

Additional information about the Contract Notice

Contract Title: Provision of Long-Term Expertise and Support Staff for AL-INVEST *Verde* Intellectual Property Rights Action in Latin America

Location – Regional (Latin America)

1. Nature of contract

Fee-based

2. Programme title

AL-INVEST Verde Intellectual Property Rights (AL-INVEST Verde PI)

3. Financing

Contribution Agreement Component 3 “AL-INVEST Verde Intellectual Property Rights” (AL-INVEST PI) LA/2021/426-639 and the European Union Intellectual Property Office (EUIPO).

4. Legal basis, eligibility and rules of origin

The legal basis of this procedure is Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and Regulation (EU) N° 2333/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020.

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 a eligible country or territory as defined under Article 8 of Regulation (EU) No 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable instrument under which the contract is financed. Participation is also open to international organisations.

For UK candidates or tenderers: Please be aware that following the entry into force of the EU-UK Withdrawal Agreement* on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union and to goods originating from an eligible country, as defined under Regulation (EU) No 236/2014** and Annex IV of the ACP-EU Partnership Agreement***, are to be understood as including natural or legal persons residing or established in, and to goods originating in, the United Kingdom ****. Those persons and goods are therefore eligible under this call.

* Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

** Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action.

*** Annex IV to the ACP-EU Partnership Agreement, as revised by Decision 1/2014 of the ACP-EU Council of Ministers (OJ L196/40, 3.7.2014).

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 (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

April 2022

12. Provisional commencement date of the contract

August 2022

13. Period of implementation of tasks

29 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 **February 2022**, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.

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 tenderers to Lot n° 1 Activity Coordinator for AL-INVEST Verde PI 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:

- The average annual turnover of the tenderer must exceed EUR 35 000
- The financial situation of the candidate should not be in deficit, taken into account debts, at the beginning and end of year.

- 2) Professional capacity of candidate** (based on items 4 and 5 of the application form). The reference period which will be taken into account will be the last three years preceding the submission deadline.

Criteria for legal persons:

- The candidate has at least one (1) qualified and experience permanent staff¹ assigned to the management of at least one (1) service contract implemented for the account of an international organizations or EU Agencies and bodies, and;
- The candidate has at least one (1) qualified and experienced staff assigned to the performance of services in the design, organisation, monitoring and reporting of activities and contributing to the preparation of documents in intellectual property, green-innovation and/or other related areas to this contract.

Criteria for natural persons:

- The candidate is working/has worked with more than one (1) collaborator/expert performing services in the design, organisation, implementing, monitoring and reporting in intellectual property, green-innovation and/or other related areas to this contract.

All candidates are required to provide the number of experts in the field related to this contract that they have worked with in the table in point 4 of the application form.

- 3) Technical capacity of candidate** (based on items 5 and 6 of the application form). The reference period which will be taken into account will be the last three years from submission deadline.

Criteria for legal and natural persons:

1. The candidate has provided technical expertise services during at least twenty four (24) months (Please see Point 6 Standard Application Form point – Note 15) of services that may result from a single contract or from the aggregated duration of several of them in fields related to intellectual property, green innovation and/or other related areas to this contract.
2. As foreseen in note 19 of the standard application form candidates are requested to indicate, for each experience mentioned in point 6 the function of key experts provided and the number of working months each of them worked on the project in the cell “Type and scope of services provided”.

This means that the contract(s) 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.

3. At least six (6) months that meet selection criterion 3.1., which were implemented at any moment during the last three years, aimed at providing technical expertise in the field of intellectual property, green-innovation and/or other related areas to this contract for Latin America.

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

Documentary evidence is not required at the application stage but will be requested with the invitation to tender.

¹ Staff directly employed by the candidate on a permanent basis (i.e. under indefinite contracts) with an appropriate academic background and/or at least three years of professional experience in the management of service contracts.

An economic operator 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 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 tenderer relies become jointly and severally liable for the performance of the contract.

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the applications of these candidates must be re-examined in order to rank their applications and identify the 8 best applications 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:

- I. Longest aggregate duration (in months) for criterion 3.2
- II. Longest aggregate duration (in months) for criterion 3.1

N.B.: additional comparative criterion I) shall be applied to all the eligible candidates that meet the selection criteria. If, after applying additional comparative criterion I, it is not possible to identify the 8 best candidates because two or more candidates are tied for the 8th position, additional comparative criterion II) shall be applied only to these tied candidates.

The selection criteria for tenderers to Lot n° 2 Action Support Officer for AL-INVEST VERDE PI are as follows:

- 1) Economic and financial capacity of candidate** (based on item 3 of the application 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 financial years for which accounts have been closed.

Criteria for legal and natural persons:

- The average annual turnover of the candidate must exceed EUR 15.000
- The financial situation of the candidate should not be in deficit, taken into account debts, at the beginning and end of year.

- 2) Professional capacity of candidate** (based on items 4 and 5 of the application form). The reference period which will be taken into account will be the last three years preceding the submission deadline.

Criteria for legal persons: The candidate has at least one (1) permanent qualified and experienced staff² assigned to international cooperation projects.

Criteria for natural persons: The candidate is working/has worked with at least one (1) expert in international cooperation projects.

Candidates are required to provide the number of experts in the field related to this contract that

² Staff directly employed by the candidate on a permanent basis (i.e. under indefinite contracts) with an appropriate academic background and/or at least three years of professional experience in the management of service contracts.

they have worked with.

- 3) Technical capacity of candidate** (based on items 5 and 6 of the application form). 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 has provided at least eighteen (18) months of services that may result from a single contract or from the aggregated duration of several of them for the provision of support to the implementation of international projects during the reference period.

As foreseen in note 19 of the standard application form candidates are requested to indicate, for each experience mentioned in point 6 the function of key experts provided and the number of working months each of them worked on the project in the cell “Type and scope of services provided”.

This means that the contract(s) 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.

2. At least four (4) months that meet selection criterion 3.1., which were implemented at any moment during the last three years, aimed at providing administrative support in the areas related to this contract in the MERCOSUR countries.

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

Documentary evidence is not required at the application stage but will be requested with the invitation to tender.

An economic operator 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 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 tenderer relies become jointly and severally liable for the performance of the contract.

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the applications of these candidates must be re-examined in order to rank their applications and identify the 8 best applications 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:

- I. Longest aggregate duration (in months) for criterion 3.2
- II. Longest aggregate duration (in months) for criterion 3.1

N.B.: additional comparative criterion I) shall be applied to all the eligible candidates that meet the selection criteria. If, after applying additional comparative criterion I, it is not possible to identify the 8 best candidates because two or more candidates are tied for the 8th position, additional comparative criterion II) 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 in English exclusively to the contracting authority in a sealed envelope.

- Either by post or by courier service, in which case the evidence shall be constituted by the postmark or the date of the deposit slip, to:

**European Union Intellectual Property Office
Institutional and Cooperation Department
EUIPO/ALINPI/2022/EA-RP/01/<Lot n^o>³
Avenida de Europa, 4, E-03008
Alicante, Spain**

OR hand delivered by the participant in person or by an agent directly to the premises of the contracting authority in return for a signed and dated receipt, in which case the evidence shall be constituted by this acknowledgement of receipt, to:

**European Union Intellectual Property Office
Institutional and Cooperation Department
EUIPO/ALINPI/2022/EA-RP/01/<Lot n^o>
Avenida de Europa, 4, E-03008
Alicante, Spain
*Deliveries from 8.30 - 13.30 and 15.00 - 17.00***

The contract title and publication reference (see contract notice) must be clearly marked on the envelope containing the request to participate and must always be mentioned in all subsequent correspondence with the contracting authority.

³ Number of the corresponding lot (i.e. Lot1, Lot2 or all lots)

Requests to participate submitted by any other means will not be considered.

20. Deadline for submission of requests to participate

The candidate's attention is drawn to the fact that there are two different systems for sending Requests to participate: one is by post or private mail service, the other is by hand delivery.

In the first case, the request to participate must be sent before the date and time-limit for submission, as evidenced by the postmark or deposit slip⁴, but in the second case it is the acknowledgement of receipt given at the time of the delivery of the request to participate that will serve as proof.

The deadline for submission of requests to participate can be found in the Contract Notice under IV.2.2.

March 22, 2022 at 23h59 CET

Any request to participate sent to the contracting authority after this deadline will not be considered. The contracting authority may, for reasons of administrative efficiency, reject any request for participation submitted on time but received, for any reason beyond the contracting authority's control, after the effective date of approval of the short-list report, if accepting requests to participate that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise *decisions already taken and notified*.

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 portal⁵. This concerns request for clarifications about the contract notice 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

By submitting a request to participate candidates accept to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the request to participate form.

23. Alteration or withdrawal of requests to participate

Candidates may alter or withdraw their requests to participate by written notification prior to the deadline for submission of requests to participate. No requests to participate may be altered after this deadline.

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with precedent item. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

⁴ It is recommended to use registered mail in case the postmark would not be readable.

⁵ <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home>