

Contract notice: OJEU S 2010/S 173-263870

INVITATION TO TENDER NO. ENER/B1/452-2010 concerning Permitting procedures for energy infrastructure projects in the EU: evaluation and legal recommendations

Time-limit for receipt of tenders: 13/10/2010

FREQUENTLY ASKED QUESTIONS

Updated 01/10/2010

1. Can a private company, involved in the generation and distribution of electricity, participate to this call?

The call for tenders is not restricted to any type of company.

2. The tender specifications state that the analysis of existing permitting procedures will have to focus on some Member States only – it is not clear to which. Does the literature available cover all the permitting procedures and policies for each of the Member States?

The literature available does not cover all Member States' procedures and policies. It is left up to the contractor which Member States he/she will examine. The literature indicated in the tender documents may serve as an assessment base.

3. I would like to receive some more details on the provisions related to the conflict of interest.

As specified in the invitation to tender (section IV.1.2), the provisions are the following:

Contracts will not be awarded to tenderers who, during the procurement procedure, are subject to a conflict of interest.

Tenderers must declare:

- *that they do not have any conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties, or any other relevant connection or shared interest;*
- *that they will inform the contracting authority, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest;*
- *that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;*
- *that they have not granted and will not grant, have not sought and will not seek, have not attempted and will not attempt to obtain, and have not accepted and will not accept, any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to the award of the contract.*

The Commission reserves the right to check the above information.

4. I would like to receive details on the budget.

The total amount forecast has not been and will not be published. The work load is estimated at around 120 person-days (as published in the tender documents).

5. Could you send me a list of countries eligible to tender?

As regards the countries eligible to participate in this tender, participation is open to natural and legal persons established in one of the Member States of the European Union, as well as natural and legal persons third countries that have with the European Union an international agreement in the field of public procurement under the conditions laid down in this agreement. In case there is no such an agreement, or the agreement does not apply to the kind of contracts put out to tender, suppliers of third countries are, in principle, not entitled to participate.

*Furthermore, according to Article 107 of the Financial Regulation applicable, where the Multilateral Agreement on government Procurement concluded within the World Trade Organisation applies, the contract shall also be open to nationals of the States which have ratified this agreement, under the conditions laid down in that agreement. In case a candidate/tenderer is not eligible according to the above-mentioned agreements, the European Commission is nevertheless not required to reject tenders. The respective candidate/tenderer **can be admitted on an ad hoc basis** to the respective procurement procedure without creating a precedent or obligation for the future.*

6. Is it possible to receive the document “INVITATION TO TENDER No. ENER/B1/452-2010” in word format in order to edit the tender declaration (see ANNEX 1-4)?

The document cannot be provided in word format. The declaration is not to be modified. If the tenderer needs to make an additional statement, an annex should be prepared.

7. If this information is not enough to conceive recommendations, it is said that complementary research will be conducted. This research is responsibility of the consultant?

Yes, the complementary research shall be conducted by the consultant.

8. Which are the countries being object of this analysis?

The contractor needs to make recommendations for improving the existing legal, regulatory and incentive framework across all 27 European Member States. However, it is left to the contractor which countries s/he needs to assess in order to come up with concrete and operational recommendations.

9. Page 2, point 6 of the invitation to tender specifies: “Tenders must be signed by the tenderer or his duly authorized representative...”. Which paper should exactly be signed? The tender includes three sections (administrative proposal, technical

proposal, financial proposal). Could you specify if the signature should be on the last page of every section or only the last page of the whole tender?

Section III.2.1 of the tender specifications indicate which documents have to be signed:

- *Tenderers' identification (Annex 1)*
- *Financial identification (Annex 2)*
- *Legal entities (Annex 3)*

In addition, as indicated in Section IV.1.3 of the tender specifications, the Declaration by the tenderer (Annex 4) has to be signed.

Ideally, there should also be a cover letter/page accompanying the offer which is signed by the tenderer.

10. Can a proposal without a balance sheet be accepted, provided the consortium partner declares that they do not keep a balance sheet, according to the law of the EU Member State where they are registered?

If the law firm concerned is not required to keep balance sheets under national law, other proof of its economic and financial capacity must be provided. This could be done for example by submitting a document from a financial institution certifying that the firm's financial situation is robust.