



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Resources
HR & Finances

European Commission

**Submitting an offer in response to a call for tenders issued by
the Directorate-General for Taxation and Customs Union
(DG TAXUD)
A Guidebook for Tenderers**

Date: February 2015
Version: 1.2
Public: Tenderers
Reference Number:

1. LEGAL FRAMEWORK.....	2
1.1. Procurement procedure	2
1.2. Resulting contract	2
2. BASIC INFORMATION ABOUT THE CALLS FOR TENDERS ISSUED BY DG TAXUD	3
3. CONTACTING THE EUROPEAN COMMISSION ABOUT A CALL FOR TENDERS	3
4. CONSIDERING WHETHER OR NOT TO SUBMIT AN OFFER.....	4
4.1. How to understand the exact scope of the contract	4
4.1.1. Volume of the contract	4
4.1.2. Lots	4
4.1.3. Variants.....	4
4.1.4. Product names and trademarks	5
4.2. Implications of submitting an offer.....	5
4.3. No obligation to award	5
4.4. Nature of the contractual relationship resulting from the award of the contract.....	5
5. COLLABORATING WITH OTHER COMPANIES.....	6
5.1. Joint offers	6
5.2. Subcontracting	7
6. PREPARING YOUR OFFER	8
6.1. Receiving the Tendering Specifications	8
6.2. Clarifying the Tendering Specifications	9
6.3. Drawing up your offer	9
6.3.1. Language	9
6.3.2. Replying to mandatory questions.....	9
6.3.3. Confidential information.....	9
6.3.4. Protection of personal data	10
6.3.5. Formal aspects	10
6.3.6. Specific requirements for the financial quotation	11
6.4. Preparing your offer for submission	11
6.4.1. Number of copies.....	11
6.4.2. Covering letter	11
6.4.3. Elements to be separated from the rest of the offer	11
6.4.4. Sealing your offer	12
7. SUBMITTING YOUR OFFER	12
7.1. Delivery by post or by courier service	13
7.2. Delivery by hand.....	13
8. OPENING OF THE OFFERS	13
9. ASSESSMENT OF TENDERERS AND OFFERS.....	14
9.1. Phase 1: Exclusion	14
9.2. Phase 2: Selection	15
9.2.1. Economic and financial capacity	15
9.2.2. Technical and professional capacity	16
9.3. Phase 3: Evaluation.....	16
9.3.1. Technical evaluation	16
9.3.2. Financial evaluation	16
9.4. Phase 4: Award.....	17

10. CLARIFYING THE OFFERS	17
11. OUTCOME OF THE CALL FOR TENDERS	17
11.1. Notification of results	18
11.2. Additional information	18
11.3. Contract award notice	18
REFERENCES	19

Contact:

European Commission, DG Taxation and Customs Union

Office: J79 6/40 – B-1049 Brussels - Tel.: +32 2 296 33 32 – Fax: +32 2 299 54 44

E-mail: TAXUD-Tenders@ec.europa.eu

Disclaimer

This document is designed to help tenderers to submit their offers in response to a call for tenders issued by the European Commission's Directorate-General for Taxation and Customs Union. It is also designed to help those responsible for assessing the tenders so that they can gain a better understanding and appreciation of the information received.

However, the information contained in this document is of a general nature only and is not intended to address the specific circumstances of any particular individual or entity. Therefore the European Commission accepts no responsibility or liability whatsoever with regard to it.

Likewise, any information, questions or observations, of whatever kind, contained in this document can in no way be regarded as a commitment on the part of the European Commission to enter into any specific contract.

No binding commitment will be entered into until the procurement procedure is completed and the relevant contract signed.

Expenses incurred in the preparation and dispatch of tenders shall not be refunded by the European Commission.

The European Commission is not liable for any compensation to tenderers whose tenders have not been accepted.

1. LEGAL FRAMEWORK

This section lists the main legal provisions applicable to calls for tenders issued by the European Commission's Taxation and Customs Union Directorate-General (DG TAXUD).

1.1. Procurement procedure

1.1.1. The procurement procedure for the EU institutions, agencies and other bodies, is governed by the following legal provisions, more particularly:

- (1) Part 1, Title V of Regulation (EU, Euratom) No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (hereafter referred to as “the **Financial Regulation**”)¹,
- (2) Part 1, Title V of 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 (hereafter referred to as “the **Rules of Application**”)²,
- (3) The **World Trade Organisation's Agreement on Government Procurement**, which the European Community joined following Council Decision of 22 December 1994 concerning the conclusion of the Protocol amending the GATT Agreement on Government Procurement (**GPA**).

1.1.2. In addition to the above-mentioned legislation, it is worth noting that:

- the provisions mentioned at 1.1.1(1) and (2) above are largely similar to those contained in the European Union's **public procurement directive**, namely European Parliament and Council Directive 2004/18/EC of 31 March 2004, which is applicable to the Member States; this Directive³ entered into force on 30 April 2004 and replaced former legislation in this field, namely Council Directive 93/36/EEC of 14 June 1993 and Council Directive 92/50/EEC of 18 June 1992.
- principles arising from the **European Court of Justice's case-law** in the field of procurement are binding on the European Commission;
- prospective tenderers are legitimately entitled to expect the European Commission to manage its calls for tenders in accordance with principles arising from the **European Ombudsman's** decisions;
- European Commission's staff is 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.

1.2. Resulting contract

Unless the Tendering Specifications stipulate otherwise, contracts resulting from a call for tenders issued by the European Commission's DG TAXUD are governed by Union law, complemented, where necessary, by the national substantive law of Belgium (see section 4.4 for further details on the contractual arrangements).

¹ Official Journal L 298, 26.10.2012, p. 1.

² Official Journal L 362, 31.12.2012, p. 1.

³ Official Journal L 134, 30.4.2004, p. 114.

2. BASIC INFORMATION ABOUT THE CALLS FOR TENDERS ISSUED BY DG TAXUD

2.1. The calls for tenders described in this document follow the **open procedure** and are awarded to the offer giving the **best value for money**.

Alternatively, calls for tenders may be based on the restricted procedure and/or awarded automatically to the lowest bid. These variations have a certain number of implications, which will be outlined very briefly in the relevant sections.

The contract notice and the Tendering Specifications explicitly mention the procedure and award method used for the call for tenders concerned.

2.2. It is important to be aware of the differences between the various **stages** of a call for tenders and the milestones associated with each stage:

1) The **preliminary stage** starts with the publication of a **prior information notice** in the Official Journal of the European Union, in which DG TAXUD announces its intention to issue a call for tenders at a later date and gives basic information about the subject-matter of the future contract. The aim is to give potential tenderers an advance notice that a call for tenders is going to be issued and to allow them to prepare for it. **The publication of a prior information notice is not mandatory. Therefore, in some cases, this preliminary stage may not exist.**

2) The **tendering stage** starts with the publication of a contract notice in the Official Journal of the European Union.⁴ This notice contains detailed information about the procurement and triggers the application of a certain number of deadlines, which are binding on both the awarding authority and the tenderers. DG TAXUD makes available the Tendering Specifications for downloading from its web site (http://ec.europa.eu/taxation_customs/common/tenders_grants/index_en.htm), 1 week after the publication of the contract notice in the Official Journal of the European Union.

Prospective tenderers may raise objections or ask questions about the Tendering Specifications (see section 6.2). This stage ends on the date indicated as the **deadline for the submission of offers**.

3) The **evaluation stage** starts with the **opening of the offers**. During this stage, DG TAXUD assesses the offers in the light of the criteria stated in the contract notice and/or tendering specifications.

4) The **award stage** starts with the **signature of the award decision** by the authorising officer. This is followed by the **notification of the results** to all the tenderers. When the **contract** is signed with the successful tenderer, a **contract award notice** is published in the Official Journal of the European Union. This action closes the procedure.

3. CONTACTING THE EUROPEAN COMMISSION ABOUT A CALL FOR TENDERS

From the start of the preliminary stage and until the end of the award stage, the only contact point for tenderers in DG TAXUD is as follows:

⁴ S Series.

European Commission, DG Taxation and Customs Union
Attn.: Mr Jean-Louis Vergnolle
Office: J79 6/40 – B-1049 Brussels - Tel.: +32 2 296 33 32 – Fax: +32 2 299 54 44
E-mail: TAXUD-Tenders@ec.europa.eu

You cannot contact or attempt to contact individual members of the European Commission's staff with a view to discussing any aspect of an on-going call for tenders.

4. CONSIDERING WHETHER OR NOT TO SUBMIT AN OFFER

This section contains important information which will help you take an informed decision on whether or not to submit an offer for a call for tenders.

4.1. How to understand the exact scope of the contract

The subject matter of the contract is mentioned in the prior information notice, as the case may be, and the contract notice, and described more fully in the Tendering Specifications. In order to understand the exact scope of the contract, you should also consider the aspects mentioned below.

4.1.1. Volume of the contract

To guide you in preparing your offer, the Tendering Specifications contain certain indications on the foreseeable volume of the contract.

However, although the European Commission always tries to give its best estimate, you should be aware that **any information on volume is purely indicative.**

The total value of the contract will ultimately depend on the orders which the Commission will place through specific contracts or order forms (see section 4.4).

4.1.2. Lots

When a call for tenders is divided into lots, this is explicitly mentioned in the contract notice and the Tendering Specifications. In this case, unless stated otherwise in the Tendering Specifications, you **may submit offers for one lot only, or any combination of lots, or for all the lots.**

Each individual lot is assessed separately and in its entirety. You may therefore not submit an offer:

- that covers only part of a lot,
- that is declared as depending or being conditional on the award of any of the other lots of the call for tenders.

The European Commission will disregard any statement to this effect contained in an offer, and reserves the right to reject such offers without further evaluation on the grounds that they do not comply with the tendering specifications.

4.1.3. Variants

Variants are alternatives to any technical or financial aspects, or to any contractual conditions, described in a call for tenders.

Unless stated otherwise in the contract notice and/or the Tendering Specifications, **variants are not permitted.**

The European Commission will disregard any variants described in an offer, and reserves the right to reject such offers without further evaluation on the grounds that they do not comply with the tendering specifications.

4.1.4. Product names and trademarks

Whenever the Tendering Specifications mention a specific product name or trademark and a sufficiently precise and fully intelligible description is not possible, such mention should be understood as referring to that product **or its equivalent.**

4.2. Implications of submitting an offer

4.2.1. The very fact of submitting an offer in response to a call for tenders issued by the European Commission implies that you:

- **accept** all the terms and conditions as stipulated in the Tendering Specifications and all other documents related to the procurement; and
- **waive** your own terms of business.

The European Commission will disregard any statement, qualification or disclaimer to that effect contained in an offer, and reserves the right to reject such offers without further evaluation on the grounds that they do not comply with the Tendering Specifications.

4.2.2. Unless the tendering specifications stipulate a different period, you will be bound by your offer for **nine months** from the deadline for submission of offers.

4.3. No obligation to award

When awarding a contract, the European Commission undertakes to compare the offers in the light of the criteria laid down in the contract notice and/or the Tendering Specifications.

However, the fact of publishing a call for tenders **does not oblige the European Commission to award** the contract to a tenderer simply because its offer fulfils those criteria. It also reserves the right to decide not to award the contract to any tenderer.

The Commission **is not liable for any compensation** in such circumstances.

4.4. Nature of the contractual relationship resulting from the award of the contract

Unless stated otherwise in the Tendering Specifications, the contractual relationship between the European Commission and the successful tenderer will be governed by a special type of contract known as a “**framework contract**”.

It should be stressed that 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 relationship between the European Commission and the contractor during their period of validity.

Actual orders will be placed after the framework contract is signed and in force, through “order forms” or “**specific contracts**” concluded in performance of the framework contract.

Unless specified otherwise in the contract notice and/or Tendering Specifications, only one framework contract will be signed for a given lot.

The Tendering Specifications include :
Document Version 1.1 dated 05/09/2013

(1) *Special Conditions* : on completion of the tendering procedure, this draft will be modified as necessary in line with the successful offer (e.g. prices)

(2) *General Conditions*

(3) *General Terms and Conditions for Information Technologies Contracts, version 2.1.*

When preparing your offer, **you should take full account of these and any other documents included in the Tendering Specifications**, as they will define and govern the contractual relationship to be established between the European Commission and the successful tenderer.

4.5. Tax exemption

The European Commission is exempt from all duties and taxes, in accordance with:

- Articles 3 and 4 of the Protocol of 8 April 1965 on the privileges and immunities of the European Union; annexed to the Treaty on the Functioning of the European Union
- Article 151 of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax.

The Governments of the Member States grant this exemption either through refunds upon presentation of documentary evidence, or by immediate exemption.

The European Commission will give the successful tenderer instructions regarding this point.

5. COLLABORATING WITH OTHER COMPANIES

Companies can consider two ways of collaborating in an offer: either as joint partners in the offer or through subcontracting.

Unless stated otherwise in the contract notice and/or the Tendering Specifications, both **joint offers** and **subcontracting** are allowed in response to a call for tenders issued by the European Commission's Directorate-General for Taxation and Customs Union (DG TAXUD). Offers may even combine both approaches.

In any case, the file must specify very clearly whether each company involved in the offer is acting as a partner in a joint offer or as a subcontractor (this also applies where the various companies involved belong to the same group, or even where one is the parent company of the others). The questionnaire annexed to the tendering specifications includes a **tender form** for this purpose.

The implications of these two modes of collaboration are radically different. In order to understand them both fully, they are outlined below.

5.1. Joint offers

5.1.1. Partners in a joint offer assume **joint and several liability** towards the European Commission for the performance of the contract as a whole.

Statements saying, for instance:

- that one of the partners of the joint offer will be responsible for part of the contract and another one for the rest, or
- that more than one contract should be signed if the joint offer is successful,

are thus incompatible with the principle of joint and several liability. The Commission will disregard any such statement contained in a joint offer, and reserves the right to reject such offers

without further evaluation on the grounds that they do not comply with the Tendering Specifications.

5.1.2. Joint offers will be assessed as follows:

- the exclusion criteria (see section 9.1) and the selection criteria for economic and financial capacity (see section 9.2.1) set as minimum standard of viability will be assessed in relation to each company individually. However, economic and financial selection criteria that are deemed to be achieved above a certain level (e.g.: overall and specific turnover), will be assessed in relation to the tendering group as a whole.
- the selection criteria for technical and professional capacity (see section 9.2.2) will be assessed in relation to the tendering group as a whole.
- The evaluation criteria (see section 9.2.2.3) will be assessed in relation to the tender.

5.1.3. If you intend to tender with a partner and have already set up a consortium or similar entity to that end, you should mention this fact in your offer, together with any other relevant information in this respect.

If you intend to submit a joint offer, you should be aware that, if you are awarded the contract, the Commission will require you to give a formal status to the proposed association before the contract is signed. This can take the form of:

- an entity with legal personality recognised by a Member State; or
- an entity without legal personality but offering sufficient protection of the European Commission's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association); or
- the signature by all the partners of a "power of attorney" based on the model laid down by the DG TAXUD, which provides for a form of cooperation and which is an annex to the framework contract and to the Tendering Specifications.

5.2. Subcontracting

5.2.1. Certain tasks provided for in the contract may be entrusted to **subcontractors**, but **the contractor retains full liability** towards the European Commission for performance of the contract as a whole. Accordingly:

- the Commission will treat all contractual matters (e.g. payment) exclusively with the contractor, whether or not the tasks are performed by a subcontractor;
- under no circumstances can the main contractor avoid liability towards the Commission on the grounds that the subcontractor is at fault.
- Subcontracting is permitted to subcontractors proposed in the offers submitted in reply to the call for tenders.
- One-person companies (or freelancers) may be authorised as subcontractor and added to the list of subcontractors at any time during the execution of the contract.
- Additional subcontracting to other than one-person companies (or freelancers) during the execution of the contract will only be accepted for some very specialised technical expertise required for the provision of the services.
- Furthermore, additional levels of subcontracting (e.g. subcontracting of subcontracts) are not allowed during the execution of the contract unless a prior written authorisation has been granted by the Commission.

5.2.2. If your offer envisages subcontracting, your file must include:

- a document
 - mentioning the reasons why you are envisaging subcontracting;
 - stating clearly the roles, activities and responsibilities of subcontractor(s), and;
 - specifying the volume / proportion of the contract entrusted to each subcontractor
- a letter of intent by each subcontractor stating its intention to collaborate with you if you win the contract.

5.2.3. Offers involving subcontracting will be assessed as follows:

- The exclusion criteria (see section 9.1) and the economic and financial selection criteria (see section 9.2.1) set as a minimum standard by viability will be assessed in relation to the tenderer and each proposed subcontractor. However, economic and financial selection criteria that are deemed to be achieved above a certain level (e.g.: overall and specific turnover), will be assessed in relation to the tenderer and the possible subcontractor(s) as a whole.
- The technical and professional selection criteria (see section 9.2.2) will be assessed in relation to the tenderer and possible subcontractor(s) as a whole.
- The evaluation criteria (see section 9.3) will be assessed in relation to the tender.

5.2.4. During execution of the contract, the contractor will need the Commission's express authorisation to replace a subcontractor with another and/or to subcontract tasks for which subcontracting was not envisaged in the original offer.

5.2.5. Freelancing

Subcontracting is the situation where a contract has been or is to be established between the Commission and a contractor and where the contractor, in order to carry out that contract, enters into legal commitments with other legal entities for performing part of the work, service or supply. However, the Commission has no direct legal commitment with the subcontractor(s).

Freelancing, drawing on the activities or staff of any other entirely different legal entity than the contractor, independently of its exact legal form (and independently of the applicable national law), does qualify as subcontracting.

6. PREPARING YOUR OFFER

This section describes how you should go about preparing your offer.

6.1. Receiving the Tendering Specifications

DG TAXUD makes available the Tendering Specifications for downloading from its website (http://ec.europa.eu/taxation_customs/common/tenders_grants/tenders/index_en.htm), 1 week after the publication of the contract notice in the Official Journal of the European Union.

DG TAXUD sends any supplementary documentation baseline on CD-ROM on request, if such supplementary material is mentioned in the contract notice. Any request for such supplementary material should be addressed to **TAXUD-Tenders@ec.europa.eu**.

Answers to questions of general interest and any other important information about the call for tenders arising during the tendering period will be handled in the same way, i.e., by publication on the website (http://ec.europa.eu/taxation_customs/common/tenders_grants/tenders/index_en.htm).

Potential tenderers should thus continue to monitor this website during the tendering stage.

6.2. Clarifying the Tendering Specifications

During the tendering stage, you may ask questions (including requests for clarification) about specific issues arising from the Tendering Specifications.

To this effect you should:

- formulate your questions **in writing, within the applicable deadline**. The deadline is stipulated in the covering letter accompanying the Tendering Specifications. The Commission cannot guarantee a reply to any questions arriving after the applicable deadline;
- send your questions **by e-mail (preferably) to (TAXUD-Tenders@ec.europa.eu)**, by letter to the contact address European Commission, DG Taxation and Customs Union Attn.: Mr Jean-Louis Vergnolle, Office: J79 6/40 – B-1049 Brussels, or alternatively by fax to +32 2 299 54 44. For administrative reasons, the Commission cannot take questions sent by other means into consideration.
- The Commission will review all questions received with the utmost attention and will publish its replies on the DG TAXUD website (http://ec.europa.eu/taxation_customs/common/tenders_grants/tenders/index_en.htm).
- All such questions will first be rendered anonymous, and the Commission reply should thereafter be regarded as an integral part of the Tendering Specifications.

6.3. Drawing up your offer

Tenders must be clear and concise. Tenders must be perfectly legible, so that there can be no doubt as to words and figures.

6.3.1. Language

Your offer may be drawn up in **any of the official languages** of the European Union (at the time of writing, these are the ones listed on the website http://ec.europa.eu/languages/languages-of-europe/eu-languages_en.htm).

6.3.2. Replying to mandatory questions

You should pay particular attention to questions labelled “Mandatory”. **These questions require an unconditional affirmative answer**. If no answer is given or if an affirmative answer is qualified in any way (e.g. a “yes, but ...” answer), or if you include some assumptions or hypotheses, your offer will be disqualified.

If a particular tendering specification is not clear or seems imprecise to you, you can send us a request for clarification (see section 6.2).

If you are not in a position to answer affirmatively to all the mandatory questions, you should not submit an offer.

6.3.3. Confidential information

The European Commission undertakes to protect your commercial interests by treating all the information contained in your offer as confidential.

In particular, it will not disclose any information where such disclosure would hinder application of the law, be contrary to public interest, harm your legitimate business interests or distort fair competition.

6.3.4. Protection of personal data

In certain cases, the follow-up of your response to the call for tenders will require the recording and further processing of personal data (for example, name, address or CV of natural persons). These 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 data⁵.

Except if mentioned otherwise, replies to questions and personal data requested are necessary for the purpose of assessing your offer according to the Tendering Specifications and will only be processed by the Evaluation Committee (see section 9) for that purpose on a need-to-know basis.

You may, upon request, obtain the communication of your personal data and rectify any inaccurate or incomplete personal data. Should you have any queries concerning the processing of your personal data, please address them to:

European Commission, DG Taxation and Customs Union
Attn.: Mr Jean-Louis Vergnolle
Office: J79 6/40 – B-1049 Brussels - Tel.: +32 2 296 33 32 – Fax: +32 2 299 54 44
E-mail: TAXUD-Tenders@ec.europa.eu

As regards the processing of your personal data, you have a right to recourse at any time to the European Data Protection Supervisor.

So that we can take appropriate steps to this effect while assessing the offers, any CVs (or similar documents), that you are asked to submit relating to your staff, should not indicate any names.

Instead, each CV should bear a number only, and your offer should include a list showing the correspondence between these numbers and actual names (see also section 6.4.3).

6.3.5. Formal aspects

You should attach great importance to how your offer is presented. The following guidelines lay down a **minimum standard** which must be respected in all cases.

⁵ Official Journal L 8, 12.1.2001, p. 1.

6.3.5.1. You should draw up your offer **by filling in the *ad hoc* questionnaire** included in the Tendering Specifications, which is made available electronically as described in section 6.1. Please do not alter the numbering of the questionnaire.

6.3.5.2. As far as possible, your offer should be drawn up using **word-processing or desktop publishing software**, in a font size giving a **readable** result on paper. Where this is done, your submission must include **an electronic copy** of your offer. However, please note that where there is any doubt, **the paper version of the offer will prevail** over the electronic one.

If your offer, or any part of it, is hand-written, it should be perfectly **legible**, so as to rule out any doubt whatsoever as to the words or figures used.

6.3.5.3. Your answers must be **concise and clearly drafted**.

Where possible, you should answer in the space provided on the questionnaire form. However, if you need additional space, your replies should be made on a separate sheet and annexed to the questionnaire. Such replies must be **clearly referenced**, and the reference noted on the questionnaire in the space provided for the reply. Limitation to the replies in terms of number of pages might be made in the Tendering Specifications.

6.3.5.4. Answers must be **complete**. Where a question has not been answered, the Commission will make no assumption as to what the answer might have been and will award no points for it.

Similarly, where only a partial answer is given, the Commission will award points only for the part of the question answered.

6.3.6. Specific requirements for the financial quotation

6.3.6.1. Financial quotations must be drawn up **on the *ad-hoc* form** (excel document) annexed to the Tendering Specifications. If you change this form in any way, your offer will be disqualified (see also section 6.4.3).

6.3.6.2. Prices **must** be quoted:

- **in euros**
- **free of all duties and taxes (in particular VAT)**, for the reasons stated in section 4.5;
- **inclusive of all costs and expenses** directly and indirectly connected with the goods and/or services to be supplied.

6.3.6.3. Your financial quotation should be completely **unambiguous**. Your offer will be disqualified if it contains any statements preventing an accurate and complete comparison of the offers (such as “*To be discussed*”, “*Depending on x*”, etc.) or referring to external circumstances (such as an already existing but separate contract) or if it involves any condition, assumption or hypothesis. If a particular tendering specification concerning the price is not clear or seems imprecise to you, you can send us a request for clarification (see section 6.2).

6.4. Preparing your offer for submission

6.4.1. Number of copies

Your offer must be submitted **in triplicate** (one original and two copies). The original version must be clearly labelled “*Original*” and the two copies “*Copy 1*” and “*Copy 2*”.

6.4.2. Covering letter

Your offer must include a **covering letter** signed by the person(s) empowered to represent the tenderer and entitled to sign the contract if your offer is successful.

6.4.3. Elements to be separated from the rest of the offer

The following elements of your offer must be submitted **in separate binders or folders**, which must be clearly labelled:

- (1) Any **financial quotation and its supporting documents**,
- (2) the list with **personal data** referred to in section 6.3.4, where applicable,
- (3) the **financial identification form**⁶, the **legal entity form**⁷ and the “power of attorney” form (if applicable),
- (4) an electronic copy of these elements (see section 6.3.5.2) should be provided **on separate hard supports**, which must also be clearly labelled.

Please ensure that the information relating to these elements is given **nowhere else** in your offer.

6.4.4. Sealing your offer

Your offer must be submitted in one or more sealed envelopes or boxes of reasonable size, each enclosed inside a second sealed envelope or box. The maximum recommended size is 60x60x70 cm.

The **outer envelope** must read as follows:

European Commission Call for Tenders - Reference: TAXUD/20xx/AO-xx (<i>ref. number to be completed, see contract notice</i>) Attn: Unit TAXUD/R1 Office J79 6/40 B-1049 Brussels
--

The **inner envelope** must read as follows:

OFFER Call for Tenders - Reference: TAXUD/20xx/AO-xx (<i>ref. number to be completed, see contract notice</i>) Attn: Unit TAXUD/R1 <u>Not to be opened</u> by the internal mail service
--

⁶ This form is provided to you in English version as an annex to the Tendering Specifications. Please note that it is also available in the other 23 EU official languages at: http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm.

⁷ This form is provided to you in English version as an annex to the Tendering Specifications. Please note that it is also available in the other 23 EU official languages at: http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm.

If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across the tape. You may use boxes instead of envelopes if the size or weight of your offer so requires.

The envelopes or boxes shall also indicate the clear identity of the tenderer and the identification of the Lot (if applicable). It has to be clearly mentioned, in case of more than one envelope or box, if the envelop or box contains the original version or copies of the offer.

7. SUBMITTING YOUR OFFER

The **deadline for submitting offers** is indicated in the contract notice and/or the covering letter sent with the Tendering Specifications.

You may submit your offer in any of the following **two ways**.

You should be aware that each of these ways has different implications as regards the **observance of deadlines**.

7.1. Delivery by post or by courier service

You may send your offer by mail **through the post or by courier service**.

In this case, your offer must be **posted no later than midnight on the final date for the submission of offers**.

You are strongly advised to use registered mail or an equivalent service guaranteeing the traceability of your dispatch.

Proof of compliance with the deadline will be constituted by **the date of dispatch, the postmark or the date of the deposit slip**.

In case of doubt, a tenderer may be asked to provide proof of dispatch.

The address for delivery must be the following:

European Commission Avenue du Bourget, 1 / Bourgetlaan 1, B-1140 Brussels

7.2. Delivery by hand

The tenderer in person or an agent may deliver the offer in person at the European Commission's premises.

In both cases, the offer must be **deposited** at the European Commission's **Central Mail Office** no later than **the final date for the submission of offers only during the normal opening hours**.

At the time of writing, the European Commission's Central Mail Office is located at the following address: **avenue du Bourget, 1 / Bourgetlaan 1, B-1140 Brussels** (Phone: +32-(0)2-299.29.21). It is open on normal working days: Monday to Thursday from 07.30 to 17.00, and on Fridays from 07.30 to 16.00.

However, we cannot guarantee that the information given above will continue to be accurate in the future and cannot therefore be held liable in the event of any change. You are fully responsible for ensuring that your offer is deposited in time.

A Commission official of the Central Mail Office taking delivery of the offer will issue a **receipt** stating the date and time of delivery. This receipt will serve as proof of compliance with the deadline.

For security reasons, delivery by hand on the premises of the Commission other than the Central Mail Office **cannot be accepted as a valid deposit**.

8. OPENING OF THE OFFERS

An Opening Committee will open all the offers on the date, and at the time and place indicated in the contract notice and/or the covering letter attached to the Tendering Specifications.

One representative per tenderer, unless otherwise specified in the Contract Notice, may participate in the opening session.

If you choose to do so, you should, for security and organisational reasons, notify the name of that person(s) **by e-mail** (TAXUD-Tenders@ec.europa.eu) to DG TAXUD, no later than two working days before the opening session, failing which, DG TAXUD reserves the right to refuse to admit your representative to the opening session.

The public part of the opening session will be strictly limited to the following aspects:

- verification that each offer has been submitted correctly (in particular, that the deadline for submission has been complied with);
- announcement of the offers received. The names announced will be those of the companies having sent or deposited offers, as they appear on the envelopes, receipts and/or routing slips. These names may or may not correspond to the precise legal identity of the actual tenderers and may not include other companies involved in the offers (e.g. as partners in joint offers).

The tenderers' representatives will be required to sign an attendance sheet and will receive a copy of the minutes of the opening session.

The Opening Committee will play no further role in the procedure.

9. ASSESSMENT OF TENDERERS AND OFFERS

The offers will be assessed by an **Evaluation Committee** working under conditions of confidentiality. The identity of the members of the Evaluation Committee will not be disclosed.

Once the assessment is completed, the Evaluation Committee will draw up a report for the authorising officer in charge, who will take the final decision on the award of the contract.

Offers will be assessed in four phases, in the light of the criteria explicitly announced beforehand in the contract notice and/or the Tendering Specifications⁸.

Only offers meeting the requirements of each phase of the assessment will be admitted to the next.

⁸ If the **restricted procedure** is used (see section 2.2), the process is split into :

- Pre-selection stage: candidates submit applications containing only the documentation required for Phase 1 (Exclusion) and Phase 2 (Selection). These applications are then evaluated to select the candidates who will be entitled to submit an offer, hence becoming tenderers.
- Invitation to tender stage: preselected candidates submit offers containing the documentation required for Phase 3 (Evaluation). The contract is awarded (Phase 4) once these offers have been assessed.

In addition to the information contained in the offers, DG TAXUD reserves the right to use any other information from public or specialist sources, provided that this use complies with the general principles of transparency, proportionality, equal treatment and non-discrimination.

During this stage, contact in relation to this call for tenders is prohibited with DG TAXUD or with any other department of the European Commission. (see also section 10).

9.1. Phase 1: Exclusion

By virtue of Article 143 of the Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012, tenderers (sole tenderers, or each member of the tendering group in case of joint offers, and each proposed subcontractor included) shall provide a declaration on their honour duly signed and dated (template included in the Tendering Specifications), stating that they are not in one of the situations referred to in Articles 106 and 107 of the Financial Regulation. A standard declaration on honour will be available as an annex to the Tendering Specifications.

The tenderer (sole tenderer, or each member of the tendering group in case of joint offers, and each proposed subcontractor included) to whom the contract is to be awarded shall provide, within a time-limit defined by the Commission and preceding the signature of the contract, the evidence referred to in Article 143 of the Rules of Application of the Financial Regulation, confirming the declaration on their honour.

The Commission may waive the obligation of a candidate or tenderer to submit the documentary evidence referred to if such evidence has already been submitted to it for the purposes of another procurement procedure and provided that the documents are not more than one year old starting from their issuing date and that they are still valid.

In such a case, the tenderer shall declare on his honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that no changes in his situation have occurred.

9.1.1 Early Warning System (EWS):

The tenderers should be aware that the Early Warning System will be consulted.

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations mentioned in:

— the Commission Decision of 16.12.2008 on the Early Warning System (EWS) for the use of authorising officers of the Commission and executive agencies (OJ, L 344, 20.12.2008, p. 125),

or

— the Commission Regulation of 17.12.2008 on the Central Exclusion Database- CED (OJ L, 344, 20.12.2008, p. 12),

their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the EWS only or both in the EWS and CED, and communicated to the persons and entities listed in the above-mentioned Decision and Regulation, in relation to the award or execution of a procurement contract or grant agreement or decision.

9.2. Phase 2: Selection

Tenderers will be selected if they can prove that they have sufficient economic and financial capacity, on the one hand, and sufficient technical and professional capacity, on the other hand.

All the requirements listed **in the contract notice and/or the Tendering Specifications** must be met in order to enter the next phase of the assessment.

In the selection phase, assessment focuses only on your track record. Therefore, you should not introduce information relating to your technical proposal or your financial quotation in this part of the file.

9.2.1. *Economic and financial capacity*

In order to prove that you have sufficient economic and financial capacity to perform the contract, you will generally be asked to submit the following documentation (see Article 147 of the Rules of Application of the Financial Regulation):

- evidence of relevant **professional risk indemnity insurance**;
- **balance sheets** or extracts from financial statements of the last two years for which accounts have been closed;
- a statement of **overall turnover** and turnover concerning the works, supplies or services covered by the contract during a period which may be no more than the last three financial years available.
- if you rely on the capacities of other entities (e.g. your parent company), **a written undertaking** on the part of those entities confirming that they will place the resources necessary for performance of the contract at your disposal.

9.2.2. *Technical and professional capacity*

The criteria used to check whether you have sufficient technical and professional capacity to perform the contract, as well as the evidence required to that effect, will be listed in the contract notice and/or the Tendering Specifications. These criteria will relate to your skills, efficiency, experience, reliability and similar circumstances.

9.3. Phase 3: Evaluation

In this phase, offers will be evaluated both from a technical⁹ and a financial point of view in the light of the award criteria.

9.3.1. *Technical evaluation*

The technical evaluation of the offers will be based on the criteria listed **in the contract notice and/or the Tendering Specifications.**

In addition to the list of technical evaluation criteria, DG TAXUD may adopt additional provisions such as those listed below, to ensure that the technical evaluation takes full account of our needs. Accordingly, it may:

- assign a **weighting factor** to each criterion;

⁹ If the **automatic award procedure** is used (see section 2.2), there are no technical evaluation criteria. The contract will be awarded to the offer which, while being admissible and satisfying the terms of the tendering specifications, quotes the lowest price.

- lay down a **minimum threshold** for each criterion and/or for the technical evaluation criteria as a whole (offers not reaching such thresholds would be automatically disqualified).

Unless stated otherwise in the contract notice and/or Tendering Specifications, no weighting factors or minimum thresholds will be applied.

At the end of the technical evaluation, each offer will be assigned **an overall technical score**.

9.3.2. *Financial evaluation*

The financial evaluation of the offers will be based on the prices quoted by the tenderer and the volume assumptions announced in the contract notice and/or Tendering Specifications.

Tenderers must provide a fixed quote for the price calculation rules using the template defined in the Tendering Specifications, without making any assumptions or hypotheses.

If a particular tendering specification concerning the price is not clear or seems imprecise to you, you can send us a request for clarification (see section 6.2).

The result of the financial evaluation will be **a price** representing:

- either the global cost of the offer over the whole duration of the contract;
- or the cost of a pre-defined scenario which —although it may represent only part of the total cost— is sufficiently significant for the purposes of comparing the offers with each other.

9.4. Phase 4: Award

Unless stated otherwise in the contract notice and/or Tendering Specifications, the offer presenting the **best value for money** will be identified in the following way:

- (1) The offer with the best technical score will receive a quality indicator of 100 points. The remaining offers will receive lower quality indicators in proportion to their technical scores.
- (2) The offer found to be the cheapest will receive a price indicator of 100 points. The remaining offers will receive higher price indicators in proportion to their prices.
- (3) A **quality/price ratio** will be calculated for each offer by dividing the quality indicator by the price indicator or through any other combination of the quality and price indicators as specified in the Tendering Specifications. The highest result will go to the offer presenting the best value for money, as indicated in the formula published in the Tendering Specifications.

10. CLARIFYING THE OFFERS

Once the offers have been opened, and during the assessment process, you may be contacted in writing to obtain further clarification on specific points of your offer or to correct obvious clerical errors. You should be prepared to reply to such requests for clarification within a very short deadline.

Replies by a tenderer to clarification requests made by the evaluation committee shall become an inseparable part of his tender and of the contract in case the contract is signed with that tenderer.

Such contacts must not lead to any alteration of the terms of the offer. More particularly:

- You must not modify your offer or add any new elements to it (other than purely administrative documentation). Your reply must therefore make clear reference to the relevant information already present in the file.

- Concerning the financial quotation, you must not add any new prices, but only explain the quotation on the basis of elements already present in the file, which should be explicitly mentioned.

If you fail to observe these restrictions, your reply may be disregarded. If your reply plainly contradicts your original offer, the European Commission's DG TAXUD reserves the right to disqualify your offer.

11. OUTCOME OF THE CALL FOR TENDERS

During the assessment period of a call for tenders, the European Commission's DG TAXUD will not provide any information. The only contacts allowed with tenderers are those mentioned in section 10. If you are not contacted, you should not regard this as a positive nor a negative sign.

You will be informed of the outcome of the call for tenders in the three ways outlined below.

11.1. Notification of results

As soon as the authorising officer has signed the award decision, a **notification letter** will be sent simultaneously to all tenderers by e-mail; letters to unsuccessful tenderers will state the grounds on which the decision was taken.

Please note, however, that the dispatch of these letters does not create any contractual relationship. This will not exist until the contract has been signed by the successful tenderer and the European Commission.

- **The European Commission undertakes not to sign the contract until a period of at least 10 calendar days has elapsed following the dispatch of the notification letters by e-mail.**

Additionally, the contract will not be signed unless the successful tenderer provides, depending on the Commission request, either the evidence referred to in section 9.1, confirming the declaration on their honour for the exclusion phase, or the confirmation declaration mentioned in the introduction of section 9.1.

11.2. Additional information

If you are notified that your offer has not been successful, you may request additional information by e-mail, fax or registered mail. This information can be given in a **follow-up letter** providing further details in writing, such as the name of the tenderer to whom the contract is awarded and a summary of the characteristics and relative advantages of the successful offer.

However, DG TAXUD would like to stress that it is not free to disclose any information affecting the commercial interests of other tenderers (see section 6.3.3).

11.3. Contract award notice

When the contract is signed, European Commission's DG TAXUD will publish a contract award notice in the Official Journal of the European Union summarising the results of the call for tenders.

REFERENCES

At the time of writing, the websites listed below contained information mentioned in the present document or relevant for its purposes:

Name or owner of website	URL	Main information to be found
European Commission, Directorate-General for Taxation and Customs Union (DG TAXUD)	http://ec.europa.eu/taxation_customs/common/tenders_grants/tenders/index_en.htm	Information on planned calls for tenders. Information on on-going calls for tenders. FAQ on calls for tenders issued by DG TAXUD.
Europa	http://europa.eu/institutions/index_en.htm	List of EU Institutions, Agencies and other Bodies
European Commission	http://ec.europa.eu/languages/languages-of-europe/eu-languages_en.htm	Official EU languages
European Commission – Contact page	http://ec.europa.eu/contact/index_en.htm	General contact information. Code of Good Administrative Behaviour.
European Commission’s main site	http://ec.europa.eu	General information about the European Commission.
SIMAP	http://simap.europa.eu/index_en.htm	Public procurement directives. Comprehensive information about procurement in Europe.
TED (Tenders Electronic Daily)	http://ted.europa.eu/TED/misc/chooseLanguage.do	Notices published in the Official Journal of the European Union.
EUR-LEX	http://eur-lex.europa.eu	European Union law.
European Court of Justice	http://curia.europa.eu	European Court of Justice’s case-law.
European Ombudsman	http://www.ombudsman.europa.eu/start.faces	European Ombudsman’s decisions.
World Trade Organisation (WTO)	http://www.wto.org	WTO Agreement on Government Procurement.