reached concerning the award of the contract, including the grounds for any decision not to award a contract or to recommence the procedure.

The Contracting Authority will inform as soon as possible all tenderers whose tenders are rejected of the reasons for their rejection. If a written request is received, the Contracting Authority will inform, within not more than 15 calendar days from the date on which the written request is received, all tenderers who meet the exclusion and selection criteria, of the characteristics and relative advantages of the successful tender and the name of the tenderer to whom the contract is awarded.

However, certain details may not be disclosed where disclosure would hinder application of the law, would be contrary to public interest or would harm the legitimate commercial interests of public or private undertakings or could distort fair competition between those undertakings.



## **21 No obligation to award the contract**

The tendering procedure shall not involve the Contracting Authority in any obligation to award the contract.

No compensation may be claimed by tenderers whose tender has not been accepted, including when the Contracting Authority decides not to award the contract.

## **22 Cancellation of the tender procedure**

In the event of cancellation of the tender procedure, tenderers will be notified of the cancellation by the Contracting Authority. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the unopened and sealed envelopes will be returned to the tenderers.

In no event shall the Contracting Authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure even if the Contracting Authority has been advised of the possibility of damages.

## **23 How to submit the tender**

All tenders must be presented in three parts:

### **Part 1 – Administrative Proposal**

In the Administrative Proposal, tenderers must include all the information and documents required by the Contracting Authority for the assessment of tenderers on the basis of the exclusion and selection criteria described above. For that purpose, tenderers must fill and sign the following documents using the forms included in Annex C:

#### **Section A: Tenderers Identification**

- Tenderers identification form (administrative details). If the tenderer is a consortium or a group of companies, only the leader must fill in the form.
- Legal Entities Form, to be signed by a representative of the tenderer authorised to sign contracts with third parties. There is one form for individuals, one for private entities and one for public entities. If the tenderer is submitting a joint offer, a Legal Entities Form must be submitted by each consortium or group member. It also has to be submitted by each identified subcontractor whose intended share of the contract is above 10% of the total contract value.
- Bank Identification Form filled in and signed by an authorised representative of the tenderer and his or her banker. In case of a joint offer, only one of the members of the consortium or group of companies, usually the leader, must complete the Bank Identification Form.

- Power of Attorney (in case of joint offers). In case of a joint offer, the power of attorney has to be signed by the leader and all consortium partners, preferably in a single document.
- Statement on Subcontracting, indicating the intention of the tenderer to subcontract part of the contract and the percentage of subcontracting.
- Letter of Intent of identified subcontractors (only if the tenderer intends to subcontract part of the contract and for those subcontractors whose intended share of the contract is above 10% of the total contract value).

### **Section B: Exclusion Criteria information**

- Declaration of Honour with respect to the Exclusion Criteria and Absence of Conflict of Interest. To be submitted by each consortium or group member in case of joint offers and by each identified subcontractor whose intended share of the contract is above 10% of the total contract value.

### **Section C: Selection Criteria (Economic and Financial capacity)**

- Copy of the financial statements (balance sheets and profit and loss accounts) for the last two (2) financial years.
- Statement on the annual average turnover for the last 2 years.

### **Section D: Selection criteria (Technical and Professional Capacity)**

- Educational and professional qualifications of the profiles requested in Annex A.1 Technical Specifications.
- List of principal services performed or supplies delivered in the last three (3) years.
- Description of the quality assurance measures to be employed in the contract.
- Statements on annual average manpower and managerial staff.

## **Part 2 – Technical proposal**

In the Technical Proposal, tenderers must include all the information required by the Contracting Authority for the evaluation of tenders on the basis of the technical award criteria described in Section 18.1 above.

In particular, and for each lot, tenderers are requested to provide two proposals: one for the provision of a fixed price request for services and one for the provision of Quoted, Times and Means request for services, in accordance with the cases described below:

### **Lot 1: Intranet Web Development Services**

#### **A. Fixed price request for services proposal**

The Contracting Authority wants to develop a new intranet application for the management of its stationary requests. The information system must include the following features:

- Management of stationary and their stock levels
- Online request submission
- Processing of the requests
- Notifications
- Reporting on available stock levels
- User management and access rights.

#### *Description of activities*

The activities requested are:

- Analysis and design model of the information system including architecture and database model.
- Development of the system that addressed the above listed features.
- Testing
- Installation and configuration
- Technical documentation

#### *Delivery time*

The timeframe for the development of the system is 6 months.

#### *Technologies*

The information system should be developed using SharePoint 2010 and should be available via the Contracting Authority's intranet.

#### *Requested information*

Tenderers should describe the following in their technical proposal:

1. The methodology and approach used to analyse, develop and test information system
2. The methodology, organisation of the team and tools to be put in place to deliver the project requirements
3. The methodology used for the hand-over of the application including documentation and source codes.

### **B. Quoted Times and Means request for services proposal**

The Contracting Authority wishes to contract the technical support and maintenance of its information system used for the management and follow up of its projects. The task of this service is to assure technical support, corrective maintenance enhancing existing features of the information system.

#### *Description of activities*

The activities requested are:

- Technical support following the requests received by the Contracting Authority. This includes handling of requests for maintenance and enhancing existing features.

- Corrective maintenance i.e. resolving bugs of the information system as they arise.
- Reporting on the number of requests and their status on a monthly basis.

The contractor must perform all changes at his premises and then deployed to the Contracting Authority's infrastructure.

#### *Duration*

The duration of the requested services is 12 months and the number of foreseen person days per year is 300 of which 60 person days relate to corrective maintenance and the rest for technical support and maintenance.

#### *Technologies*

The information system is based on Java, MS SQL, Apache web server technologies.

#### *Requested information*

Tenderers should describe the following in their technical proposal:

1. The methodology and approach to be used to take over the application and perform the tasks.
2. The methodology, organization of the team and tools to be put in place to deliver the requested activities.
3. Approach to be followed to address the requested reporting needs.

### **Lot 2: Internet Web Development Services**

#### **A. Fixed price request for services proposal**

##### *Context*

The Contracting Authority wants to migrate its online databases of fundamental rights-related legal information (Charterpedia and the Case-Law Database) from the old content management system (CMS) to the new Drupal 7 CMS.

The information system must include the following features:

- Integration with internet website information architecture to make the data more available from different parts of the website
- Separation of content from style
- The ability to add multilingual content for certain content
- Creation of user roles for content management

##### *Description of activities*

The activities requested are:

- Analysis and design model of the information system including architecture and database model.
- User interface definition
- Development of the system that addressed the above listed features.
- Testing

- Installation and configuration
- Technical documentation

#### *Delivery time*

The timeframe for the development of the system is 6 months.

#### *Technologies*

The information system should be developed using Drupal 7 and will be hosted externally by the Contracting Authority.

#### *Requested information*

Tenderers should describe the following in their technical proposal:

1. The methodology and approach used to analyse, develop and test the requirements and design of the WCM.
2. The methodology, organization of the team and tools to be put in place to deliver the project requirements.
3. The methodology used for the hand-over of the application including documentation and source codes.

### **B. Quoted Times and Means request for services proposal**

#### *Context*

The Contracting Authority wishes to contract the technical support and maintenance of its Content Management System used for its website.

The task of this service is assured technical support, corrective maintenance and evolutive maintenance of the CMS.

#### *Description of activities*

The activities requested are:

- Technical support following the requests received by the Contracting Authority. This includes handling of requests for maintenance and enhancing existing features.
- Corrective maintenance i.e. resolving bugs of the information system as they arise
- Reporting on the number of requests and their status on a monthly basis.

The contractor must perform all changes at his premises and then deployed to the Contracting Authority's infrastructure.

#### *Duration*

The duration of the requested services is 12 months and the number of foreseen person days per year is 350 of which 40 person days relate to corrective maintenance and the rest for technical support and maintenance.

### *Technologies*

The information systems are based on PHP/MySQL Apache web server technologies. The old CMS is based on Oracle, Oracle (BEA) Weblogic, Java, XML and XSL.

### *Requested information*

Tenderers should describe the following in their technical proposal:

1. The methodology and approach to be used to take over the application to perform the requested activities
2. The methodology, organization of the team and tools to be put in place to deliver the requested activities.
3. Approach to be followed to address the requested reporting needs.

Tenderers should elaborate on all points addressed above in order to obtain as many points as possible. The mere repetition of mandatory, without going into details or without giving any added value, will only result in a low number of points. In addition, if offers do not expressly cover all requirements specified above, the Contracting Authority shall decide to give a zero mark for the relevant qualitative award criteria.

The technical offer must be written with a lay person in mind. The style and presentation must, as far as is possible, be simple and clear, and free of jargon that obscures rather than promotes meaning to readers unfamiliar with it.

The technical proposal must be included in a separate envelope clearly marked as “Technical Offer”. Please note that there is no specific form to present your Technical Offer. However, it should be drawn up following the instructions above. A separate Technical Offer for each lot shall be submitted.

### **Part 3 – Financial Proposal**

In the Financial Proposal tenderers must indicate their financial offers by completing the Financial Offer Forms included in Annex C (Section F). Prices must be included in accordance with the instructions given in the corresponding sections of these Tender Specifications. The Financial Proposal must be included inside a separate envelope clearly marked as “Financial offer”.

### **24 Data protection**

Processing your reply to the invitation to tender will involve the recording and processing of personal data (such as your name, address and CV). Such data will be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data. Unless indicated otherwise, your replies to the questions and any personal data requested are required to evaluate your tender in accordance with the specifications of the invitation to tender and will be processed solely for that purpose by the Contracting Authority. You are entitled to obtain access to your personal data on request and to rectify any such data that is

inaccurate or incomplete. If you have any queries concerning the processing of your personal data, you may address them to Contracting Authority's Data Protection Officer. You have the right of recourse at any time to the European Data Protection Supervisor for matters relating to the processing of your personal data.

## **25 Intellectual Property Rights (IPR)**

The tenderer is strongly advised to carefully read the IPR clauses included in Annex B Draft Contract regarding modes of exploitation of the results and ownership and transfer of pre-existing rights.

In the tender, all quotations or information originating from other sources and to which third parties may claim rights have to be clearly marked (source publication including the date and place, creator, number, full title, etc.) in a way allowing easy identification.