

## **Contract notice: OJEU S 11-013808**

### **Invitation to tender No. TREN/D1/389/2009 concerning**

### **"Support activities for the development of practical measures to facilitate the implementation of the biofuels sustainability scheme"**

*Time-limit for receipt of tenders: 13/03/2009*

#### **FREQUENTLY ASKED QUESTIONS**

*1. Is there a minimum number of Member States that the tenderers in a tender have to represent?*

No, there is no such requirement.

*2. Are tenderers registered outside of the EU eligible for entering a proposal?*

Yes, they can participate in a tender procedure as any other candidate. If awarded they will have to abide draft contract provisions.

*3. Can a tenderer be a government branch, institute or agency?*

Yes, they can participate in a tender procedure as any other candidate. If awarded they will have to abide draft contract provisions.

*4. Is the amount of the guarantee on pre-financing equal to the total amount to be paid by the Commission under the Contract?*

No, the amount of the guarantee on pre-financing is equal to the amount of pre-financing (as in II.2), if higher than 100,000 EUR. The amount of pre-financing is 30% of the total amount to be paid by the Commission under the Contract (as in Annex 5, I.4.1). Thus the amount of the guarantee on pre-financing would be 30% of the total amount to be paid by the Commission under the Contract, unless this is lower 100,000 EUR.

Further, depending on the financial situation of the tenderer, the Commission may ask for the financial guarantee for amounts lower than 100,000 EUR (as in II.2).

*5. If there is a grouping of service providers (or consortium) to whom the contract is awarded, can they share the amount of the financial guarantee among them?*

It is the contractor that has to provide the guarantee. The contractor is the company or person heading the project and the one that signs the contract. However, the guarantee may be replaced by a joint and several guarantee by a third party (as in Annex 5, II.4.1.). Of course, the contractor would have to arrange this.

*6. In case of a consortium, what are the financial items that should be pointed out by each member of the consortium with respect to 'total labour costs' in section III.2.3?*

The 'total labour cost' are, for each category of staff, the total cost of labour that would fall under the contract price to be paid by the Commission. In case of a consortium, this must be specified for each provider separately.

*7. With regard to the 'category of staff' in section III.2.3 is there any standard indication to e.g. the numbers of years experience or is the categorization is up to the tenderers' choice?*

It is left to the tenderer(s) to define any categories as appropriate.

*8. Could a tenderer still be eligible if it was founded (or split off another company/body) less than three years ago and would therefore not have balance sheets and turnover for some or all of the last three years (section IV.2.1) ? If so, what are they required to provide in order to prove financial and economic capacity?*

Yes, if for some exceptional reason which the contracting authority considers justified, the tenderer or candidate is unable to provide the references requested by the contracting authority, he may prove his economic and financial capacity by any other means which the contracting authority considers appropriate.

In this case for the purposes of this call for tender the balance sheets and turnover for the years available plus in addition a forecast of the budget for the next year is considered appropriate.

*9. Can a task (one of the numbered items in 'description of tasks' in section I.2) be completely executed by a sub-contractor?*

Yes. There are no restrictions for sub-contractors related in particular to the tasks in section I.2. As stated in section II.3 and in section IV.2.2 indication has to be given of part(s) of the contract which the service provider intends to subcontract. Sub-contractors will of course have to abide by other provisions relevant to them. Please note that, 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 (section II.4).

*10. Can a UN organisation participate in a tender, either as part of a consortium or as sub-contractor?*

In this context, it is probably useful to note that by signing a contract, the European Commission would buy services; it would not support UN activities. Therefore, UN organisation can participate in a tender procedure as any other candidate. If awarded they will have to abide draft contract provisions.

*11. Would subcontractors (above or below 20% of the contract value) or participants in a grouping other than the company or the person heading the project sign anything directly with the Commission or is this only for the heading party or party they are subcontractor to?*

No. While each member must provide all the necessary documents (for subcontractors to the extent as required) for assessing the bid as a whole, 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 (section II.4).

*12. Would a tender that only includes part of the tasks (one or more of the numbered items in 'description of tasks' in section I.2) be deemed valid?*

There are no individual 'lots' in this call for tender. If a tender does not cover all the tasks listed, this will be taken into account as part of the evaluation assessing against the award criteria.

*13. Is it possible for one tenderer to participate in more than one tender, whether as part of a consortium or as sub-contractor?*

It is possible for a tenderer to participate in more than one tender, either as member of a consortium or as sub-contractor. However, what cannot be accepted is that a tenderer who will be the company or the person heading the project, hence the one that would potentially be signing the contract, presents more than one offer with different consortia.

*14. According to section III.2.3 each service provider in a consortium must specify a number of financial items. Does this also apply to any subcontractors?*

Section III.2.3 states that prices must be fixed amounts and include all expenses. Financial items you quote need to be specified for "each category of staff involved in the project" and for all the members of the consortium if any (see page 15 of the tender specifications); Therefore, subcontractors are not concerned but as stated in section II.3 tenderers have to indicate in the offer which part will be subcontracted and to what extent (% of the total contract value).

*15. Section IV.2.1 mentions items to be provided related to the last three financial years. If certified balanced sheets are not yet available for the year 2008, is it sufficient to provide these items for the financial years 2007, 2006, and 2005?*

Yes, that would indeed be sufficient in such case.

*16. Section II.4 states that "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." What kind of document is required from the consortium partners to authorise the submission of a bid by the main tenderer?*

There is no particular format for such document. It must be a document signed by the official representative of the company giving the authorisation and it must be clear from the document that authorisation is given to the company or person submitting the bid.

Please note that it is a copy of this document that must be submitted, not the original.

*17. Is there a guideline on the structure of the tender?*

As stated in the terms of reference, all tenders must include three sections i.e. an administrative, a technical and a financial proposal. Apart from that, there is no specific guideline on what the structure of the tender should look like. However, please be aware that for certain requirements forms in the annexes have to be used i.e for the administrative part or for CV's, where a specific format is strongly recommended, but not an absolute requirement.

*18. Is the 'Invitation to Tender / Tender Specification' available as a 'Word' document of the in order to facilitate the filling of the annexes?*

No, unfortunately, no other version can be made available than the version that is on our website, which is in pdf format. However, you can find the annexes that have to be filled in at the internet link indicated in the terms of reference.

*19. What level of detail is required with respect to the 'list of main services and tasks' to be included in the tender (section IV.2.2 of the tender specifications) and particularly where it concerns beneficiaries? In case of existing confidentiality agreements, could information as the name of a company instead take the form of for example "major European oil company"?*

The level of detail is left to the tenderer. It should demonstrate technical and professional capacity, which includes in the requirements the (names of) beneficiaries. Please note that offers will be kept confidential.

*20. Point 9 in the description of tasks (section I.2 of the tender specifications) lists the organisation of an expert consultation. Given the complexity of the topics, the fact that some tasks are quite different from others (and therefore requiring very different type of experts) and the fact that sustainability criteria may be interpreted quite differently in different areas, it may be necessary to hold more than one consultation. Each of the consultations might focus on different topics or different world regions, or where it is difficult to reach consensus on complex issues, perhaps even a follow-up consultation may be needed. Thus, if the methodology undertaken in a given proposal requires more than one consultation, is this acceptable? If so, can it be expected in the evaluation of the proposals that the potentially higher cost of having more than one consultation can also be deemed as acceptable?*

Firstly, it should be pointed out that the Commission itself also has other options than expert consultation workshops to consult such as the written public consultation exercises that are mentioned in point 10 in the same section. The decision whether to organise such written public consultation exercises would be for the Commission services. Further, where consultations by the Commission services are concerned the purpose of consultation is not necessarily to reach consensus.

Tenderers are free to offer more than what is requested. The contract will be awarded to the tender which offers the best ratio quality/cost. In case more than one workshop would be offered, these may or may not fit in the Commission's timetable and way of working on (legislative) items that are related to some of the points in the description of tasks.

*21. Considering the deadline and time it takes to send documents between partners in an (international) consortium, would it be possible for the members of a consortium to send signed digital copies (e.g. pdf files) of the identification form (Annex I) instead of physically (ink) signed ones?*

No, this document must be the originally signed physical document.