



ANNEX A - TENDER SPECIFICATIONS

F-SU-18-T01

Production and delivery of customised promotional materials for FRA

Annex A – Tender Specifications

1. Description of the tender

The overall objective of the tender is to conclude a minimum of one (1) and a maximum of three (3) framework contract(s) in cascade for the provision of a wide range of promotional materials including customisation, printing, finishing and delivery services to the European Union Agency for Fundamental Rights (the contracting authority). The resulting contractor(s) shall be able to supply the goods and to provide related services including design, layout, pre-press work, production of samples and delivery of the requested products.

The contract notice for the present call for tenders was published on 30/08/2018 with reference number 20178/S 166-377789.

2. Division into lots

This tender is not divided into lots. Submission of a tender for only some of 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 Supplies contract for the production and delivery of customised promotional material to the contracting authority.

The contracting authority intends to award a maximum of three (3) 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. 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 contractor's premises or any other place indicated in Annex A.1 Technical Specifications.



Annex A – Tender Specifications

5. Duration

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

The framework contract will be concluded for a period of twelve (12) months with effect from the date of its entry into force. The framework contract will be renewed automatically three (3) times for twelve (12) months each, unless one of the parties receives formal notification to the contrary at least three months before the end of the ongoing duration. Renewal does not change or postpone any existing obligations.

7. Volume

The maximum total volume of the services requested under the framework contract for its four (4) years of duration has been estimated at 120.000,00 EUR, excluding VAT.

The contracting authority may exercise the option to increase the estimated contract amount via negotiated procedure for the provision of additional services with the economic operator to whom the contract is awarded in accordance with Article 134 (1) (e) and 134 (4) of the Rules of Application of the Financial Regulation¹.

8. Contractual conditions

The tenderer should bear in mind the provisions of the draft contract which specifies the rights and obligations of the contractor, particularly those on payments, performance of the contract, retention money guarantee, confidentiality, and checks and audits.

9. Compliance with applicable law

The tender must comply with applicable environmental, social and labour law obligations established by Union law, national legislation, collective agreements or the international environmental, social and labour conventions listed in Annex X to Directive 2014/24/EU².

10. Terms of payment

The payment arrangements governing the contracts resulting from the present call for tenders are detailed in the relevant articles of Annex B – draft contract. Tenderers are strongly advised to carefully read those articles before submitting their tenders.

11. Financial guarantees

No tender guarantee is required.

¹ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, as amended.

² Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).



Annex A – Tender Specifications

Based on a risk assessment, the contracting authority may request a pre-financing guarantee in the amount of the pre-financing and in the form set out in Annex C.

No performance guarantee will be required.

12. Participation in the tendering procedure

Participation in this procurement procedure is open on equal terms to all natural and legal persons coming within the scope of the Treaties, as well as to international organisations.

It is also open to all natural and legal persons established in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement³.

For British tenderers:

Please be aware that after the UK's withdrawal from the EU, the rules of access to EU procurement procedures of economic operators established in third countries will apply to tenderers from the UK depending on the outcome of the negotiations. In case such access is not provided by the legal provisions in force, tenderers from the UK could be rejected from the procurement procedure.

13. Joint tenders

A joint tender is a situation where a tender is submitted by a group of economic operators (natural or legal persons). Joint tenders may include subcontractors in addition to the members of the group. Changes in the composition of the consortium or group of companies must be expressly authorised by the contracting authority.

In case of joint tender, all members of the group assume joint and several liability towards the contracting authority for the performance of the contract as a whole, i.e. both financial and operational liability. Nevertheless, tenderers must designate one of the economic operators as a single point of contact (the leader) for the contracting authority for administrative and financial aspects as well as operational management of the contract.

All members of the consortium or group of companies must provide a declaration on honour on exclusion and selection criteria duly dated and signed by an authorised representative.

After the award, the contracting authority will sign the contract either with all members of the group, or with the leader on behalf of all members of the group, authorised by the other members via powers of attorney.

Joint tenders will be assessed as follows as regards the exclusion and selection criteria:

³ 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.



Annex A – Tender Specifications

- The exclusion criteria will be assessed in relation to each economic operator individually.
- 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.

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

14. Subcontracting

Subcontracting is permitted but the contractor will retain full liability towards the contracting authority for performance of the contract as a whole. During contract performance, the change of any subcontractor identified in the tender or additional subcontracting will be subject to prior written approval of the contracting authority.

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.

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 on honour on exclusion criteria and selection criteria 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.
- Subcontractor(s) should select the 'N/A' option in their individual declaration when the tenderer does not rely on their economic, financial, technical and professional capacity.

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.



Annex A – Tender Specifications

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.

15. Visits to premises

A visit to the premises is not foreseen.

16. Date and place of opening of the tenders

Tenders will be opened at 10:30 hrs on **18/10/2018** 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 three (3) working days 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.

17. 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:

<p>European Union Agency for Fundamental Rights Invitation to tender No: F-SU-18-T01 Administration Schwarzenbergplatz 11 Vienna 1040 – Austria Fax: +43 (0) 150 31 382 ; e-mail: procurement@fra.europa.eu</p>
--

The contracting authority is not bound to reply to requests for additional information provided less than six working days before the date of receipt of tenders. The answers to the requests for additional information will 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:



Annex A – Tender Specifications

- 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.

18. 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.

19. Variants

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

20. Evaluation and award

The evaluation is based solely on the information provided in the submitted tender. It involves the following:

- phase I: verification of non-exclusion of tenderers on the basis of the exclusion criteria
- phase II: selection of tenderers on the basis of compliance with the selection criteria
- phase III: verification of compliance with the minimum requirements set out in Annex A.1 Technical Specification
- phase IV: contract award on the basis of the award method

The contracting authority may reject abnormally low tenders, in particular if it established that the tenderer or a subcontractor does not comply with applicable obligations in the fields of environmental, social and labour law.

The tenders will be assessed in the order indicated above. Only tenders meeting the requirements of one step will pass on to the next step.

20.1 Verification of non-exclusion (Phase I)

All tenderers must provide a declaration of honour on exclusion criteria and selection criteria (see Annex C), signed and dated by an authorised representative, stating that they are not in one of the situations of exclusion listed in that declaration of honour.



Annex A – Tender Specifications

The successful tenderer must provide the documents mentioned as supporting evidence in the declaration on honour (including exclusion and selection criteria) before signature of the contract and within a deadline given by the contracting authority. This requirement applies to each member of the group in case of joint tender and to all subcontractors whose share of the contract is above 10 % and whose capacity is necessary to fulfil the selection criteria.

The obligation to submit supporting evidence does not apply to international organisations.

The successful tenderer (or a member of the group in case of joint tender, or a subcontractor) will not be required to submit the documentary evidence if it has already been submitted for another procurement procedure and provided the documents were issued not more than one year before the date of their request by the contracting authority and are still valid at that date. In such cases, the successful tenderer must declare on its honour that the documentary evidence has already been provided in a previous procurement procedure, indicate the reference of the procedure and confirm that there has been no change in its situation. If a specific document can be accessed by the contracting authority on a national database free of charge, the successful tenderer (or a member of the group in case of joint tender, or a subcontractor) will need to include the link to the source and will not be required to submit the document.

20.2 Selection of tenders on the basis of compliance with 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.

20.2.1 Economic and financial capacity

Tenderers must have the necessary economic and financial capacity to perform this contract until its end. In order to prove their capacity, tenderers must comply with the following selection criteria:

(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. In case of a consortium, each consortium member shall present their own financial statements.

(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 50,000.00 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 50,000.00 EUR.

If, for some exceptional reason which the contracting authority considers justified, a tenderer is unable to provide one or other of the above documents, it may prove its economic and financial capacity by any other document which the contracting authority considers appropriate. In any case, the contracting authority must at least



Annex A – Tender Specifications

be notified of the exceptional reason and its justification. The contracting authority reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity.

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 a commitment by those entities to that effect. In that case, the contracting authority may require that the economic operator and the entities referred to above are jointly liable for the performance of the contract.

20.2.2 Technical and professional capacity

Tenderers (in case of a joint tender the combined capacity of all members of the group and identified subcontractors) must comply with the criteria listed below:

(a) A list of the principal services provided and supplies delivered in the past five (5) years, with the sums, dates and clients, public or private. Tenderers are required to prove that they have performed at least two (2) contracts of an amount or nature or scope similar to the supplies to be carried out under this contract in the last five (5) years.

(b) Samples of the following items to be requested under the contract:

- Pen (conference): Chupi ball point pen or equivalent
- Pen: Parker (jotters style) Ball Point Pen or equivalent including presentation box
- Lanyards: Colour: white, 20mm, high quality polyester woven fabric, safety breakaway connector, flat fixation for the use with nameplate holders
- Shopper bags (cotton): +/-38x42cm (w,h), min. 105gm, long handled, colour beige (nature)
- Exhibition bags (paper): +/-35x5x30cm (w,d,h), holding A4 materials, short handle

The samples will not be returned. The successful tenderer(s)' samples will be kept by the contracting authority in order to check the conformity of the products supplied under the contract.

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 a commitment by those entities to that effect.



Annex A – Tender Specifications

An economic operator may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required.

21. Assessment of tenders – Phase III

The aim of this phase is to verify the compliance of the tenders with the minimum requirements set out in Annex A.1 Technical Specifications.

Tenderers must show compliance with the minimum requirements set out in section 14 of Annex A.1 Technical Specifications by completing forms E.1 and E.2 of Annex C – Standard Submission Form. Compliance with these minimum requirements will be assessed. Offers deviating from the minimum requirements or not covering all the minimum requirements may be rejected on the basis of non-compliance and will not be evaluated further.

Offers compliant with the exclusion, selection and minimum requirements of the Technical Specifications will progress to the contract award stage.

22. Contract award – Phase IV

The contract will be awarded to the tenderer offering the **lowest price** meeting the exclusion and selection criteria and satisfying the minimum requirements set in the Technical Specifications.

Information concerning prices

The price to be taken into account for the award of the contract is the **total price** quoted in the Financial Offer Form, Form F.1 of Annex C – Standard Submission Form.

Tenders found to be compliant with the minimum requirements will be checked for any arithmetical errors. Errors will be corrected by the evaluation committee as follows:

- where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into account;
- where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will be the price taken into account;
- amounts corrected in this way will be binding on the tenderer. If the tenderer does not accept them, its tender will be rejected.

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.



Annex A – Tender Specifications

- 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.

The prices listed in the Financial Offer Form 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 of the catalogue(s) may be updated by the contractor at any time during the duration of the framework contract and the contractor shall inform FRA of the catalogue updates as soon as possible. The relevant discounts granted to FRA in the Financial Offer Form must be applied to the prices of the catalogue.

In case an item is listed both in the Financial Offer Form and in the catalogue(s) at different prices, the contracting authority is entitled to choose the best price option.

The supplies the financial offer refers to are intended to provide a fair, non-discriminatory basis for evaluation purposes. Consequently, cannot under any circumstances be considered to constitute a commitment on the part of the contracting authority to conclude order forms for the related services and quantities, and cannot give rise to any right of legitimate expectation on the part of the contractor.

23. 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.

24. No obligation to award the contract

The tendering procedure shall not involve the contracting authority in any obligation to award the contract.



Annex A – Tender Specifications

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

25. 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.

26. How to submit the tender

In their tenders, tenderers must include all the information and documents required by the contracting authority for the assessment of tenderers. 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 its 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 per identified subcontractor.
- Letter of Intent of identified subcontractors (only if the tenderer intends to subcontract part of the contract).



Annex A – Tender Specifications

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)

- List of principal services performed in the last five (5) years.
- Requested samples

Section E - Compliance with minimum requirements

Tenderers must show compliance with the minimum requirements of section 14 in Annex I – Technical Specifications. Compliance with these minimum requirements will be assessed. Offers deviating from the minimum requirements or not covering all the minimum requirements may be rejected on the basis of non-compliance and will not be evaluated further.

Tenderers must complete Forms E.1 and E.2 in Annex C- Standard Submission Form to prove compliance with the minimum requirements.

Section F – 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.

27. 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



Annex A – Tender Specifications

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.

28. 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.

