

## **Additional information about the Contract Notice**

### **EU-Malaysia Cooperation Facility Location - Malaysia**

#### **1. Nature of contract**

Fee-based

#### **2. Programme title**

EU-Malaysia Cooperation Facility

#### **3. Financing**

NDICI ASIA/2021/043-324, Budget line: 14.020131 - EU-Malaysia Cooperation Facility

#### **4. Legal basis, eligibility and rules of origin**

The legal basis of this procedure is Regulation (EU) N° 2021/947 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI).<sup>1</sup> See Annex A2 of the practical guide.

For this contract award procedure, financed by NDICI geographic programmes, participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are effectively established in a Member State of the European Union or in an eligible country or territory as defined under Article 28 of Regulation (EU) N° 2021/947.

#### **5. Candidature**

All eligible natural and legal persons (as per item 4 above) or groupings of such persons (consortia) may participate or tender.

A consortium may be a permanent, legally established grouping or a grouping which has been constituted informally for a specific procurement procedure. All partners of a consortium (i.e., the leader and all other partners) are jointly and severally liable to the contracting authority.

The participation or tender of an ineligible natural or legal person will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

#### **6. Number of requests to participate or tenders**

No more than one request to participate or tender can be submitted by a natural or legal person whatever the form of participation (as an individual legal entity or as leader or partner of a consortium submitting a request to participate or tender). In the event that a natural or legal person submits more than one request to participate or tender, all requests to participate or tenders in which that person has participated will be excluded.

In case of lots, the candidates or tenderers may submit only one request to participate or tender per lot. Contracts will be awarded lot by lot and each lot will form a separate contract.

#### **7. Grounds for exclusion**

Candidates must submit a signed declaration, included in the request to participate form, to the effect that they are not in any of the situations listed in Section 2.6.10.1 of the **practical guide**

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<sup>1</sup> Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009; OJ L 209, 14.6.2021, p. 1–78.

**(PRAG).** Where the candidate intends to rely on capacity providing entities or subcontractor(s), he/she must provide the same declaration signed by this/these entity(ies).

Candidates included in the lists of EU restrictive measures (see Section 2.4. of the PRAG) at the moment of the award decision cannot be awarded the contract.

**8. Sub-contracting**

Sub-contracting is allowed.

**9. Number of candidates to be short-listed**

On the basis of the request to participate received, between 4 and 8 candidates will be invited to submit detailed tenders for this contract. If the number of eligible candidates meeting the selection criteria is less than the minimum of 4, the contracting authority may invite the candidates who satisfy the criteria to submit a tender. If the number of eligible candidates meeting the selection criteria is more than the maximum allowed, the contracting authority will rank them using the re-examination criteria stated below.

**10. Short-list alliances prohibited**

Any tenders received from tenderers having a different composition than the ones mentioned in the short-listed request to participate forms will be excluded from this restricted tender procedure, unless prior approval from the contracting authority has been obtained – see practical guide 2.6.3. Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

**11. Provisional date of invitation to tender**

5 July 2022

**12. Provisional commencement date of the contract**

1 March 2023

**13. Period of implementation of tasks**

48 months

**14. Language of the procedure**

All written communications for this tender procedure and contract must be in English.

**15. Additional information**

Financial data to be provided by the candidate in the request to participate form or in the tender submission form must be expressed in EUR. If applicable, where a candidate refers to amounts originally expressed in a different currency, the conversion to EUR shall be made in accordance with the InforEuro exchange rate of **MAY 2022**, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.

Subsequent to the initial contract resulting from the current tender procedure, new services consisting in the repetition of similar services, up to the estimated amount of 100%, may be entrusted to the initial contractor by negotiated procedure without prior publication of a contract notice, provided the new services are in conformity with the same basic project.

## SELECTION AND AWARD CRITERIA

### 16. Selection criteria

#### Capacity-providing entities

An economic operator (i.e. candidate or tenderer) may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. If the economic operator relies on other entities, it must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment by those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them. **Furthermore, the data for this third entity for the relevant selection criterion should be included in a separate document.** Proof of the capacity will also have to be provided when requested by the contracting authority.

With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the tasks for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the economic operator relies, become jointly and severally liable for the performance of the contract.

The following selection criteria will be applied to candidates. In the case of requests to participate submitted by a consortium, these selection criteria will be applied to the consortium as a whole if not specified otherwise. The selection criteria will not be applied to natural persons and single-member companies when they are sub-contractors.

The candidate shall not use previous experience which caused breach of contract and termination by a contracting authority as a reference for selection criteria.

The selection criteria for each tenderer are as follows:

- 1) Economic and financial capacity** (based on item 3 of the request to participate form, or on item 3 of supply tender form). In case of candidate being a public body, equivalent information should be provided. The reference period which will be taken into account will be the last three years for which accounts have been closed.

Criteria for legal and natural persons:

- 1- The average annual turnover of the candidate or tenderer for the last three years must exceed EUR 1 500 000; and
- 2- Current ratio (current assets/current liabilities) in the last year for which accounts have been closed must be at least 1. In case of a consortium this criterion must be fulfilled by each member.

- 2) Professional capacity** (based on items 4 and 5 of the request to participate form for service contracts and on items 4 and 5 of the tender form for supply contracts). The reference period which will be taken into account will be the last three years preceding the submission deadline.

Criteria for legal and natural persons:

- 1- The candidate or tenderer has a professional certificate appropriate to this contract, such as business registration certificate(s) for the provision of technical expertise or technical assistance for development activities; and

2- At least 20 staff currently work for the candidate or tenderer in fields related to this contract

3- At least 10 staff as per the previous point are permanent employees.

- 3) Technical capacity** (based on items 5 and 6 of the request to participate form for service contracts and on items 5 and 6 of the tender form for supply contracts). The reference period which will be taken into account will be the last three years from submission deadline.

This means that the contract the candidate refers to could have been started at any time during the indicated period but it does not necessarily have to be completed during that period, nor implemented during the entire period. Candidates are allowed to refer either to projects completed within the reference period (although started earlier) or to projects not yet completed. **Only the portion satisfactorily completed during the reference period will be taken into consideration.** This portion will have to be supported by documentary evidence (statement or certificate from the entity which awarded the contract, proof of payment) also detailing its value. If a candidate has implemented the project in a consortium, the percentage that the candidate has successfully completed must be clear from the documentary evidence, together with a description of the nature of the services provided/supplies delivered if the selection criteria relating to the pertinence of the experience have been used.

Criteria for legal and natural persons:

1- The candidate has provided services under at least 2 contracts, the candidate's share not less than EUR 2 500 000 in each, in fields related to this contract as specified under point II.1.4) of the contract notice.

Previous experience which caused breach of contract and termination by a contracting authority shall not be used as reference.

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the request to participate of these candidates must be re-examined in order to rank them and identify the 8 best requests to participate for the tender procedure. The only additional comparative criteria that which will be taken into consideration during this re-examination, in the order in which they appear below, are:

- The highest number of projects that meet criterion 3.1;
- The highest cumulated value of the projects that meet criterion 3.1- (only the share carried out by the candidate).

**N.B.**: additional comparative criterion No 1 shall be applied to all the eligible candidates that meet the selection criteria. If, after applying additional comparative criterion No 1, it is not possible to identify the 8 best candidates because two or more candidates are tied for the 8th position, additional comparative criterion No 2 shall be applied only to these tied candidates.

## **17. Award criteria**

Best price-quality ratio.

## **PARTICIPATION**

### **18. Requests to participate format and details to be provided**

Requests to participate must be submitted using the request to participate form, the format and instructions of which must be strictly observed. The request to participate form is available from the following Internet address:

<https://ec.europa.eu/europeaid/prag/document.do?isAnnexes=true>

The request to participate must be accompanied by a declaration on honour on exclusion and selection criteria using the template available from the following Internet address:

<https://ec.europa.eu/europeaid/prag/document.do?isAnnexes=true>

Any documentation (brochure, letter, etc.) sent with a request to participate in addition to what has been requested will not be taken into consideration.

## 19. How requests to participate may be submitted

Requests to participate must be submitted exclusively via the electronic submission system (eSubmission) available through the TED eTendering website accessible from the F&T portal<sup>2</sup>. Requests to participate submitted in any other way (e.g. e-mail or by letter) will be disregarded.

In order to submit a request to participate or using eSubmission, economic operators will need to register in the European Commission's [Participant Register](#) - an online register of organisations participating in EU calls for tenders or proposals (PIC registration). In case of consortia, requests to participate will have to be made through a group submission which requires for each member of the group a registration in the Participant Register.

When registered, each organisation obtains a Participant Identification Code (PIC, 9-digit number) which acts as its unique identifier in the above register. Instructions on how to create a PIC can be found on this [page](#). Economic operators already registered in the Participant Register shall reuse their existing PICs when preparing tenders in eSubmission.

It is up to the contracting authority to request the legal and financial validation of the data (PIC validation) of any organisation applying via eSubmission. The EU Validation Services of the Research Executive Agency (REA) are in charge of the PIC validation. The request for supporting documents in no way implies that the organisation has been successful in a procurement procedure. All communications with the EU Validation Services will take place through the F&T portal.

When submitting the request to participate, select under “Attachments” the correct section to upload the supporting documents. Therefore, upload:

- Request to participate form under the tab “Other documents”;
- Declaration referred to in Point 7 of the request to participate form under the tab “Other documents”;
- Declaration on Honour on Exclusion and Selection criteria under the tab “Declaration on Honour”.

## 20. Deadline for submission of requests to participate

**The time-limit for receipt of requests to participate is indicated under Heading IV.2.2 of the contract notice.** Unless the Time Zone is specified in eTendering, the “Local Time” mentioned under IV.2.2 in the Contract Notice shall be understood as Central European Time (CET) which is the standard time in Brussels.

A request to participate received after the time-limit for receipt of Requests to participate will be rejected. The submission receipt provided by e-Submission with the official date and time of receipt of the submission (timestamp) constitutes proof of compliance with the time-limit for receipt of requests to participate<sup>3</sup>.

Candidates must ensure that their submitted requests to participate contain all the information and documents required by the contracting authority at the time of submission as set out in the procurement documents.

## 21. Clarifications on the contract notice

Any request for clarifications must be made in writing through the TED eTendering website accessible from the F&T portal<sup>4</sup>. This concerns request for clarifications about the contract notice

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<sup>2</sup> <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home>

<sup>3</sup> If no submission receipt is received in reasonable time after submission, please contact the e-Submission Helpdesk (see contact details in the above referred e-Submission Quick Guide) as soon as possible.

<sup>4</sup> <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home>

and also request for clarifications about the content of the document called “Additional information to the contract notice.” Registration on TED eTendering is required to be able to create and submit a question. Clarifications can be requested by clicking “Create a question” in the Questions & Answers tab at the latest 21 days before the deadline for submission of requests to participate stated at section **IV.2.2) of the contract notice**.

Clarifications will be published on TED eTendering website at the latest 8 days before the deadline for the submission of requests to participate. The website will be updated regularly and it is the candidates responsibility to check for updates and modifications during the submission period.

## **22. Outcome of the evaluation**

Candidates will be notified of the outcome of the evaluation of the requests to participate by e-mail. The notification will be sent to the e-mail address provided in the eSubmission application for the candidate (leader in case of consortium) under the section Contact Info. After submission of the request to participate, the e-mail address can be changed in the F&T portal as described in the eSubmission Quick Guide (see the section “Manage roles in Funding & Tenders portal”)<sup>5</sup>.

The same e-mail address will be used by the contracting authority for all other communications during the procedure.

It is the candidate's responsibility to provide a valid e-mail address and to check it regularly.

## **23. Alteration or withdrawal of requests to participate**

After submitting a request to participate, but before the deadline for receipt of to participate, a candidate may definitively withdraw its request to participate<sup>6</sup>, or withdraw it and replace it with a new one<sup>7</sup>. A withdrawal receipt will be provided by eSubmission as proof of withdrawal.

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<sup>5</sup> For detailed instructions on how to submit a request to participate or tender, please consult the eSubmission Quick Guide available at: [https://ec.europa.eu/info/funding-tenders/opportunities/docs/esubmission/quickguidepp\\_en.pdf](https://ec.europa.eu/info/funding-tenders/opportunities/docs/esubmission/quickguidepp_en.pdf)

<sup>6</sup> A submitted request to participate can be withdrawn directly in the "Procurement/My Submission(s)" area in the F&T Portal. For detailed instructions on how to withdraw a request to participate, please consult the above referred eSubmission Quick Guide.

<sup>7</sup> To submit a new version, the candidate must create a new submission in eSubmission and include all the information and documents required in the procurement documents with the submission of a request to participate, even if some of them have already been included in the replaced request to participate.