

## **NOTE**

**The Bidders' attention is drawn to the fact that the General Conditions of Tender for ESA Contracts published on EMITS are not applicable to the present Invitation to Tender. This Procurement falls under the category of Small Space Procurements for which the only applicable conditions of tender are those contained in the present document.**

## **CONDITIONS OF TENDER**

### **FOR THE EUROPEAN SPACE AGENCY'S SMALL SPACE PROCUREMENTS (SSP)**

The following Conditions of Tender shall apply to all competitive tenders - Invitations to Tender (ITT) and tenders in direct negotiation - Requests for Quotation (RFQ) (unless explicitly stated to be applicable to competitive situations only) issued by the Agency with a financial envelope up to and including 150.000 Euro for studies and 250.000 Euro for other space procurements.

## **A. GENERAL STANDARDS OF PRESENTATION**

### **1. Structure of the tender**

The tender shall present the information required, in the form specified hereafter forming part of the ITT. Tenders shall be subdivided into the following main elements:

- Cover Letter
- Technical Proposal
- Supporting documentation

The content of each of these elements shall be as outlined below.

#### **Cover Letter**

The tender shall have a cover letter duly signed by a person authorised and explicitly stating compliance with the following points:

B3 (*validity period*)

B10a (*compliance to requirements*)

B10b (*compliance to contract conditions*)

In addition the cover letter shall contain:

- The name, email, telefax and telephone number of the Tenderer's contact person to whom all communications relating to the ITT shall be addressed.
- The name, address, telefax and telephone numbers of any subcontractor proposed.
- The name and position of the legal representative that would sign a contract with the Agency on behalf of the Contractor.
- The price of the proposal together with a confirmation that the price type is Firm Fixed.
- The ESA Bidder Code of the Prime and each proposed subcontractor. A company not yet registered should access the following URL to request registration as a Potential Bidder: <http://www.esa.int/home-ind/>

## Technical Proposal

The main body of the proposal shall describe the technical approach complemented by alternatives, trade-offs proposed, reservations made and any non-compliances. The information shall provide the following:

- **The Tenderer's experience in the game market**
- The Tenderer's consolidation of requirements or his functional analysis of them.
- A technical discussion addressing also problem areas, proposed solutions to them, proposed trade-offs and identified limitations/non-compliances. Consequences of any reservation and/or non-compliance, the reasons therefore and the possibility of and conditions for it being withdrawn shall also be described.
- The study logic in form of a flowchart. A Work Breakdown Structure (WBS) for the total scope of the activity. Individual Work Package Descriptions (WPD) shall be established per work package identified in the WBS listing the activities, stating the responsible company and person in charge as well as inputs to- and outputs of the WPD (a WPD template can be found in the General Clauses and Conditions for the Agency's mainstream procurements available on EMITS).
- Cost information for the proposed work through the submission of duly filled in PSS-A1, PSS-A2 and PSS-A8 forms. The templates of these forms are available on EMITS.

## Supporting Documentation

In supporting documents to the main body of the proposal the Bidder shall submit:

### General information about the company(ies)

The Tender may for general information about the company refer to its webpage or other information available on the internet.

### Facilities

Any particular technical facilities that will be used for the purpose of the activity shall be described in the proposal.

### Team organisation and personnel

This part of the Tender shall contain information of the team composition as well as describing the reporting lines within the team. The position of the team within the company organisation shall also be shown with a chart. Curriculum Vitae (CVs) for all staff who will be allocated to the activity/contribute to the activity together with information concerning the proportion of the person's working time that is devoted to the work offered.

### List of Deliverable Items

The proposal shall contain a complete list of all items that are to be delivered under a resulting contract. This may be provided in the form of a compliance statement to the Deliverable Items List (DIL) of the Statement of Work together with any additional deliverables proposed. A complete and comprehensive list shall be provided in cases where the Tenderer proposes any limitations with respect to the DIL of the Statement of Work.

### Profit

The profit shall not exceed eight percent (8%) of the base cost, defined in the item ten (10) of the Company Price Breakdown Form PSS A2, issue 3.

### Travel and subsistence Plan

The Tender shall contain a brief description of the travels envisaged by the company and subcontractors for the execution of the contract. This shall be given in the form of the following table:

Work Package Number	Destination	Purpose of Trip	Nr. Persons	Nr. Days	Subsistence Allowance	Travel Cost	Total cost

### Planning

The Tender shall contain a GANTT *bar chart* schedule for the proposed work where all proposed work packages can be traced.

### Other information

The supporting documents to the main body of the proposal shall further contain any required information resulting from the conditions below.

## **2. Length of tender documents**

The Tender should be precise and concise and mere repetitions of the Agency's requirements shall be avoided. The length of the proposal excluding the supporting documents should not exceed 20 pages.

## **3. Use of English or French language**

The Tender, and all correspondence relating to it, shall be in English or French.

## **B. FORMAL CONDITIONS, COMMITMENTS, UNDERTAKINGS**

### **1. Certification of free competition**

By submission of the Tender, the Tenderer implicitly certifies that:

- the prices in the proposal have been arrived at independently without consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices, with any other tenderer or competitor;
- unless otherwise required by law, the prices quoted in the Tender have not knowingly been disclosed by the Tenderer and will not knowingly be disclosed, directly or indirectly, to any other tenderer or competitor until he has been informed of the result of the ITT;
- no attempt has been made or will be made by the Tenderer to induce any other tenderer or competitor to submit or abstain from submitting a tender for the purpose of restricting competition.

### **2. Restriction on publicity actions**

Tenderers are not authorised to mention in their publicity that they have been invited to tender, are tendering or have tendered, until after notification of the result of the ITT.

### **3. Validity period of tender**

The tender shall specifically state a period of validity of two (2) months from the closing date for the receipt of tenders.

### **4. Period for tender preparation**

Extension of the tendering period, requested in writing, will only be considered by the Agency if operational requirements so permit, and if, in the case of competitive tendering, fair competition is not thereby impaired. Requests for extensions received less than two (2) weeks before the closing date will not be considered for ITTs.

### **5. Agency's right of access to data and right to audit**

ESA will be entitled, after receipt of the tender and during its validity period, to request the Tenderer to provide evidence of any element of his quotation and may call for additional detailed information irrespective of the type of price proposed. The Agency reserves the right to audit any aspect of the tender including the quoted prices.

## **6. Negotiation prior to contract award**

The Agency reserves the right to negotiate with one or more tenderers before taking a decision on the placing of a contract. The offer shall remain valid until changes are agreed in writing. The original offer, as modified, shall constitute a binding revised offer.

## **7. Retention of tenders**

Any document submitted in reply to the ITT shall become the property of the Agency. It will use commercially confidential or proprietary information solely for the purpose of the evaluation of tenders and the selection of a contractor and for its own cost reference purposes. In the case of a successful tender, documentation and information incorporated in the subsequent contract will be governed by Part II of the General Clauses and Conditions for ESA contracts. The Agency reserves the right to eliminate from consideration tenders, which seek to restrict the use of documents or information beyond these provisions.

## **8. No reimbursement of tender expenses**

Expenses incurred in the preparation and dispatch of the tender will not be reimbursed.

## **9. No commitment by the Agency**

The ITT does not bind the Agency in any way to place a contract, and the Agency reserves the right to place a contract for only part of the activity covered by the ITT.

## **10. Responsiveness of the tender**

### **a) Compliance with technical and management requirements**

The tender shall contain a statement of compliance to the Statement of Work and/or technical requirements. Reservations or identified non-compliances have to be explicitly identified. Any reservations to the requirements will be taken into account in the evaluation with the exception of any reservations to the contract conditions which will render the tender unacceptable. Acceptance of a tender containing other reservations, or proposed modifications or amendments is not to be construed as acceptance of these, until such acceptance is stated in writing by the Agency.

### **b) Compliance with contract conditions**

The tender has to state full compliance to the draft contract. Such unconditional compliance to the draft contract is a requirement for the tender to be considered for evaluation.

Consequently, **no modifications or amendments to the contractual text are possible** in this simplified procedure, only a filling in of the blanks in the Draft Contract.

### c) Options

If the Statement of Work call for the submission of options or alternatives, or if the Tenderer wishes on his own initiative to submit these, the Agency reserves the right to disregard such options/alternatives if a tender fully compliant with the requirements is not also submitted.

## **C. PLANNING AND COSTING REQUIREMENTS**

### **1. Currency and conversion rates**

For any Tenderer or proposed subcontractor located in countries outside of the EURO zone, the exchange rate used shall be stated on the PSS-A2. Any other factors (hedging costs, forward buying rates etc) used for the purpose of their calculations shall also be indicated.

### **2. Quotations free of taxes and customs duties**

Prices shall be quoted free of taxes and customs duties. In cases where the Tenderer considers that he will remain subject to the payment of taxes or customs duties, he shall indicate separately the applicable rates, the corresponding estimated total tax or customs duty amount, and the reason why he believes exemption from tax or customs duties cannot be obtained. Attention is drawn to the provisions of Clause 18 of the General Clauses and Conditions for ESA Contracts.

## **D. CONDITIONS RELATING TO INTELLECTUAL PROPERTY RIGHTS**

### **1. Third party commitments**

The Tenderer shall indicate if he has entered into any arrangements or licence agreements as to intellectual property rights concerning the subject of the ITT, either as part of a general arrangement or with specific reference to the ITT. A copy of the document recording the commitment, or an appropriate part thereof, shall be submitted with the tender. If such arrangement or agreement would result in costs to be borne by the Agency these must be separately identified and included in the total price quoted in the tender.

## **E. CONDITIONS RELATING TO SUBCONTRACTS**

### **1. Placing of subcontracts**

In submitting a tender containing proposed subcontractors (for definition of subcontractors reference is made to the explanatory text to point 3.11 of Form PSS A1 that can be found on EMITS) the Tenderer shall indicate the status of negotiations with him.

## **F. AMENDMENTS TO DOCUMENTS AND COMMUNICATIONS**

### **1. Amendment of the ITT**

The Agency reserves the right to issue amendments to the ITT.

### **2. Questions relating to an ITT**

Any questions concerning the ITT shall be submitted in writing not later than two (2) weeks before the closing date to the nominated Contracts Officer in the establishment concerned. Questions should make specific reference to the appropriate section(s) of the ITT documents. When the Agency gives a reply it will normally publish the reply(ies) together with the question(s) in EMITS with an automatic notification to all who have notified an interest and enabled the automatic notification function.

Any request for documentation referred to in the ITT shall be sent to the nominated Contracts Officer. The Agency will not make any document available unless the ITT documents specifically state that such document is available on request for the purpose of the ITT.

The Agency reserves the right to ask tenderers for clarifications of their tenders during the evaluation period. Answers, addressed in writing to the nominated Contracts Officer, must be received within three days of dispatch of the request, if no other period is stated. Clarifications shall not be regarded as amendments or modifications of the tender, in the case of competitive tenders.

### **3. No information about evaluation during evaluation period**

Tenderers are not entitled to contact Agency staff, other than the Contracts Officer, during the evaluation and selection period to ask for information on the evaluation. The Agency reserves the right to eliminate from the evaluation a tenderer contravening this provision.

### **4. Amendment, withdrawal or resubmission of the tender**

Amendment, withdrawal or resubmission of the tender will be permitted if they reach the Agency before the closing date and time, in accordance with the dispatch conditions.

### **5. Information about the result of the ITT**

Tenderers will be informed in writing of the result of the ITT after a decision has been taken. Upon receiving notice that his tender has been unsuccessful, a tenderer may request the nominated Contracts Officer to advise him of the reasons why the tender has not been retained. Any information will be limited to the tenderer's own tender. The decision on the result of the ITT will be without appeal, and the Agency will not enter into correspondence on the reasons for the decision.



## **G. DISPATCH AND RECEIPT CONDITIONS**

### **1. Packing of tenders**

Competitive tenders shall be dispatched in sealed envelopes marked for the attention of the Central Registry, indicating the Tenderer's name and indicating the ITT reference number. The parcel shall further be marked CONFIDENTIAL.

Non-competitive tenders shall be addressed for the attention of the responsible contracts officer.

### **2. Dispatch of tenders**

Competitive tenders shall be sent by post, by courier or delivered by hand. If sent by post they shall be registered and dispatched at least five days before the closing date.

At the time of the dispatch of a competitive tender, the Tenderer shall notify the responsible contracts officer by providing the following:

- a) reference of the ITT;
- b) date of posting;
- c) place of posting as defined by postmark;
- d) number of registered parcels;
- e) name of the person or the Tenderer responsible for posting;
- f) name of the Tenderer.

If, with the abovementioned formalities fulfilled, the tender does not reach the Agency by the closing date, the Tenderer will be informed and an extension may be granted in order to allow him to forward duplicates. Tenders arriving after the expiry of this extension will not be taken into consideration.

### **3. Receipt of tenders**

Only personnel of the Central Registry of the establishment concerned are authorised to issue a receipt upon delivery of competitive tenders or to issue an official signature in the case of a registered parcel.

## **EVALUATION CRITERIA**

In evaluating the proposal(s) ESA will use the following criteria;

1. Adequacy of the technical approach in response to the SOW requirements, understanding the requirements, objectives, proposed programme of work and engineering approach. Time/cost allocation per task.

Weighting Factor (%): 65

2. Team organisation and experience of staff.

Weighting Factor (%): 35