

FAQ

Invitation to tender N°TREN/350-2008

contract notice in OJEU S 2008/S 62-083192

Framework contracts for legal, economic and technical services in energy and transport policy.

1. Which would be the impact in terms of conflict of interest if the tenderer was running some FP 6 projects on energy and/or transport?

Throughout the lifetime of the Framework Contract, the contractors shall take all necessary measures to prevent a situation arising that could compromise the impartial and objective performance of the contract.

To that end, according to the tender specifications and the draft Framework Contract, **when submitting the bid**, tenderers must:

- submit a declaration on honour duly dated and signed stating they are not in one of the exclusion criteria situations mentioned in points IV.1.1 and IV.1.2 of the tender specifications, including the conflict of interest as hereby defined;
- declare in their offer their contractual relations during the last five years with any stakeholders and/or companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Directorate-General for Energy and Transport (DG TREN) to be evaluated under this Framework Contract;
- respect the confidentiality clause foreseen in article II.9.1 of the draft Framework Contract;
- declare any changes in their situation regarding their contractual relations and conflict of interest during the validity period of this Framework Contract.

The evaluation committee will assess those elements/documents and will state if there is any evidence of a situation which would impede the impartial and objective execution of the contract. The existence of a previous relationship between DG TREN and the consortium/company concerned will not automatically lead to a situation of conflict of interest.

2. If the consortium is finally selected and awarded a particular specific contract on a particular topic, would this preclude the consortium from continuing to submit bids for related European projects?

For each specific contract, the contractor and, if applicable, the members of the group or association carrying out the task under the specific contract, will have to sign a conflict of interest declaration stating that he/she has no direct or indirect link with the work subject of the task.

The exclusion criteria for further projects for which the consortium/company may bid cannot be assessed by DG TREN.

3. Are bidders expected to offer both transport and energy expertise if they are to be considered for the framework contract?

The tasks covered by this invitation to tender consist of legal, economic and technical assistance work (Lot 1, Lot 2 and Lot 3) for the Commission services in the field of **energy and transport policy**.

Regarding the technical and professional capacity, Section IV.2.2 of the tenders specifications sets out for each of the lots the qualifications required. Moreover, as a common basis for all, it foresees that a **"well proven professional experience in Community policies relating to transport and energy, research, infrastructures, environment, sustainable development and social aspects"** be demonstrated by the applicant.

In this section it is also stated:

"The applicant must provide evidence of employing directly or being readily capable of constituting a team of experts capable of carrying out in a professional and timely manner the tasks requested under the Framework Contract."

Therefore, if your company is specialised in one of the fields (transport or energy), it should find suitable partners (member of a consortium or team experts) to cover the other field.

4. What does the paragraph "*Tenderers must therefore demonstrate their ability to mobilise, at any time, a team which can cover all official languages of the European Union*" exactly mean? do the candidates have to cover the 23 official languages

Tenderers should keep in mind that, as a general rule, it will be possible for the Commission to request services in the 27 Member States, in the EFTA/EEA countries (Switzerland, Iceland, Liechtenstein and Norway), in the Candidate Countries (Croatia, Turkey) and in any other country where energy/transport issues are likely to be of Community interest.

Therefore, it is requested from the contractors under point IV.2.2 of the tender specifications that they provide evidence of employing directly or being readily capable of constituting a team of experts capable of carrying out in a professional and timely manner the tasks requested under the Framework Contract.

Such evidence to be provided by the tenderers relates not to their direct ability to provide services in all of the official languages but more to their ability to rapidly gather a team able to work in any of the official languages requested or to be able to handle and treat (by any means) any information in any EU official language, if needed.

- 5. In point II.4, par. 8 of the tender specifications it is said that the contractor should provide a declaration in the offer about contractual relations during the last five years with any stakeholders and/or companies directly involved in the programs, projects and legislative activities, conducted or subcontracted by the Directorate-General Energy and Transport to be evaluated under this Framework Contract. The question is if such a declaration mentioned in point II.4 refers only to the coordinator or applies to all the firms that will take part of the group/consortium**

Section II.4 applies to the award of specific contracts under the framework contract. Therefore, for each specific contract, the chosen contractors and, if applicable, the members of the group or association carrying out the task under the specific contract, will have to sign a conflict of interest declaration stating that they have no direct or indirect link with the work subject of the task.

Moreover, in order to prevent any situation arising that could compromise the impartial and objective performance of the specific contract, it is also requested that the Contractors, and if applicable, the members of the group or association carrying out the task, declare in the offer (for specific contracts) their contractual relations during the last five years with any stakeholders and/or companies directly involved in the programmes, projects and legislative activities, conducted or subcontracted by the Directorate-General Energy and Transport that could have a link with the work subject of the task.

6. Concerning the financial proposal section, and the specification of the technical and professional capacity of the experts:

Depending on the lots to which tenderers will apply, it is required to constitute a team of experts with a relevant university degree and seven or more years of appropriate experience (see IV.2.2 of the tender specification document.)

One single price per person-day whatever the type of service and qualification is requested. This price must be a flat rate and include all administrative costs, **with the exception of travel expenses which will be reimbursed, where appropriate, in accordance with the special provisions of Annex III.**

- 7. Individuals can also participate in this invitation to tender as it is an open procedure. Their proposals will be taken into account as long as they satisfy the criteria set out in the tender specifications.**

As it is an open procedure, there is no list of consortium candidates entitled to participate in the tender and, if independent experts would like to join a consortium with a view to tendering, they should themselves find potentially interested tenderers.

- 8. Concernant l'appel d'offres N° TREN/350-2008 pouvez-vous indiquer l'application de l'article 137 Règlement de la Commission 1248/2006 du 7 août 2006 modifiant le règlement 2342/2002 du 23 Décembre 2002 qui dispose:**

"Un opérateur économique peut, le cas échéant et pour un marché déterminé, faire valoir les capacités d'autres entités, quelle que soit la nature juridique des liens existant entre lui-même et ces entités. Il doit dans ce cas prouver au pouvoir adjudicateur que, pour l'exécution du marché, il disposera des moyens nécessaires, par exemple, par la production de l'engagement de ces entités de les mettre à sa disposition. »

Cet article 137 concerne la capacité technique et professionnelle des candidats à un marché. Il s'applique à l'appel d'offres de référence en ce sens que les candidats doivent prouver qu'ils disposent de la capacité technique pour mener à bien le marché.

Pour ce faire, conformément au point IV.2.2 du cahier des charges:

"The applicant must provide evidence of employing directly or being readily capable of constituting a team of experts capable of carrying out in a professional and timely manner the tasks requested under the Framework Contract. [...]

Tenderers must therefore demonstrate their ability to mobilise, at any time, a team which can cover all official languages of the European Union. They must also demonstrate their ability to manage and coordinate this team."

S'agissant de la forme juridique que devra revêtir le groupement de prestataires de services attributaire du marché, le point II.3 du cahier des charges dispose:

"Groupings, irrespective of their legal form, may submit bids. Tenderers may, after forming a grouping, submit a joint bid on condition that it complies with the rules of competition. Such groupings (or consortium) must specify the company or person heading the project and must also submit a copy of the document authorising this company or person to submit a bid. If awarded, the contract will be signed by the company or the person heading the project, who will be, vis-à-vis the Commission, the only contracting party responsible for the performance of this contract. Tenders from a consortium of firms or groups of service providers, contractors or suppliers must specify the role, qualifications and experience of each member of the consortium or group. Each member must provide all the necessary documents for assessing the bid as a whole with regard to the exclusion criteria, selection criteria (all of them) and award criteria."

Si les candidats souhaitent faire appel à la sous-traitance, ils devront alors respecter le point II.5 du cahier des charges.

- 9. In the invitation to tender for the above mentioned project it is stated that the indicative maximum amount is EUR 5.000.000 (up to 4 years). Does this mean an annual budget of up to 5 Mio Euro per year or a budget of up to 5 Mio Euro for the entire period of 4 years?**

It means a budget of up to 5 Mio Euro for the entire period of 4 years.

10. Could we have an indication on the number of experts expected from the Commission.

There is not a particular number of experts expected from the Commission. You can constitute your team with as many experts you want/need to complete the technical and professional expertise requested to attend the Commission needs.

11. From the tender documents we can not see a request for a "Statement of Exclusivity" from all experts? So there is no need to provide the "Statements of Exclusivity" for this tender?

When submitting their offers, tenderes have to signed a declaration on the honour (annex IV) stating:

"that on the date of submission of the tender, the company or organisation I do represent *and the staff proposed for this tender are not subject to a conflict of interests in the context of this invitation to tender*; I undertake to inform the Commission without delay of any change to this situation after the date of submission of the tender."

Moreover, for each specific contract, the contractor and, if applicable, the members of the group or association carrying out the task under the specific contract, will have to sign a conflict of interest declaration stating that he/she has no direct or indirect link with the work subject of the task.

12. Can we conclude that the sentence "university science degree" for lot 3 includes also economists?

Technical and professional capacity requested for lot 3 under section VI.2.2 is intended to satisfy the needs described in section 1.3.3 of the tender specifications. Economist will also be accepted as part of the team.

13. Can you please confirm that there is no limitation on the nationality of Consortium members?

Suppliers established in third countries have the right to participate in tendering procedures if an international agreement in the field of public procurement grants them the right to do so. In case there is no such an agreement, suppliers of third countries are, in principle, not entitled to participate. Lebanon is not part of any such agreement.

14. Could a proposal be accepted if it covers only some of the areas foreseen in section I.2.

The services required will involve a number of diversified tasks in the areas mentioned under that section. The more areas that a tenderer can cover the best as, at a later stage, if awarded with the framework contract with reopen competition they will have more possibilities to participate in any of the specific request that the Commission may have.

Indeed, the framework contract which the Commission intends to sign is a framework contract with reopen competition. If the specific request concerns an area which is not covered by one of the selected candidates they will not be able to participate in such a procedure. However, not covering all of them will not disqualify de facto.

15. In Page 17 of the Tender Specifications, III.1 General, 4th para., reads: "Tenderers must state their commitment to use economic models used by the Commission where feasible and appropriate". Does the statement of commitment require a special format?

No special format is required.

16. We interpret the tenderer as the lead company (of a consortium), which is submitting the bid in the name of the consortium. Is this interpretation correct, or is the statement require by any member of a consortium?

The contract will be signed by the company or the person heading the project, who will be, vis-à-vis the Commission, the only contracting party responsible for the performance of this contract.