Guide for tenderers

Submitting bids in response to a call for tenders published by the Office for Infrastructure and Logistics – Brussels (OIB)
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FOREWORD

If you are an economic operator planning to bid in a call for tenders organised by the Office for Infrastructure and Logistics in Brussels (OIB), and particularly if this is your first such bid, please consult this guide — we hope it will help you submit your tender.

It is a general guide, and as such cannot claim to cover every single matter that might arise in connection with public procurement procedures. Given the number and variety of the contracts involved, specific questions are bound to arise that cannot all be covered here.

DISCLAIMER

This guide is provided for information purposes only and is in no way binding on OIB or on any other EU institution or agency. It does not confer any rights on third parties and may under no circumstances replace or modify the legal obligations incumbent on economic operators, EU institutions or other parties under the legislation in force.
1. CALLS FOR TENDERS ORGANISED BY OIB

1.1. OIB: An overview

1.1.1. Who are we?

The Office for Infrastructure and Logistics in Brussels (OIB) is part of the European Commission. It is responsible for all activities associated with the housing of staff, the management of social-welfare infrastructure and the logistics of the Commission in Brussels as well as social-welfare infrastructure at the Commission’s site in Ispra, Italy. Its role is to ensure a functional, safe and comfortable workplace for all Commission staff, and to provide good-quality staff-welfare services, based on a client-oriented approach and in an environmentally-friendly and cost-effective way.

1.1.2. What do we do?

Specifically, OIB’s responsibilities include:

• managing the purchase, rental and maintenance of the moveable and immovable property of the Commission together with inventories and matters relating to VAT;

• organising removals and space management;

• managing:
  – the transport of staff and goods for internal purposes;
  – incoming and outgoing mail and the internal distribution of documents for the Directorates-General and other departments of the Commission;
  – graphic reproduction services;
  – office supplies; and
  – the historical archives;

• managing the social-welfare facilities provided for staff of the EU institutions, such as restaurants, self-service canteens and sports centres;

• providing services to the institutions such as nurseries and after-school and holiday childcare services;

• ensuring the health and safety of Commission staff on Commission premises through appropriate prevention and protection measures.

OIB, as contracting authority, manages contracts concluded by the EU institutions. In the text that follows, the terms OIB and European Commission are both used to refer to the contracting authority.
1.1.3. What types of contract do we manage?

In performing its responsibilities as listed above, OIB organises procurement procedures for different types of contract:

- **service contracts**, which cover all intellectual and non-intellectual services other than those covered by supply contracts, works contracts and building contracts; the services concerned are listed in Annexes IIA and IIB to Directive 2014/24/EU;

- **supply contracts**, which cover the purchase, leasing, rental or hire purchase, with or without option to buy, of products; these contracts can also cover siting, installation and maintenance work;

- **works contracts**, which cover either the execution, or both the execution and design, of works relating to one of the activities listed in Annex I to Directive 2014/24/EU or the realisation, by whatever means, of a work corresponding to the requirements specified by the contracting authority; a ‘work’ means the outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfil an economic or technical function;

- **building contracts**, which cover the purchase, long lease, usufruct, leasing, rental or hire purchase, with or without option to buy, of land, existing buildings or other real estate. They are published by way of a specific property prospection notice. More information can be found on OIB’s website at: http://ec.europa.eu/oib/procurement_en.cfm.

1.2. How can I find out about OIB calls for tenders?

1.2.1. General remarks

All calls for tenders above the Directive thresholds, organised by OIB, or incidentally by the other departments of the European Commission or the other EU institutions and bodies, are published in the S series of the Official Journal of the European Union. They can be accessed via the TED (Tenders Electronic Daily) database, which is the online version of the Supplement to the Official Journal, dedicated to European public procurement. It can be found at: http://ted.europa.eu.

Information on OIB contracts including the contracts below Directive thresholds can also be found on our website at: http://ec.europa.eu/oib/procurement_en.cfm. Annex II to this guide contains a list of useful internet addresses.

1.2.2. How can I determine the scope of a contract put out to tender by OIB and published in the Official Journal of the European Union (OJEU)?

A contract notice is published in the Official Journal to inform you that a procurement procedure has been launched. It outlines the essential details and gives you all the information you need in order to tender. Contract
notices can be found on TED (Tenders Electronic Daily) at http://ted.europa.eu.

In the contract notice you will find information about estimated contract value, whether it is a direct or a framework contract, contract duration, whether the contract is made up of lots (with a brief description of each lot), whether variants are accepted, whether the procedure is interinstitutional, whether a guarantee is required, whether there will be a public opening of bids, and so on. You will also find the conditions for taking part (called the selection criteria) and the criteria for awarding the contract (called the award criteria). More detailed information on the actual contract is provided in the tender specification.

It is very important to comply with the deadline given in the contract notice for receipt of requests to participate and tenders, otherwise your application or tender will not be admissible.

The following explanations of certain aspects of the contract will also help you with determining its scope.

1.2.2.1. Size of the contract

To help you prepare your bid and enable you to assess whether you have the capacity to meet the contract requirements, the contract notice gives an indication of the estimated size of the contract. While as realistic as possible, it is an estimate given for information only and is not binding on the European Commission as regards future orders under the contract.

1.2.2.2. Lots

Where a contract involves very large quantities or covers a set of homogeneous products or services serving a similar purpose whose combined value is so high that few economic operators are likely to offer them all, it can be divided into lots. This promotes competition and enables smaller businesses to take part.

Where this is the case, and unless otherwise stipulated in the contract notice, you can bid for a single lot, several lots or all lots.

Each individual lot is assessed as a whole. It is therefore not possible to bid for part of a lot or to make your bid conditional on the award of another lot under the same procedure.

1.2.2.3. Variants

If the contract is to be awarded to the tender offering the best value for money, the contract notice must indicate whether or not variants are accepted. If no indication is given, variants will not be authorised.

‘Variant’ means a solution technically or economically equivalent to a model solution known to the contracting authority. Variants may relate to the whole contract or to certain parts or aspects of it. Variants must be designated as such and must be submitted separately. If variants are accepted, the
specification (and its technical annexes) will indicate the minimum requirements that they must fulfil and the assessment framework that will be used to compare the model solution with the variant.

1.3. **Which procurement procedures does OIB use?**

OIB uses the following procedures:

- negotiated procedure for low and middle value contracts (for service and supply contracts: less than € 144.000 and for works contracts: less than € 5.548.000);

- restricted procedure with publication of a contract notice in the Official Journal;

- restricted procedure following a call for expressions of interest (CEI) resulting in a shortlist of pre-selected candidates or list of potential tenderers;

- open procedure with publication of a contract notice in the Official Journal.

Besides these standard procedures, the legislation allows other types of procedure, namely:

- negotiated procedure with or without publication of a contract notice in the Official Journal, used in exceptional and strictly regulated circumstances;

- dynamic purchasing system (not yet used at the Commission);

- competitive dialogue;

- contest;

- negotiated procedure for building contracts.

The open, restricted and negotiated procedures (including for building contracts) are the three types of procedure OIB uses most. We are free to choose whether to use the open or the restricted procedure, but the negotiated procedure can be used only in very specific circumstances or for building contracts. For the latter, the rules allow us to use a negotiated procedure without publication of a contract notice after prospecting the local market. OIB has a specific procedure for building contracts (see section 1.3.2.4).

All these procedures must comply with the principles of transparency, proportionality, equal treatment, non-discrimination and genuine competition.
1.3.1. Standard procedures

1.3.1.1. Negotiated procedure for contracts of less than € 144.000 (for services and supplies contracts) and less than € 5.548.000 (for works contracts)

These contracts are regarded as low and middle-value contracts that do not require publication of a contract notice.

There are four thresholds for low and middle-value procedures:

- $> € 60.000$ and $< € 144.000$ (for the services and supplies contracts) $> € 60.000$ and $< € 5.548.000$ (for works contracts); procedure for which at least 5 candidates to be invited after ex-ante publicity;
- $> € 15.000$ et $< € 60.000,01$ (for all contracts); procedure for which at least 3 candidates to be invited after ex-ante publicity;
- $> € 1.000$ et $< € 15.000,0$ (at least one candidate to be invited);
- $€ 0,01$ < $€ 1.000,01$ (simply paid against invoice).

If OIB thinks that the bids submitted need to be improved upon, it will negotiate with all candidates on an equal footing in order to obtain the best technical and financial terms.

Concerning service and supply contracts, requests for services, supplies or works may be made by means of purchase orders which are equivalent to a contract.

The negotiated procedure for low and middle-value contracts is simpler and faster than for higher-value contracts published in the OJEU and it will not be covered further in this guide.


1.3.1.2. Restricted procedure with publication of a contract notice in the Official Journal

OIB sometimes uses this procedure for contracts worth equal or more than € 144.000.

The restricted procedure is organised in two stages. In the first, only the exclusion and selection criteria are assessed, and in the second, the award criteria are evaluated. Any interested economic operator may ask to take part in this procedure, but only those selected after the first stage will be invited to submit a tender that will be evaluated in the second stage.

Stage 1: pre-selection of candidates
OIB publishes a contract notice in the S series of the Official Journal, describing the characteristics of the contract, the subject of the procurement, the organisation of the procedure, the methods of assessing requests to participate (exclusion and selection criteria) and the deadline for submitting them. The contract notice also specifies whether a minimum capacity level is required with regard to the selection criteria, whether variants are accepted and whether the procurement procedure is interinstitutional.

You must comply strictly with the deadlines for submitting requests and with the specifications relating to all the other documents required by the contract notice, otherwise your application will be declared not admissible or not in order.

Once the deadline for submitting requests has passed, the applications are assessed and only the candidates selected will receive the invitation to tender.

Any interested economic operator may submit an application, enclosing all the documents specified in the contract notice as supporting evidence of status and economic, financial, technical and professional capacity in the light of the criteria laid down. Candidates will be informed whether or not they have been selected.

Stage 2: submission of bids

Only candidates who are selected, i.e. who have submitted all the documents and supporting evidence specified in the contract notice and who meet the criteria laid down, will receive the specification (tender documents containing all the details of the call for tenders, including the forms needed to submit a bid) and will be invited to submit a tender within the deadlines given.

1.3.1.3. Restricted procedure following a call for expressions of interest (CEI)

In order to perform its tasks, OIB can publish a call for expressions of interest (CEI, or AMI in French) in the Official Journal inviting economic operators to put themselves forward as candidates in or express interest for a specific field. This would be prior to organising a number of repetitive procurement procedures for:

- supply or service contracts of € 60 000,01 to €144 000

  or

- works contracts of € 60 000,01 to € 5 548 000

- or

- value of € 60 000,01 or less as long as they are published in 'CEI'.

CEIs will result in one of the following two scenarios:
1) a ‘CEI’ shortlist of pre-selected candidates will be drawn up on the basis of the exclusion and selection criteria announced in the CEI. The pre-selected candidates can then be invited to submit a bid on the basis of the tender documents sent to them when a contract is to be awarded by restricted procedure in the field(s) specified in the CEI. Applications may be submitted at any time during the period of validity of the CEI (i.e. maximum four years), with the exception of the last three months of that period.

2) or a list of potential tenderers who expressed their interest will be drawn up and they will subsequently be invited to submit a request to participate or a tender. Applications may be submitted at any time during the period of validity of the CEI (i.e. maximum four years), with the exception of the last three months of that period.

The contracting authority then decides on the basis of the list of potential tenderers whether to use a one- or two-stage procedure:

a) The one-stage procedure works like an open procedure, i.e. the tender documents (including the exclusion, selection and award criteria) are sent to all the potential tenderers on the relevant list. All tenders received will then be assessed according to the criteria in the tender documents.

b) The two-stage procedure works like a restricted procedure, i.e. details of the subject of the contract and the methods for evaluating requests to participate (exclusion and selection criteria) are first sent to all the potential tenderers on the list. Any potential tenderers interested can then apply. Only those candidates who are selected in accordance with the exclusion and selection criteria will then be invited to tender.

1.3.1.4. Open procedure with publication of a contract notice in the Official Journal

OIB also uses this procedure for contracts worth equal or more than €144,000. The procedure starts with the publication of a contract notice in the S series of the Official Journal of European Union, describing the subject of the procurement, the organisation of the procedure, the methods of assessing offers (exclusion, selection and award criteria), the means of obtaining tender documents (specification), the deadline for submitting offers and the date of the public opening of bids. It may also give information about the minimum economic, financial, technical and professional capacity required by the selection criteria, and about whether variants are accepted and whether the procurement procedure is interinstitutional.

The specifications and additional documents (including questions and answers) are available on the e-Tendering site indicated in the contract notice.
Interested parties are invited to register via the website. They will then be notified by the online public procurement system of any updates available for this invitation to tender. Parties not registered on the site are requested to consult it regularly. The Commission cannot be held responsible should tenderers not be aware of any additional information on this invitation to tender given on this website.

The website will be updated regularly; it is the responsibility of tenderers to check for any updates and modifications during the tendering period.

You must comply strictly with the deadlines for submitting tenders and with the specifications relating to all the documents required by the contract notice, otherwise your tender will be declared not admissible or not in order.

Unlike the restricted procedure, this procedure is organised in one stage only.

### 1.3.2. Other types of procedure

#### 1.3.2.1. Negotiated procedure for contracts of equal or more than € 144,000

The negotiated procedure is allowed for contracts of $\geq$ €144,000 only in the cases listed exhaustively in the relevant legislation (see Annex I, Relevant legislation). It is subject to specific conditions and may be organised with or without publication of a contract notice in the Official Journal.

In the negotiated procedure without publication of a contract notice, OIB invites each candidate selected to submit a tender. After receiving the tenders, it negotiates on an equal footing with all the tenderers so that the tenders can be adjusted in the light of the requirements set out in the specification and so that it can find the tender offering the best value for money. The negotiation covers both the technical and the financial aspects of the tender, but may not affect the minimum (compulsory) technical or administrative specifications in the tender documents sent out.

In the negotiated procedure with publication of a contract notice in the S series of the Official Journal, OIB invites each candidate selected following the submission of applications to submit a tender. It then negotiates so that the tenders can be adjusted in the light of the requirements set out in the contract notice or specification and in any additional documents in order to find the tender offering the best value for money.

#### 1.3.2.2. Competitive dialogue

The competitive dialogue can be used when a contract is particularly complex, provided that direct use of the open procedure or the existing rules governing the restricted procedure will not allow the contract to be awarded to the tender offering best value for money.

#### 1.3.2.3. Contest

Used mainly in the fields of architecture, civil engineering and data processing, contests are procedures which enable the contracting authority to
acquire a plan or design proposed by a selection board after competitive tendering with or without the award of prizes. If OIB organises a contest and you are interested in taking part, the rules governing the organisation of the contest will be sent to you.

1.3.2.4. Negotiated procedure for building contracts

Building contracts published by OIB cover the purchase, long lease, usufruct, leasing, rental or hire purchase, with or without option to buy, of land, existing buildings or other real estate. For these contracts, the rules allow us to use a negotiated procedure without publication of a contract notice after prospecting the local market.

More information can be found on OIB’s website at: http://ec.europa.eu/oib/procurement_en.cfm.

1.3.3. What types of contract does OIB conclude with economic operators?

OIB mainly uses two types of contract: direct contracts and framework contracts.

In direct contracts the subject, remuneration and length of implementation of the contract are defined at the outset and the contract can therefore be implemented without further formalities as soon as it has been signed by both parties.

Framework contracts, on the other hand, are concluded for a given period (often four years) and set out the legal, financial, technical and administrative provisions that will govern the relationship between the parties during that period. Actual orders are placed by way of order forms or specific contracts implementing the framework contract only once the framework contract has been signed and has taken effect.

In certain specific circumstances, in which case it will be indicated in the contract notice, the contract will be awarded on the basis of the system of multiple 'cascading' framework contracts. This refers to a situation where separate framework contracts, with identical terms, are entered into between the Commission and several companies, suppliers or service providers. This is to ensure that the contract can be carried out by one or other of the contractors contacted successively, should the first contractor be unavailable.

After evaluating the successful tenders, OIB ranks the tenderers in descending order with a view to establishing the order in which they will be offered work when orders are placed. If the contractor at the top of the list is unavailable, OIB can contact the second contractor, then, if necessary, the next contractor on the list, in the descending order.
1.4. Specific features of OIB contracts

1.4.1. Participation by other institutions, executive agencies or bodies in OIB calls for tenders

Procurement procedures planned by OIB may sometimes be of interest to several institutions, executive agencies or other bodies. In such cases, OIB publishes an interinstitutional call for tenders.

If this is the case, it will be expressly indicated in the contract notice and specification, and the institutions and other EU bodies (such as executive agencies) concerned will be listed. The interinstitutional nature of the procedure can have important consequences for the overall volume of the contract and the places of implementation or delivery.

Interinstitutional procedures are organised essentially with a view to the sound management of the resources allocated to the institutions and other bodies of the EU.

1.4.2. Languages used

You can submit your application or tender in any of the official languages of the European Union.

1.4.3. Exemption from VAT

Under the Protocol on the Privileges and Immunities of the European Union of 8 April 1965, the European Union institutions are exempt from VAT on substantial official purchases. This means that you have sole responsibility for compliance with the applicable tax laws. You must complete the necessary formalities with the relevant authorities to ensure that the goods and services required for performance of the contract are exempt from taxes and duties, including VAT.

2. HOW CAN I TAKE PART IN A PROCUREMENT PROCEDURE ORGANISED BY OIB?

2.1. Who can take part in a procurement procedure?

2.1.1. General remarks

Procurement procedures organised by the European Commission are open to all economic operators registered in the EU and all EU citizens.

Economic operators from outside the EU can also take part, provided

– there is a specific public procurement agreement between the countries concerned and the EU; and

– subject to a number of restrictive conditions, the countries concerned have ratified the multilateral Government Procurement Agreement (GPA) concluded under the auspices of the World Trade Organisation (WTO).
If you wish to take part in a procurement procedure and you consider that you have the necessary economic, financial, technical and professional capacity to perform the contract, you simply have to submit an application (for restricted procedures) or a tender (for open or negotiated procedures) in the format and within the deadlines specified in the contract notice or the invitation to tender.

For your application or tender to be selected, you must meet all the requirements set out in the contract notice.

It is very important to comply with the deadline given in the contract notice for receipt of requests to participate and tenders, otherwise your application or tender will not be admissible.

2.1.2. **Consortia of economic operators**

You can combine with several economic operators to submit a joint application or tender. If this is your intention and if you have already set up a consortium or equivalent for the purpose, you should indicate this in your application/tender and attach any other relevant information in this connection. You should clearly identify the leader of the consortium. All the partners will be jointly and severally responsible for performing the contract if it is awarded to them.

Where an application/tender is submitted by a consortium, the exclusion criteria and the selection criteria relating to economic and financial capacity will be examined for each member. However, where a given threshold for economic and financial capacity and/or technical and professional capacity is required, the ability to meet it will be assessed in relation to the consortium as a whole.

If you are awarded the contract, the European Commission may require the grouping to adopt an official form prior to signing the contract. This may involve setting up an entity with a legal form that is recognised in the Member States or creating a temporary consortium or partnership that does not have legal personality but does offer a sufficient guarantee to protect the Commission’s interests with respect to the performance of the contract. You should also provide in writing the name and position of the person authorised to sign on behalf of the consortium and the agreement of all the members to this effect.

2.1.3. **Subcontracting**

Certain tasks covered by the contract may be entrusted to subcontractors. However, the principal contractor (who has signed the contract) retains full liability for performance of the contract as a whole.

The Commission will therefore deal exclusively with the principal contractor in handling any contractual matters, even if the tasks concerned have been subcontracted, as the Commission has no direct legal relationship with the subcontractor(s).
When you submit an application and/or a tender, you must provide a statement specifying whether or not you intend to subcontract part of the contract, indicating what proportion of the contract and to whom you intend to subcontract.

If you plan to subcontract a relatively large proportion of the contract, the Commission may require the subcontractor to send all the information and documents requested from candidates and tenderers before formally accepting or rejecting the subcontractor proposed.

2.2. Applications

2.2.1. How should I prepare and submit my application?

2.2.1.1. General remarks

In restricted procedures, which are divided into two stages, the first stage involves pre-selecting candidates on the basis of the exclusion and selection criteria. Only the candidates selected will receive the invitation to tender (see section 2.3).

In open procedures, you are asked to tender straight away (see section 2.3), so there is just one stage in which the exclusion and selection criteria, and the award criteria, are all assessed.

The arrangements for submitting applications are described in detail in the contract notice. They must be posted to the address and before the deadline given in the contract notice.

They must be placed inside two sealed envelopes. The inner of the two sealed envelopes should be addressed to the relevant department and marked as follows:

‘[Number of the procedure]
Application by [name of candidate]
A NE PAS OUVRIR PAR LE SERVICE COURRIER/NOT TO BE OPENED BY THE INTERNAL MAIL DEPARTMENT’.

If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across that tape.

Applications may be:

(1) either sent by post to the official address given in section I.1 of the contract notice,

(2) or delivered by hand to the central mail department of the European Commission, either in person or by an authorised representative or courier service, at the following address: Avenue du Bourget, 1, 1140 Brussels (Evere). The opening hours are 08.00 to 17.30, from Monday to Friday except public holidays.

The postmark or the date of the deposit slip serve as proof of the date of dispatch.
Applications sent by e-mail must be confirmed by letter sent before the deadline given in the contract notice.

2.2.1.2. Documents to enclose with your application

The documents that must be enclosed with your application are specified in the contract notice. Please follow carefully the instructions given there regarding the general information required on applicants and their legal status, the details of their economic, financial, technical and professional capacity, and any subcontracting. You will also be asked to provide a declaration on your honour stating that you are not in one of the situations giving rise to exclusion from the procedure. Subcontractors may also be asked to submit a declaration.

2.2.2. How can I obtain additional information?

The only contact point for candidates and tenderers for contracts equal and over € 144,000 is OIB’s Budget, public procurement, internal control and programming Unit (Unit OIB.02). It can be contacted at:

European Commission
Office for Infrastructure and Logistics - Brussels
Unit OIB.02 – Budget, public procurement, internal control and programming

Telephone: (32-2) 298.69.89
E-mail: oib-marches-publics@ec.europa.eu

You may not contact or attempt to contact individual members of staff at the European Commission with a view to obtaining information about an ongoing or upcoming call for tenders. In the interests of equal treatment, all candidates or tenderers must have access to the same information at the same time.

2.2.3. How will the applications be evaluated?

2.2.3.1. Opening/evaluation committee

Applications are opened by an opening committee comprising at least two members appointed for the purpose. They must give a prior declaration that their role as a member of the committee involves no conflict of interest and their work is confidential. The committee checks that applications have been submitted in two sealed envelopes within the deadline set. Late applications are rejected as not being in order.

The applications that have been submitted correctly are evaluated on the basis of the exclusion and selection criteria set out in the contract notice by a committee comprising at least three members appointed for the purpose. They must give a prior declaration that their role as a member of the committee involves no conflict of interest and their work is confidential.
Applications which do not contain all the essential items required by the contract notice or which do not satisfy the specific requirements laid down are eliminated. The evaluation committee may, however, ask the candidate to provide additional supporting documents or explanations relating to the exclusion or selection criteria, setting a deadline for replying.

### 2.2.3.2. Evaluation of the exclusion criteria

Candidates or tenderers are excluded from participation in procurement procedures 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 European union's financial interests;

(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.

Nor may contracts be awarded to candidates or tenderers who, during the procurement procedure,

– are subject to a conflict of interest;

– 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.

If the European Commission requests it, candidates or tenderers must
a) where the candidate or tenderer is a legal entity, provide information on the ownership or on the management, control and power of representation of the legal entity;

b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to above.

Initially, you will be asked merely to provide a declaration on your honour stating that you are not in one of the situations giving rise to exclusion from the procedure as listed above. You must use the model available at the following website, reproducing it word for word and in its entirety: http://ec.europa.eu/oib/procurement_en.cfm.

For applications submitted by consortia, the declaration, and the information and supporting evidence required, must be provided for each member of the consortium individually.

Only the tenderer to whom the contract is likely to be awarded will have to provide proof in support of the declaration before signing the contract. Subcontractors may also be asked to submit a declaration.

2.2.3.3. Evaluation of the selection criteria

Your application will also be evaluated in the light of the selection criteria set out in the contract notice. The sole purpose of these criteria is to determine whether you have the financial, economic, technical and professional capacity required to perform the contract. The criteria used depend on the type of purchase to be made, its value and other possible circumstances. A minimum capacity level will be set for one or several criteria, below which the contractor will be deemed unable to deliver the contract.

2.2.3.4. Evaluation of financial and economic capacity

For the evaluation of financial and economic capacity, you will as a rule be asked to provide data on annual pre-tax profits, total annual turnover and annual turnover specifically relating to the subject of the contract for the last three financial years.

You should also send copies of balance sheets and income statements for the last two (maximum three) financial years. If the contract is divided into lots, you may be asked to provide these statements for each of the lots for which you wish to tender.

2.2.3.5. Evaluation of technical and professional capacity

The selection criteria relating to technical and professional capacity are designed to show whether you have the capacity needed to perform the contract.

Depending on the type of contract, you may be asked:

– to provide a list of the principal services provided or supplies delivered in the past three years, or works carried out in the past five years, with the
sums involved, dates, and details of the recipients, whether public or private;

– to indicate educational and professional qualifications;

– to provide a description of the technical equipment, tools and plant to be employed for performing a service or works contract;

– to send any samples;

– to provide a statement of your average annual workforce and the number of managerial staff employed during the last three years;

– to describe environmental protection measures.

You will also be asked to provide a statement specifying whether or not you intend to subcontract part of the contract, indicating what proportion of the contract you intend to subcontract. You remain fully responsible for the part you subcontract.

2.3. Tenders

2.3.1. How should I submit a tender?

For:

– open procedures with publication of a contract notice in the Official Journal, and

– all types of restricted procedure (with publication of a contract notice in the Official Journal or after publication of a call for expressions of interest),

you will receive detailed tender documents in the course of the procedure.

  o For negotiated procedures for contracts of more than €15 000, and less than or equal to €60 000, the tender documents may be shortened or simplified.

  o In restricted procedures, only the candidates selected after the first stage (see section 1.3.1.2) will receive the tender documents and be invited to submit a tender.

  o In open procedures, any economic operator who is interested may submit a tender.

The specification and other tender documents (including questions and answers) will be made available at the e-Tendering site indicated in the contract notice. Any interested parties that wish to can then register via the website. In this way they will be informed by the e-procurement system of any subsequent updates to the tender. Those who are not registered on the website will be invited to consult it regularly. For competitive dialogue, the specification is replaced by a
descriptive document setting out the needs and requirements of the contracting authority.

- The contract notice for the open procedure outlines the essential features of the contract, describing the subject of the procurement, the organisation of the procedure, the methods of assessing offers (exclusion, selection and award criteria), the means of obtaining tender documents, the deadline for submitting offers and the date of the public opening of bids. It may also give information about the minimum economic, financial, technical and professional capacity required by the selection criteria, and about whether variants are accepted and whether the procurement procedure is interinstitutional. So there is just one stage in which the exclusion and selection criteria (see sections 2.2.3.2 and 2.2.3.3 above), and the award criteria, are all assessed. The same applies to negotiated procedures for contracts equal and over € 144,000.

- Whatever the procedure (restricted, open or negotiated), the tender documents consist of the invitation to tender, the specification (comprising the technical specifications, and the technical and financial tender forms that you should complete and return) and the draft contract.

The tender documents must be regarded as a set in which the various elements complement each other. The main documents are described below.

2.3.2. Tender documents

2.3.2.1. The invitation to tender

The letter inviting you to tender specifies the deadline for submitting bids and gives useful information about how to submit your tender and how the procedure will be organised.

2.3.2.2. The tender specification

The technical specifications included in the tender specification give precise details of the technical requirements of the various goods or services to be supplied or work to be carried out, give an indication, for the purposes of the financial evaluation, of the quantities required, provide details of any samples to be sent, set the award criteria and the criteria for evaluating technical and financial bids, and lay down arrangements and rules for the performance of the contract.

You should complete the technical and financial tender forms attached to the specification without amending them. A bid that is incomplete or that has been submitted on an amended form will be eliminated.

Where the contract is awarded automatically to the lowest bidder, you may also be required to submit a technical compliance form, which should be attached to the financial tender form.
2.3.2.3. The draft contract

The draft contract containing all the elements of the contract that will subsequently be signed is enclosed with the tender documents so that tenderers will have all the information they need.

The draft contract is divided into two parts: special conditions and general conditions.

The special conditions cover the subject and duration of the contract, the price, and arrangements for implementing the contract (deadlines for ordering, paying, etc.). They specify whether a performance guarantee must be provided by the future contractor to ensure proper implementation of the contract.

The general conditions are terms that apply to all contracts of the same type, unless the special conditions derogate from them.

2.3.2.4. The performance guarantee

The contracting authority may, if it deems it appropriate and proportionate, on a case-by-case basis and subject to a risk analysis, require contractors to lodge a guarantee. For example, in the case of works contracts, a performance guarantee may be required to assure the Commission that the contract will be properly fulfilled after provisional approval and payment of the balance, pending final acceptance.

The guarantee is released after final acceptance of the deliverables, except where the contract has not been performed or has been performed incorrectly or completion is late. In such cases a part of the guarantee is retained, in proportion to the seriousness of the damage suffered, at the first request of the Commission. If the value of the damage is greater than the sum of the guarantee, the whole guarantee will be retained.

2.3.3. How should I prepare my tender?

2.3.3.1. Formal aspects

You should pay careful attention to the way in which you present your tender. It should be clear and concise, and perfectly legible so that there can be no doubt as to words and figures. It should also be dated and signed by the tenderer or a duly authorised representative.

It must be accompanied by a covering letter signed by the person(s) duly authorised to represent and commit the tenderer (company, grouping or consortium) for the purposes of signing the contract, should it be awarded to you.

You must submit your tender using the tender forms enclosed with the specification. If you reproduce the forms on an electronic medium, you must not change any of the original wording. Please note that only the paper version of the tender, duly dated and signed, is authentic.
The tender forms must be accompanied by all the supporting documents requested. Tenderers may also add, on separate sheets, any other information which they consider will substantiate the quality of their tender.

The tender may be drawn up in any of the official languages of the European Union.

You should note that submission of a tender

- implies acceptance of the terms and conditions set out in the invitation to tender and in the tender specification and the annexes thereto, including the draft contract;

- implies waiver of the tenderer’s own general or specific terms and conditions; and

- is binding on you during performance of the contract, if the contract is awarded to you.

Unless otherwise specified, the period of validity of your tender, during which you may not modify the terms of your tender in any respect, is usually six (6) months from the deadline for submitting tenders given in the contract notice or the invitation to tender enclosed with the specification.

2.3.3.2. Technical compliance form(s)

If the contract is awarded to the lowest bid that is in order and satisfies the conditions laid down (automatic award), no award criterion other than price is taken into account.

In such cases, there is no evaluation of the quality of the tender but only a check of the conformity of the technical bid. To this end, you may be asked to complete and return the technical compliance form, which will be used only for the purpose of checking technical conformity.

2.3.3.3. Technical quality form(s)

If the contract is awarded to the tender offering the best value for money, a comparison will be made of the technical and financial aspects of the various bids.

The technical tender form serves to define technical criteria for the purposes of evaluating the quality of your tender in the light of the requirements laid down in the specification.

The specification will indicate the relative weighting given to each of the criteria selected for determining best value for money.

2.3.3.4. Financial tender form(s)

Prices should be quoted using the financial tender forms; they should be quoted free of VAT and in euro and should be all-inclusive. The financial tender forms often also give an indication of quantity.
Prices must be calculated free of all duties, taxes and dues. The European Commission is exempt from such charges under the Protocol on the Privileges and Immunities of the European Union annexed to the Treaty of 8 April 1965 establishing a Single Council and a Single Commission of the European Union (see Annex I, point II).

The attention of tenderers is drawn to the fact that costs incurred in preparing and submitting tenders are borne by the tenderers and will not be reimbursed.

2.3.3.5. Other documents to be attached

Your tender must be accompanied by the legal entities form, duly completed and signed, which must be accompanied by a copy of any official document (e.g. Moniteur Belge/Belgisch Staatsblad or extract from the trade register) that identifies the name of the tendering company, the address of its head office and its registration number with the national authorities; if that document does not show the VAT number, a copy of the VAT registration document must also be included. This form can be downloaded directly from the following website:

The tender must also be accompanied by the financial identification form, duly completed and signed by the tenderer, together with a recent bank statement. If a recent bank statement is not provided, the financial identification form must be duly completed, stamped by the bank and signed by a bank representative and by the tenderer. This form can be downloaded directly from the following website:

2.3.4. How should I send my tender?

2.3.4.1. Format requirements

Tenders must be submitted in triplicate (one original and two copies), with the envelopes clearly marked ‘original’ or ‘copy’, and with each copy of the tender being placed inside two sealed envelopes.

If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across this tape.

The inner of the two sealed envelopes should be addressed to the department indicated in the invitation to tender and marked as follows:

‘Invitation to tender No
Tender by ………………………
A NE PAS OUVRIR PAR LE SERVICE COURRIER / NOT TO BE OPENED BY THE INTERNAL MAIL DEPARTMENT’
Except in the case of the automatic award procedure where there is no technical tender, the inner envelope mentioned above should itself contain two separate sealed envelopes, clearly marked as follows:

– one containing the technical tender, marked ‘technical tender for invitation to tender No …’ (technical tender form), and

– the other marked ‘Financial offer for tender No …’, containing the financial offer (financial tender form).

2.3.4.2. Dispatch requirements

When your tender is ready, all you have to do is to send it within the deadlines set in the specification or the contract notice.

Tenders may be:

– sent by post or courier service to the European Commission’s official postal address as indicated in the invitation to tender,

– or delivered by hand to the central mail department of the European Commission, either in person or by an authorised representative, at the following address (a dated receipt must be obtained from the mail department as proof of submission):

  Service du Courrier central de la Commission européenne
  Avenue du Bourget 1
  B-1140 Brussels (Evere).

The department is open from 08.00 to 17.30 Monday to Friday, except public holidays.

The postmark or the date of the receipt will serve as proof of the date of dispatch.

2.3.5. How will the tenders be evaluated?

2.3.5.1. Tender opening committee

An opening committee comprising at least two members, who have given a prior declaration that their role as a member of the committee involves no conflict of interest and whose work is confidential, opens the tenders and checks that they meet the requirements, in particular as regards the date of dispatch.

In the restricted or negotiated procedure, any tender from a tenderer who has not been invited to submit a tender is considered as not in order.

In the open procedure, the date of the official opening is given in the contract notice; representatives of tenderers who wish to do so may attend the opening. Arrangements for attending and the procedure for opening the tenders will be described in the invitation to tender.
2.3.5.2. Tender evaluation committee

An evaluation committee, comprising at least three members, who have given a prior declaration that their role as a member of the committee involves no conflict of interest and whose work is confidential, will evaluate in an identical and non-discriminatory manner all the tenders found to be in order following the official opening. The evaluation committee may be composed of the same members as the committee opening the tenders. The evaluation is based exclusively on the criteria set out in the specification.

2.3.5.3. Evaluation of the exclusion criteria

It is only in the context of open or negotiated procedures only, that the exclusion criteria are examined when the tenders are submitted. The examination is conducted on the same terms as described in section 2.3.3.2.

2.3.5.4. Evaluation of the selection criteria

In open or negotiated procedures only, the selection criteria (financial and economic, and technical and professional capacity) are examined when the tenders are submitted. The examination is conducted on the same terms as described in section 2.2.3.2.

2.3.5.5. Evaluation of tenders

a) Award criteria

The award criteria are set out in the contract notice, specification or descriptive document for the competitive dialogue procedure. Their sole purpose is to identify the best offer out of those submitted by tenderers who are not excluded and who meet the pre-defined selection criteria. They will enable you to identify clearly which are the most important aspects and on what basis your bid will be evaluated.

The award criteria will tell you how the contract will be awarded. As a rule, there are two possibilities:

- automatic award, where the contract is awarded to the lowest bid that is in order and satisfies the conditions laid down in the specification;

- the value-for-money procedure, where the contract is awarded to the bid offering the best quality-price ratio. In this case, the offers will be compared with each other by evaluating them from both a technical and a financial point of view.

b) Technical evaluation of the bid

If the contract is to be awarded on a best-value-for-money basis, the technical evaluation of the tenders will be based on the criteria set out in advance in the contract notice and/or specification. In addition to the technical evaluation criteria, the Commission may

- set a technical quality threshold (e.g. 50% or 65% of the maximum possible mark) for the whole quality evaluation, as well as, where
appropriate, for each of the technical criteria, in which case tenderers falling below the thresholds will be eliminated;

- apply a value-for-money indicator, giving weighting to each criterion, to be applied to tenders which have exceeded the threshold.

At the end of the technical evaluation each tender will be awarded an overall technical evaluation score.

c) Financial evaluation of the bid

The financial evaluation will be based on the unit prices quoted by the tenderers in the financial tender forms, taking account, where appropriate, of the estimated quantities corresponding to each unit price in the pre-defined scenario.

At the end of the financial evaluation a price will be determined for each tender, corresponding

- either to the total price of the tender for the duration of the contract,
- or to the total price based on a pre-defined scenario allowing the bids to be compared.

d) Financial evaluation of the bid

1) Automatic award

If the automatic award method applies, the contract will be awarded to the lowest bid that is in order and that satisfies all the conditions laid down in the specification.

2) Value for money

However, if the contract is to be awarded on a best-value-for-money basis, it will be awarded to the tenderer offering the best quality-price ratio.

As a rule, OIB uses the following formula to determine which of the bids having reached the final evaluation stage offers the best value for money:

\[
\text{score for tender N} = \frac{\text{cheapest price of tender N}}{\text{price of tender N}} \times \text{total quality score (out of 100) for all criteria of tender N}
\]

The formula gives a mark out of 100. The tender with the highest number of points at the end of the final evaluation (rounded to two decimal points) will be considered as offering the best value for money.

2.3.6. Clarification of tenders

Throughout the procedure, contacts between OIB’s contracting department and tenderers are prohibited save in exceptional circumstances. They are permitted under the following conditions only:
Before the final date for submission of tenders:

- At the request of the tenderer, the contracting department may provide additional information solely for the purpose of clarifying the nature of the contract.

- In order to ensure equal treatment of all tenderers, additional information including that referred to above will be sent simultaneously to all candidates invited to tender.

- In the open procedure the requests for additional information must be addressed in writing via the eTendering website (internet link in point I.3 of the contract notice, ‘Communication’) by clicking ‘Create a question’ in the ‘Questions & Answers’ tab. IMPORTANT: You must be registered on the site to create a question.

The Commission is not bound to reply to requests for additional information received less than six working days before the closing date for submission of tenders.

- In the restricted or negotiated procedure the requests for additional information must be made by email or in writing to the address given in the invitation to tender. Requests for additional information received less than six working days before the closing date for submission of tenders will not be processed.

- The contracting department may, on its own initiative, inform interested parties of any error, inaccuracy, omission or other clerical error in the text of the call for tenders.

- In the open procedure any additional information, including the information referred to above, will be published on the eTendering website indicated in the contract notice. This website will be updated regularly and it is the responsibility of the tenderer to check the updates and modifications made during the period for the submission of tenders.

After the opening of tenders:

If some clarification is required in connection with a tender or if obvious clerical errors in the tender must be corrected, the contracting department may contact the tenderer on its own initiative. If necessary, you may therefore be asked to clarify certain aspects of your tender or to confirm commitments made in it. In such cases, you will usually be asked to reply very quickly, referring to the information contained in your initial bid, the terms of which may not be changed under any circumstances.

Nor may you change the financial aspects of your bid or add new prices. You should simply explain the composition of the prices based on the information already contained in your initial bid.

Failure to comply with these principles could lead to your replies being ignored or even to your bid being disqualified.
2.4. **Outcome of the procurement procedure**

2.4.1. **The award decision**

After the evaluation has been completed, OIB reaches a decision on the award of the contract.

However, publishing a call for tenders does not commit the European Commission to awarding the contract to a tenderer simply because the latter has met all the criteria laid down. The Commission can decide not to award the contract to any of the tenderers.

In such cases, the Commission is not obliged to pay any compensation to tenderers.

2.4.2. **Notification of tenderers**

Once the award decision has been taken, the tenderers who have not been selected are informed at the same time as the successful tenderer.

The former may request in writing additional information from OIB on the reasons why their bid has been rejected or the name of the tenderer to whom the contract is to be awarded.

2.4.3. **Signing the contract**

Before the contract is signed, the successful tenderer named in the award decision should provide all the original supporting documents for the exclusion criteria (see 2.2.3.2) and a bank guarantee where required (see 2.3.2.4).

The Commission will sign the contract only after a period of at least dix calendar days following the simultaneous dispatch by e-mail of the notification to rejected tenderers. The period in question starts to run from the day after the dispatch of the notification (‘standstill’ procedure).

In any event, the European Commission may, before the contract is signed, either abandon the procurement or cancel the award procedure without the successful tenderer being entitled to any compensation.

2.4.4. **Additional publicity**

For all procedures subject to prior publication in the Official Journal of European Union, as well as for certain negotiated procedures without prior publication, OIB will publish the outcome of the procedure in the Official Journal.
3. ANNEXES

3.1. Relevant legislation

Here you can find the main legislative provisions that apply to calls for tender organised by OIB.

I. Procurement procedures

I.A. Legislation

Procurement procedures for the institutions, agencies or other bodies of the EU are governed by the following:


I.B. Other provisions

Besides the legislation referred to above, it should be added that:

– the case law, mainly of the European Court of Justice in procurement appeals

– European Commission staff are bound by a Code of Good Administrative Behaviour in their relations with the public. This includes the management of calls for tenders, subject to the restrictions laid down in the above-mentioned legal provisions.

II. Tax exemption

The European Commission is exempt from all taxes and duties pursuant to:


This exemption is granted by the Governments of the Member States either by reimbursement on presentation of supporting documents or directly. The Commission will provide the successful tenderer with instructions in this respect.

European Commission - 1049 Brussels – Belgium – Telephone: (32-2) 299.11.11
Office: CSM1 05-P001 - Telephone: direct line (32-2) 298.69.89 - Fax: (32-2) 296.05.70

E-mail: oib-marches-publics@ec.europa.eu
III. Contracts resulting from a call for tenders

Unless the tender specification stipulates otherwise, contracts resulting from a call for tenders issued by the Office for Infrastructure and Logistics in Brussels are governed by the law of the European Union, supplemented by Belgian law where the EU does not regulate the specific legal issue concerned.

IV. Protection of personal data

In certain cases, the follow-up to your response to the invitation to tender will require recording and processing of personal data (for example, the names, addresses or CVs of individuals). Any such data will be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 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 (OJ L 8, 12.1.2001, p. 1). This is expressly stated in the draft contract annexed to the invitation to tender, where you will also find other information on personal data protection issues.

Detailed information on the processing of your personal data can be found in the privacy statement which can be consulted at the following address: http://ec.europa.eu/dataprotectionofficer/privacystatement_publicprocurement_en.pdf.

Your personal data may be registered in the Early Detection and Exclusion System (EDES) if you are in one of the situations mentioned in Article 106 of the Financial Regulation. For more information, see the privacy statement at: http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm.
### 3.2. Internet references

At the time of writing, the websites listed below contained the information referred to here:

<table>
<thead>
<tr>
<th>Website name or owner</th>
<th>URL</th>
<th>Information available</th>
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<td>European Commission – Office for Infrastructure and Logistics – Brussels</td>
<td><a href="http://ec.europa.eu/oib/procurement_en.cfm">http://ec.europa.eu/oib/procurement_en.cfm</a></td>
<td>Information notices Calls for expressions of interest Property prospecting notices Ongoing procurement procedures Model letter of guarantee from the guarantor to the Commission Model declaration of honour to be completed for the evaluation of the exclusion criteria List of contractors</td>
</tr>
<tr>
<td>Europa</td>
<td><a href="https://europa.eu/european-union/index_en">https://europa.eu/european-union/index_en</a></td>
<td>List of EU institutions, agencies and other bodies Official EU languages</td>
</tr>
<tr>
<td>European Commission – contact guide</td>
<td><a href="https://ec.europa.eu/info/contact_en">https://ec.europa.eu/info/contact_en</a></td>
<td>General information on the European Commission Public procurement directives</td>
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<td>European Commission - Funding, Tenders</td>
<td><a href="https://ec.europa.eu/info/funding-tenders_en">https://ec.europa.eu/info/funding-tenders_en</a></td>
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<tr>
<td>Main website of the European Commission</td>
<td><a href="http://ec.europa.eu">http://ec.europa.eu</a></td>
<td>Additional information on procurement in Europe</td>
</tr>
<tr>
<td>TED (Tenders Electronic Daily)</td>
<td><a href="http://ted.europa.eu">http://ted.europa.eu</a></td>
<td>Online version of the Supplement to the Official Journal, dedicated to European public procurement</td>
</tr>
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<td>EUR-LEX</td>
<td><a href="http://eur-lex.europa.eu">http://eur-lex.europa.eu</a></td>
<td>European Union legislation</td>
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<td>Case-law of the Court of Justice of the European Union</td>
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<tr>
<td>European Ombudsman</td>
<td><a href="http://ombudsman.europa.eu">http://ombudsman.europa.eu</a></td>
<td>Decisions by the European Ombudsman</td>
</tr>
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