

ANNEX A

D-SE-11-T03

**External evaluation of the activities of the European Union Agency
for Fundamental Rights (FRA)**

TENDER SPECIFICATIONS



1. Description of the tender

The overall objective of the study to be contracted will be to evaluate the effectiveness, efficiency, added value, utility, coordination & coherence of the contribution made by the European Union Agency for Fundamental Rights (FRA) while the main specific objectives are as follows:

- To identify instruments for evaluating the FRA effectiveness, efficiency and its added value;
- To assess the FRA usefulness for making fundamental rights respected;
- To assess the overall ability of FRA to sustain its activities and meet future challenges;
- To define the barriers and obstacles to optimal performance;
- To identify relevant actions to improve the performance and added value;
- To identify actions needed to eliminate or reduce possible inefficiencies;
- To identify challenges as regards the FRA governance (including managerial issues, planning and priority setting and working practices);
- To benchmark the overall efficiency, balance of resources, budget distribution and resource allocation with other organisations carrying out similar tasks.

A pre-information notice was published on 09/04/2011 with reference number 2011/S 70-113040. A contract notice was published on 13/08/2011 with reference number 2011/S 155-256988.

2. Division into lots

This tender is not divided into lots.

3. Purpose of the tender

The purpose of this invitation to tender is to award a Direct Services contract for the provision of External evaluation of the activities of the European Union Agency for Fundamental Rights (FRA).

4. Place of delivery or performance

The place of performance of the tasks shall be the Contractor's premises or any other place indicated in Annex A.1 Technical specifications.

5. Duration

The 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.

The duration of the tasks shall not exceed 11 months from the date of signature. The period of execution of the tasks may be extended only with the express written agreement of the parties before such period elapses.



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

6. Volume

The estimated volume of the present contract is 300.000 Euro, excluding VAT.

Depending on the budget availability and the needs of the Contracting Authority, this volume could be increased up to 50%.

7. Terms of payment

Payments shall be executed only if the contractor has fulfilled all his contractual obligations by the date on which the invoice is submitted. Payment requests may not be made if payments for previous periods have not yet been executed as a result of default or negligence on the part of the contractor.

Pre-financing:

Following signature of the Contract by the last contracting party, within thirty (30) days of the receipt by the Contracting Authority of:

- a relevant invoice

a pre-financing payment of 30% of the total contract amount shall be made.

Interim payments:

Requests for interim payment by the Contractor in accordance with the instructions laid down in Annex A.1 Technical Specifications shall be admissible if accompanied by:

- the Draft Interim Report
- the relevant invoices, indicating the reference number of the Contract to which they refer

provided the report has been approved by the Contracting Authority.

The Contracting Authority shall have twenty (20) days from receipt to approve or reject the report, and the Contractor shall have ten (10) days in which to submit additional information or a new report.

Within thirty (30) days from reception of the relevant invoices and of the date on which the report is approved by the Contracting Authority, an interim payment equal to 30% of the total contract value shall be made.

Payment of the balance

Requests for payment of the balance by the Contractor in accordance with the instructions laid down in Annex A.1 Technical Specifications shall be admissible if accompanied by:

- the Final Report,
- the relevant invoices, indicating the reference number of the Contract to which they refer

provided the report has been approved by the Contracting Authority.



Within thirty (30) days from reception of the relevant invoices payment of the balance equal to 40% of the total contract value shall be made.

8. Financial guarantees

For any pre-financing exceeding 150,000.00 EUR, a pre-financing guarantee to the amount of the pre-financing and in the form set out in Annex C will be requested.

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.

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 company 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 company individually. However, economic and financial criteria that shall be achieved above a certain minimum threshold (i.e. average annual turnover as specified in paragraph 17.2.1 below) will be assessed in relation to the consortium or group of companies as a whole.
- 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 the subcontractors they intend to work with, 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:

- Where the amount of subcontracting exceeds or equals 20% of the contract, the exclusion criteria will be assessed in relation to all proposed subcontractors. 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 proposed subcontractor.
- Where the tenderer relies on the economic, financial, technical and professional capacity of the 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 subcontractors.

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 or information meeting

A visit to the premises/information meeting is not foreseen.

13. Date and place of opening of the tenders

Tenders will be opened at 10:30 hrs on 16/09/2011 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 48 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 tenderer's 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 receipt 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: D-SE-11-T03
Administration
Schwarzenbergplatz 11
Vienna 1040 – Austria
Fax: +43 (0)1 580 30 691 ; e-mail: 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 specifications or showed interest in submitting a bid no later than six calendar days before the deadline for the receipt of bids or, in the case of requests for information received less than eight calendar days before the deadline for the receipt of bids, as soon as possible after the request for information has been received.

The answers to the requests for additional information can also be found at the following Internet address: <http://www.fra.europa.eu>.

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

- a. before the final date for the receipt 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 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 have been convicted of an offence concerning their professional conduct by a judgment 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
- d. they have not fulfilled 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 have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests, and
- f. following another procurement procedure or grant award procedure financed by the Community 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 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 point (d) above, a recent certificate issued by the competent authority of the State concerned. Where the document or certificate referred to is not issued in the country concerned, 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, and
- for points (c) and (f) above, the tenderer may provide 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 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 documents are not more than one year old starting from their issuing date and that they are still valid.

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 96 of the Financial Regulation as amended by Council Regulation No 1995/2006 of 13 December 2006 (OJ L 390, page 1, of 30.12.2006) and Article 134b of the Regulation laying down the rules for the implementation of the Financial Regulation as amended by the Commission Regulation No 478/2007 of 23 April 2007 (OJ L 111, page 13, of 28.4.2007). We invite tenderers to read carefully those two articles.

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

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

- (a) Copy of the 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 own balance sheets or extracts from balance sheets.



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 annual average turnover for the last two (2) financial years for which accounts have been closed. The minimum average annual turnover of the tenderer shall be of 60,000.00 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 minimum annual average turnover of 60,000.00 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.

17.2.2 Technical and professional capacity

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 firm's managerial staff, in particular, those of the person or persons responsible for providing the services or carrying out the works. The tenderer is requested to include the CVs in Europass format of the profiles of one (1) Project Coordinator and of a minimum of four (4) experts (Senior and Junior), among whom at least two (2) must be Senior experts, as described in Section 15 of Annex A.1 Technical Specifications. The proposed CVs must possess the minimum educational and professional requirements stated in Annex A.1.

(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 two (2) projects of a nature or scope similar to the services to be carried out under this tender, in particular, but not limited, to the following fields:

- conducting evaluation for similar organisation (preferably EU agencies or institutions) especially in the field of surveying techniques, collection of data and in the analysis of quantitative and qualitative data;
- drafting evaluation reports in compliance with the objective of the evaluation and the suggested questions correlated to the key indicators;
- formulating solution oriented recommendation with an operational/concrete action plan at middle and long term

The list of the principal services shall be accompanied by certificates of satisfactory performance and completion of the services issued by clients/contracting authorities or any other form of documentary evidence proving the execution of the services for at least the two (2) projects mentioned above.

(c) A description of the measures that will be employed to ensure the quality control of the services during project implementation.



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 is based on the most economically advantageous offer.

18.1 Technical evaluation

Tenderers' technical offer will be evaluated on the basis of the following technical award criteria and their corresponding weightings:

Technical Award criteria/sub-criteria	Weighting in %
1. Quality of the multidisciplinary approach	75
1.1. Organization and structure of the proposed team. To which extend the organizational set-up is suitable for the implementation of the assignment (i.e distribution of responsibilities within the proposed team, internal communication within the team and interaction with FRA)	25
1.2. Disclose the technical approach and the proposed methodology for the present assignment in the field of surveying techniques, collection of data, statistics, quantitative analysis, qualitative analysis and their direct compliance with the objective of the evaluation and the suggested questions correlated to the key indicators	25
1.3. Disclose how the results of point 1.1 will allow the contractor to formulate recommendations with specific, measurable, achievable, realistic and time bound action plan in order to best respond to the objectives and task to be performed at short and long term, including highlighting the experience the tenderer will build on to design action oriented recommendations	25
2. Efficiency of the project management plan and quality of the work programme	15
2.1. Project management plan	10
2.2 Proposed work programme	5
3. Quality of the document provided by the contractor	10
3.1. Logical structure	4



3.2 Completeness	2
3.3 Readability/layout	2
3.4. Absence of errors or incoherence	2
TOTAL	100

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 weighted points or less than 50% in the weighted 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

The financial offers of each tender will receive their price index in accordance with the following formula:

financial score for tender X = (lowest price / price of tender X).

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 are fixed and not subject to revision.



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 formula:

Score for tender X = (lowest price / price of tender X) * 100 * 30 % + total quality score (out of 100) for all award criteria of tender X * 70 %

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.

If a written request is received, the Contracting Authority will inform all rejected tenderers of the reasons for their rejection and all tenderers submitting an admissible tender of the characteristics and relative advantages of the selected tender and the name of the successful tenderer.

However, certain information may be withheld where its release would impede law enforcement or otherwise be contrary to the public interest, or would prejudice the legitimate commercial interests of economic operators, public or private, or might prejudice fair competition between them.

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 following the forms included in Annex C:

Section A: Tenderers Identification

- Tenderers' identification form (administrative details).
- 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 subcontractor when the subcontracting percentage exceeds or equals 20% of the 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).
- Statement on Subcontracting, indicating the intention of the tenderer to subcontract part of the contract and the percentage of subcontracting.
- Letter of Intent of Subcontractors (only if the tenderer intends to subcontract part of the contract).

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 subcontractor when the subcontracting percentage exceeds or equals 20% of the contract value.

Section C: Selection Criteria (Economic and Financial capacity)

- Copy of balance sheets and profit and loss accounts for the last two (2) financial years.
- Statement on the annual average turnover for the last two (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.
- A description of the measures that will be employed to ensure the quality control of the services during project implementation.

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 the corresponding sections of these Tender Specifications. Tenderers should elaborate on all points



addressed in Annex A.1 Technical Specifications in order to obtain as many points as possible. The mere repetition of mandatory requirements set out in Annex A.1, without going into details or without giving any added value, will only result in a low number of points. In addition, if certain essential points of Annex A.1 are not expressly covered by the tender, the Contracting Authority may 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".

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 given 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 Community 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.

