

TENDER SPECIFICATIONS

PART I

No EEAS/2021/OP/0034

Multiple Framework contract in cascade for the provision of Personal Protective Equipment (PPE)

OPEN PROCEDURE

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1. INTRODUCTION

The contracting authority is the European External Action Service («the EEAS»), represented by the by the Head of Division Rights, Obligations and medical cell or its duly authorized representative or its duly authorized representative.

The contracting authority intends to conclude a cascade framework contract for the provision of Personal Protective Equipment (PPE), in accordance with the specifications set out in the procurement documents.

2. SUBJECT OF THE CONTRACT

The contractor shall provide the human and material resources necessary to provide the supplies in the non-exhaustive list below:

- Respiratory protection
- Hand protection
- Body protection
- Sanitizer
- Surfaces protection

The place of performance is Brussels.

3. DESCRIPTION OF PUBLIC PROCUREMENT PROCEDURE

Tenders must be submitted exclusively via the electronic submission system (eSubmission) available on the eTendering website and accessible on the Funding and Tenders Opportunities portal (F&T portal)¹.

In order to submit a tender using eSubmission, economic operators (each member of the group in the case of a joint tender) will need to register in the European Commission's [Participant Register](#) - an online register of organisations participating in EU calls for tenders or proposals. On registering, 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.

Instructions on how to submit a tender by means of eSubmission can be found in the [eSubmission Quick Guide](#). The tender shall contain the "Request to participate form" duly completed and accompanied by all the information and documents listed in the form. The tender shall be submitted by the deadline indicated in the contract notice.

The declaration(s) on honour on exclusion and selection criteria shall be dated and signed, either by hand or by applying a qualified electronic signature, by an authorised representative of the signatory.

¹ <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home>

The eTendering site on which all procurement documents are published will be updated regularly and it is the tenderer's responsibility to check for updates and modifications during the tendering period.

The evaluation of tenders will be made in the following order:

- access to public procurement,
- exclusion criteria,
- selection criteria,
- award criteria.

If the tender does not pass a category, it will not be evaluated under the following category/ies.

4. GROUPS OF ECONOMIC OPERATORS AND SUBCONTRACTING

Tenders can be submitted by a single economic operator or jointly by two or more economic operators.

4.1. Joint tender

A joint tender is a situation where a tender is submitted by a group of economic operators; in other words, by several legal entities (natural or legal persons) regardless of the link they may have between them.

Each individual legal entity of the group shall assume joint and several liabilities with all its resources towards the contracting authority for the fulfilment of the terms and conditions of the contract.

The group shall nominate one legal entity ('the leader') who shall be granted by the other members of the group the full authority to bind the group and each of its members, and who shall be responsible for the administrative management of the contract (including invoicing, receiving payments, etc.) on behalf of all other entities.

The "Request to participate form" must be signed by the legal representative of each legal entity of the group and will identify the leader.

The tender will clearly identify the division of tasks amongst the different members of the group.

Any change in the composition of the group during the procurement procedure or after the signature of the contract may lead to the rejection of the tender or to the termination of the contract by the contracting authority, respectively.

The group will not be required to adopt a specific legal form in order to submit a tender.

The contract shall be signed by all legal entities or, through a power of attorney to be attached to the contract, by the leader duly authorised to bind the group and each of its members.

4.2. Subcontracting

"Subcontractor" means an economic operator that is proposed by a tenderer or contractor to perform part of the contract.

Subcontracting is allowed but the contractor will retain full liability towards the contracting authority for the implementation of the contract.

Tenderers must give an indication of the tasks that they intend to subcontract and are required to identify all subcontractors whose share of the contract is above 10%.

The subcontractors whose share of the contract is above 10% must comply with the same exclusion criteria applicable to tenderers.

If the subcontractors' capacity is necessary to fulfil the selection criteria applicable to tenderers, they shall submit the relevant documentary evidence.

Any change in subcontracting during the procurement procedure or after the signature of the contract may lead to the rejection of the tender or to the termination of the contract, respectively. During contract execution, the change of any subcontractor identified in the tender will be subject to prior written approval of the contracting authority (see art.II.10 of the framework contract).

5. ELIGIBILITY OF ECONOMIC OPERATORS

5.1. Access to public procurement

Participation in this tender procedure is open on equal terms to all natural and legal persons whose domicile (natural person) or whose registration of their headquarters (legal persons) is:

- in one of the European Union Member States;
- in a third country which has a special agreement with the European Union in the field of public procurement **on the conditions laid down in the agreement**;
- in a country registered as a signatory of the Government Procurement Agreement (GPA) concluded within the WTO².

Participation is also open to international organisations.

Economic operators, including each member of a joint tender, must confirm that the legal entity's headquarters (for legal persons) or domicile (for natural person) is in one of the abovementioned States and present the supporting evidence normally acceptable under their own law (for example, an extract from a trade register or companies' register). The evidence must contain the official registration number of the economic operator.

5.2. Non-exclusion of economic operators

Tenderers who have access to public procurement are evaluated on the basis of the information provided in their tenders for exclusion criteria.

² Please check the list of countries at: https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm.

Tenderers shall provide a "Declaration on Honour" on exclusion criteria and selection criteria (declaration on honour) duly filled in, signed and dated by their legally authorised representative.

The declaration on honour shall be provided by each member of the group in case of joint tenders, by the entities on whose capacity it intends to rely and by all identified subcontractors whose share of the contract is above 10%.

Upon request by the contracting authority, the tenderer, as well as other entities which provided the above mentioned declaration on honour, shall provide within a time limit defined by the contracting authority the evidence referred to in paragraph "Evidence upon request", to support the declaration on honour. In any case, this evidence shall be requested from the successful tenderer, including each member of the group in the case of a joint tender, to whom the contract is to be awarded, prior to the signature of the contract.

The contracting authority may waive the obligation for a tenderer to submit the documentary evidence if it has already been submitted for a previous procurement procedure and provided the documents were issued not more than one year earlier and are still valid at the date of the request by the contracting authority. In such cases, the tenderer must declare on its honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that there has been no change in the situation.

The contracting authority may also waive the obligation for a candidate or tenderer to submit the documentary evidence if it can access it on a national database free of charge.

5.3. Selection of economic operators

Tenderers must prove their legal, regulatory, economic, financial, technical and professional capacity to deliver supplies subject to this call for tender by meeting the minimum capacity levels as listed at points 5.3.1, 5.3.2 and 5.3.3 hereafter.

All tenderers shall submit with their tenders all the supporting evidence on selection criteria as mentioned in the declaration on their honour and as requested in point 5.3 of the tender specifications and its subpoints 1, 2 and 3.

If a tenderer is relying on the capacities of other entities (e.g. parent company, other company in the same group, or third party) in order to achieve the required minimum level of the capacity, its request to participate must contain a signed and dated statement by the concerned entity which clearly confirms which relevant resources shall be placed at the disposal of the tenderer for the performance of this contract. The contracting authority will verify whether the entities on whose capacity the tenderer intends to rely fulfil the relevant selection criteria. The tenderer may only rely on the technical and professional capacities of other entities where the latter will perform the services or works for which these capacities are required.

If an entity provides the whole or a very large part of the economic and financial capacity to the tenderer, the contracting authority may demand that the said entity be jointly liable for the performance of the contract in case of award. In order to do so, the contracting authority may require that this entity signs the contract or that it provides a joint and several first-demand guarantee, should that tenderer be awarded the contract. If this entity is required to sign the contract, it has to have access to public procurement and

shall not be in an exclusion situation as indicated in point 5.1 and 5.2 of these tender specifications.

5.3.1. Legal and regulatory capacity criteria and evidence

The economic operators are required to have the following:

Criterion 5.3.1.a) Authorisation to provide the services at the place of performance of the contract.

Minimum capacity level:

The economic operator must be constituted and registered in accordance with the law of the country in which it is established (e.g. trade register).

The main business activity of the economic operator must be related to the subject of the contract (depending on its contribution in the performance of the contract).

Supporting document(s)/evidence requested:

Proof of enrolment in a relevant trade or professional register clearly stating the tenderer's exact name, business activity and that the tenderer is authorised to perform the contract in its country of establishment.

The criterion is applied and the evidence pertains to:

The tenderer. In case of joint tender this selection criterion will be applied to the group as a whole.

5.3.2. Economic and financial capacity criteria and evidence

Tenderers must prove the financial and economic capacity to perform this contract by meeting the following criterion:

Criterion 5.3.2.a) Turnover.

Minimum capacity level:

The average annual turnover for the last three financial years for which accounts have been closed must be at least EUR 1.000.000.

The exchange rate used to convert the turnover into EUR will be the rate of December of the year of the financial statement as published at http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm.

Supporting document(s)/evidence requested:

1. Duly completed table of the "Request to participate form".
2. Profit and loss accounts (Income statement) for the last three financial years for which accounts have been closed.

The criterion is applied to:

The tenderer; In case of joint tender this selection criterion will be applied to the group as a whole.

The evidence shall pertain to:

At least one economic operator provided that the minimum capacity level is met.

5.3.3. Technical and professional capacity criteria and evidence

Tenderers must prove the technical and professional capacity to perform this contract by meeting the following criteria:

Criterion 5.3.3.a): Previous contracts.

Minimum capacity level:

1. At least two supplies contracts managed by the economic operator relevant to supply of similar protective equipment, during the past three calendar years.
2. The cumulative value during the past three calendar years of the above mentioned listed contracts must be at least EUR 150.000.

Supporting document(s)/evidence requested:

1. Duly completed table (list) of the "Request to participate form". The tenderer may include in the list any contract implemented at any moment during the past three calendar years. The tenderer may include any contract started or completed during that period and any contract ongoing through the whole period.
2. For each contract in the table (list), the tenderer must present a document (client's reference letter, acceptance certificate/delivery) relevant personal protection equipment contracts performed during the past three calendar years specifying whether the supplies were delivered in compliance with the contractual terms.

Contracts without reference letters shall not be included in the list of the contracts as they will not be accepted. The reference letters provided for the contracts which are not in the list will not be accepted either.

The criterion is applied to:

The tenderer. In case of joint tender this selection criterion will be applied to the group as a whole.

The evidence pertains to:

At least one of the economic operators who will who will supply the protective equipment.

6. EVALUATION OF TENDERS

6.1. Evaluation of tenders on the basis of the award criteria

The tenders are evaluated in order to award the contract to the tender offering the lowest price. In other words, the contract is awarded to the lowest tender that satisfies the minimum requirements set in the technical specifications.

The tenderers shall upload on eSubmission the "Statement of compliance with the procurement documents in Annex 1 of technical specifications duly completed, dated and signed in order to be considered technically compliant. The technically compliant tenders are evaluated in order to award the contract to the tender offering the lowest price.

The ranking will be used to establish the list of contractors and the sequence in which they will be offered specific contracts during the implementation of the framework contract. A contract will be awarded for the first 3 ranked tenders. If there is only one tender satisfying all minimum requirements, the Contracting authority may decide to cancel the procedure or sign a single FWC instead of a cascade.

6.2. Financial tender

Only the financial tenders submitted by those tenderers who have submitted technically compliant tenders meeting the minimum technical requirements will be considered for the award.

The prices for the tender must be tendered:

- in EUR;
- free of all duties, taxes and other charges, including VAT, as the EEAS is exempt from such charges under Articles 3 and 4 of the Protocol on the privileges and immunities of the European Union;
- all inclusive. This means that, unless otherwise mentioned in these tender specifications, prices tendered for shall include all the costs to be incurred by the tenderers in order to fully implement the contract;
- using the unit price schedule (Annex A) and the price scenario tables in annex (Annex B). Any change in the table(s) as annexed to these tender specifications will lead to the rejection of the tender.

During the validity of the tender and the implementation of the contract, prices cannot be revised.

The price schedule (Annex A) is binding during implementation of the contract.

The price "scenario" is an estimate by the contracting authority of the quantities of the supplies over the duration of the contract in order to compare the financial tenders.

Financial tenders will then be checked for arithmetical accuracy. Where arithmetical errors are found, tenderers will be requested to correct them.

The maximum ceiling of the FWC will be calculated by taking into account 75% of the total amount from the tender ranked first, 20% from the tender ranked second and 5% from the tender ranked third. Moreover, the contracting authority may add a security

margin of 10 %. In any case, the maximum ceiling of the FWC will not be higher than the initial estimate published in point II.2.6.

7. CONTENT OF THE TENDER

The tenderers shall submit via the electronic submission system eSubmission the "Request to participate form" duly completed accompanied by all the information and documents listed in the form.