



EUROPEAN COMMISSION

Directorate-General for Education and Culture

Directorate Lifelong Learning: policies and programmes
Higher Education and "Erasmus"

Public open tender EAC/47/2009
Feasibility study to examine the potential need for a
Student Lending Facility at European Level

Contracting Authority: European Commission, Directorate-General for
Education and Culture

Specifications

1. ELIGIBILITY

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.

Where the Multilateral Agreement on Government Procurement concluded within the WTO applies, the contracts are also open to nationals of the countries that have ratified this Agreement, on the conditions it lays down.

Proof of eligibility

Tenderers must indicate in which state they have their registered office or residence, providing the necessary supporting documents in accordance with their national law.

2. COSTS

The costs of dispatching the tender shall be borne by the Tenderer.

3. PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE EUROPEAN COMMUNITIES

The Communities are exempt from customs duties, indirect taxes and sales taxes under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 (OJ No 152, 13 July 1967). Exemption is granted to the Commission by the governments of the Member States, either through refunds upon presentation of documentary evidence or by immediate exemption. The successful Tenderer shall be given the necessary instructions by the Contracting Authority.

4. VARIANTS

Variants are not allowed.

5. LOTS

Not applicable

6. SUB-CONTRACTING

Sub-contracting is permitted. All sub-contracting must be approved by the Contracting Authority, (by accepting the Contractor's offer).

The Tenderer must indicate clearly in their methodology, which parts of the work will be sub-contracted, and the identity of all sub-contractors. The following documents shall therefore be provided:

- A document, signed by the Tenderer:
 - stating clearly the identity, roles, activities and responsibilities of the sub-contractor(s) and;
 - specifying the volume/proportion for each sub-contractor.
- Full details of all sub-contractors undertaking more than 10% of the work in value, in accordance with point 7, below and the documentation on the fulfilment by such sub-contractors of the exclusion and selection criteria as foreseen in points 8 and 9 below.
- A letter of intent by each sub-contractor undertaking more than 10% of the work in value, stating its undertaking to collaborate with the Tenderer if he/she is awarded the contract and the extent of the resources that it will put at the Tenderer's disposal for the performance of the contract.

When requested by the contracting authority, the tenderer (the candidate) shall submit a declaration on honour from the intended subcontractor that the latter is not in one of the situations referred to in Articles 93 and 94 of the Financial Regulation (Council Regulation N° 1605/2002 of 25/06/2002, as amended).

In case of doubt on this declaration on the honour, the contracting authority shall request the evidence referred to in paragraph 8 "Exclusion criteria".

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

7. IDENTITY OF THE TENDERER

All Tenders must be submitted by a clearly identified Tenderer.

The Tenderers must complete the forms required by Annex 3, Information Concerning the Tenderer. These forms must be signed by the Tenderer or a person duly authorised by them. They must be accompanied by all the supporting evidence described in the relevant forms.

7.1 Sub-contracting

A completed and signed part 3 of Annex 3 must also be provided for each sub-Contractor proposed to undertake more than 10% of the work, by value.

7.2 Consortia / Joint offers

Groups of economic operators, having or not having a legal existence, are allowed to submit a tender. If a group of economic operators does not have a legal existence, the leader of the group must be clearly designated by all the other members of the group to act as leader with full authority to bind the grouping and each of its members. The composition and constitution of the grouping and the allocation of the scope of tasks amongst the members, shall not be altered without prior written consent of the Commission which can be withheld at discretion. In case of contract awarding, in order to protect the contractual interest of the Commission, the Contracting Authority will sign a contract with the leader of the group, duly authorised by the others (a power of attorney is to be attached to the offer). All the members of the group shall be jointly and severally liable to the Commission for the fulfilment of the terms and conditions of the contract.

Information on exclusion and selection criteria of each member of the group must be included in the offer (see point 8 and 9).

8. EXCLUSION CRITERIA

(1) Tenderers shall be excluded from participation in a 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 judgement 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 judgement 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;

(f) they are currently subject to an administrative penalty referred to in Article 96(1) of the Financial Regulation (Council Regulation N° 1605/2002 of 25/06/2002, as amended).

(2) Tenderers must certify that they are not in one of the situations listed above, by completing and signing the form in Annex 4, Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest.

(3) The winning Tenderers will **also** provide **evidence** that the Tenderer is not in any of the situations described in points **(a), (b), (d) and (e)** above. This evidence must be in one of the forms described in (4), (5) and (6) below and must be provided within two weeks from the receipt of the communication of the result of the evaluation. If the requested evidence is not submitted in due time, the Contracting Authority can award the Contract to the Tenderer evaluated as the next-best.

(4) For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the Tenderer is a legal person and the national legislation of the country in which the Tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the Tenderer.

(5) For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the Tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

(6) For any of the situations (a), (b), (d) or (e), where any document described in (4) or (5) above 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.

(6a) The contracting authority may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to in paragraphs 3 to 6 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 candidate or 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.

(7) Contracts may not be awarded to candidates or Tenderers who, during the procurement procedure:

- (a) are subject to a conflict of interest;
 - (b) are guilty of misrepresentation in supplying the information required by the Contracting Authority as a condition of participation in the tender procedure or fail to supply this information.
- (8) Administrative or financial penalties may be imposed by the Contracting Authority on Tenderers who are in one of the cases of exclusion provided for above, in accordance with Articles 93, 94 and 96 of the Financial Regulation (Council Regulation N° 1605/2002 of 25/06/2002, as amended) and Article 134b of the Implementing Regulation (Commission Regulation 2342/2002 of 23/12/2002, as amended).

9. SELECTION CRITERIA

Tenderers must provide evidence of economic, financial, technical and professional capacity. Tenderers who do not provide the documentation specified, or who are judged, on the basis of the documentation provided, not to have fulfilled the criteria specified below, will be excluded.

9.1. Economic & Financial capacity

- 9.1.1. The Tenderer must demonstrate sufficient economic and financial resources to be able to execute the tasks within the time schedule specified in the Terms of Reference in Annex 1 and according to the payment schedule specified in the Draft Contract in Annex 2.
- 9.1.2. Where the Tenderer wishes to sub-contract or otherwise rely on the capacities of other entities, it must in that case prove that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.
- 9.1.3. The following additional documents must also be provided in evidence of economic and financial capacity:
 - 9.1.3.1. the presentation of balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;
 - 9.1.3.2. a statement of overall turnover and turnover concerning the services covered by the contract during a period which may not be more than the last three financial years.

9.2. Technical and Professional capacity

9.2.1. The Tenderer must comply with the following criteria:

- 9.2.1.1. have qualified experts familiar with higher educational policies in the EU27 and outside the EU, in particular in the field of higher education funding and student lending
- 9.2.1.2. have qualified experts familiar with the financial sector, in particular as regards student lending products
- 9.2.1.3. have qualified experts familiar with the legal aspects of student lending
- 9.2.1.4. be able to mobilise a team with the knowledge of the higher education sector and language abilities to carry out the work required
- 9.2.1.5. have previous experience of large-scale international projects and comprehensive feasibility studies in higher education
- 9.2.1.6. have an effective quality assurance system in place

9.2.2. The following documents must be presented as evidence of compliance with the above criteria:

- 9.2.2.1. the educational and professional qualifications of the Tenderer and/or those of the firm's managerial staff and, in particular, those of persons responsible for providing the services
- 9.2.2.2. a list of the principal services provided in the past three years, with the sums, dates and recipients, public or private
- 9.2.2.3. a description of the measures employed to ensure the quality of services, and a description of the firm's study and research facilities
- 9.2.2.4. an indication of the technicians or technical bodies involved, whether or not belonging directly to the firm, especially those responsible for quality control
- 9.2.2.5. a statement of the average annual manpower and the number of managerial staff of the service provider or Contractor in the last three years
- 9.2.2.6. proof that the Tenderer is authorised to perform the contract under national law, as evidenced by inclusion in a trade or professional register, or a sworn declaration or

certificate, membership of a specific organisation, express authorisation, or entry in the VAT register.

10. AWARD CRITERIA

The award criteria will be assessed in relation to the tender, irrespective of whether it has been submitted by a single legal/natural person or by a tendering group.

The contract will be awarded to the Tenderer submitting the bid offering the best value for money, on the basis of the following criteria:

10.1. Qualitative criteria (100 points)

10.1.1. The relevance and quality of the methodology proposed (50 points)

-Understanding of the general and specific objectives as set out in the terms of reference

-Quality of the methodology proposed to carry out the different steps of the Study, including research methods and rationale for selection of case-studies.

10.1.2. Identification and quality of the sources and networks of experts in the field of higher education funding reform, proposed as the basis for the research (20 points)

10.1.3. The quality of skills and experience of each member of the team for the task proposed to be assigned to them, including organisational and management arrangements (30 points)

The above criteria will be assessed on the basis of:

- (a) a methodology which the Tenderer must provide, which will set out how the Tenderer intends to achieve the objective and results set out in the Terms of Reference, covering such points as: time schedule, organisation of work, allocation of staff to different tasks, preliminary assessment of likely difficulties and likely results, understanding of the purpose and nature of the tasks to be undertaken;
- (b) the CVs of the staff proposed by the Tenderer, together with the specification of the role to be performed by each member of staff;
- (c) the coherence of the completed form in Annex 5, Price and Estimated Budget Breakdown, with the methodology and the Terms of Reference.

Offers which score a total of fewer than 65 points for the qualitative criteria will be rejected. In addition, any offer which scores below 50% of the maximum number of points available for any one criterion will be rejected.

10.2. The price (50 points)

The lowest acceptable offer will receive the maximum number of points. The remaining offers will receive a number of points corresponding to the ratio between their offer and the lowest acceptable offer, such that the more expensive is the offer, the fewer points it receives.

11. NO OBLIGATION TO AWARD A CONTRACT

Initiation of a tendering procedure imposes no obligation on the Contracting Authority to award the contract.

This invitation to tender is in no way binding on the Commission. The Commission's contractual obligation commences only upon signature of the contract with the successful tenderer.

Up to the point of signature, the contracting authority may either abandon the procurement or cancel the award procedure, without the candidates or tenderers being entitled to claim any compensation. This decision must be substantiated and the candidates or tenderers notified.

12. CONTRACT

Tenders must be drawn up in accordance with the model contract attached to these Specifications (Annex 2).

In case of joint offers, the contract shall be signed by one member (the leader) duly authorised by the others (a power of attorney is to be attached to the contract when the Tenderers have not formed a legal entity).

The Tenderer accepts the terms set out in the model contract.

13. GUARANTEE FOR PRE-FINANCING

The Contracting Authority will require the Contractor to provide a guarantee to cover the full amount of the pre-financing:

- if this exceeds 50.000 € or
- where the contracting authority decides not to require proof of the financial, economic, technical and professional capacity of the tenderer (the candidate).

However, where the contractor is a public body, the authorising officer responsible may, depending on his risk assessment, waive that obligation.

The guarantee shall be supplied by a bank or an authorised financial institution. It may be replaced by a joint and several guarantee by a third party. The guarantee shall be denominated in Euro. It shall have the effect of making the bank or financial institution or the third party stand as irrevocable collateral security, or first-call guarantor of the Contractor's obligations.

The guarantee shall be released as and when the pre-financing is cleared by the interim payments or payments of the balance, in accordance with the terms of the contract. The guarantee must remain valid until the relevant payment is made, and shall not be subject to any calendar expiry date.

14. RENEWAL OR MODIFICATION OF THE CONTRACT

The contract may not be renewed. Amendments may be made to the contract only where the amendment is judged by the Contracting Authority to be necessary for the completion of the project, and where the reason for the amendment is beyond the control of the Contractor.

15. PUBLICATION

Rights concerning the reports and those relating to their reproduction and publication will remain the property of the European Commission. No document based, in whole or in part, upon the work undertaken in the context of the contract awarded following this tender may be published except with the prior formal written approval of the European Commission.

16. ANNEXES

The following documents are annexed to these Specifications and form an integral part of them:

Annex 1: Terms of Reference

Annex 2: Draft Contract (for information)

Annex 3: Information concerning the Tenderer/Sub-contractor (one copy to be filled in and signed by the Tenderer and one copy for each Sub-contractor)

Annex 4: Declaration of honour with respect to the Exclusion Criteria and absence of conflict of interest (to be filled and signed by the Tenderer)

Annex 5: Price and Estimated Budget Breakdown (to be filled in and signed on each page by the Tenderer)