

PROCUREMENT PROCEDURE N° AO/014/20

Collection of National Key Enforcement Judgments related to IPR

INVITATION TO TENDER

The European Union Intellectual Property Office (EUIPO), (referred to below as 'the Office'), is planning to award a direct contract resulting from the above procurement procedure.

The scope and objectives, duration and estimated volume are further detailed in the procurement documents that consist of the following annexes:

- Annex I: Tender specifications
- Annex II: Technical specifications and its annexes II.1 and II.2
- Annex III: Draft Contract and [General Terms and Conditions of the Office](#)
- Annex IV: Standard Submission Form
- [Guidebook for tenderers](#)

All documentation and information concerning this invitation to tender are available on the eTendering website ⁽¹⁾ at:

<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=7190>

1) LEGAL EFFECTS OF THE INVITATION TO TENDER

This invitation to tender is in no way binding on the Office. The Office's contractual obligation commences only when the contract with the successful tenderer is signed by both parties.

¹ For urgent issues concerning any technical problems, please contact eTendering: OP-ETENDERING-HELPDESK@publications.europa.eu

Help page: <https://etendering.ted.europa.eu/help/help.html?name=globalHelp>

Before signing the contract, the Office may cancel the procurement procedure without tenderers being entitled to claim any compensation. Any such decision must be substantiated and tenderers notified.

Tenders will remain valid for a period of at least **9 months** from the date for submission of tenders.

Submission of a tender implies acceptance of the [General Terms and Conditions of the Office](#) and all the terms and conditions set out in the procurement documents and the waiver of the economic operator's own general or specific terms and conditions. The submitted tender is binding on the economic operator to whom the contract is awarded for the duration of the contract.

2) VISIT TO THE OFFICE PREMISES

An on-site visit of the Office's premises is not applicable to this procurement procedure.

3) SUBMISSION OF TENDERS, DEADLINE FOR SUBMISSION AND PROCEDURES

Economic operators interested in this contract are invited to submit a tender in one of the official languages of the EU.

If there are discrepancies between the different linguistic versions of the documents of this invitation to tender, the English version prevails.

3.1) Deadline and submission

Tenders must be submitted no later than **28/10/2020 at 13.00 (GMT+1)** and exclusively through the electronic submission system (e-Submission) available from the above eTendering website and accessible on the Funding and Tenders Opportunities portal (F&T portal)².

Tenderers are advised not to wait to submit the tender until the last moment before the deadline for receipt indicated herein.

Tenders submitted in any other way (e.g. email or by letter) will be disregarded. The tender reception confirmation provided by e-Submission with the official date and time of receipt of the tender (timestamp) constitutes proof of compliance with the time limit for receipt of tenders. Tenders received after the time limit for receipt of tenders will be rejected.

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

For detailed instructions on how to submit a tender please consult the '[Quick guide](#)' at the bottom of the e-Submission homepage⁽³⁾.

3.2) Presentation of tenders

Tenders must be:

- perfectly legible so that there can be no doubt as to words and figures;
- drawn up using the Standard Submission Form in the procurement documents (Annex IV).

Tenderers must ensure that their submitted tenders contain all the information and documents required by the Office at the time of submission as set out in the procurement documents.

The tender must be signed by an authorised representative of the tenderer.

The Office concludes contracts and makes payments in euros. Therefore, all prices must be expressed in euros. Since the Office is exempt from all duties and taxes, prices quoted should be NET OF TAX.

In the electronic submission system 'e-Submission', you must provide several amounts. Please fill in the field 'the total amount of your financial proposal' for the tender amount and '0' for the tax amount as they are mandatory fields in the system. It is the responsibility of each tenderer to ensure that the total amount of the tender inserted in e-Submission corresponds exactly to the value reflected in the 'Financial proposal'. In case of discrepancies, only the value reflected in the financial proposal submitted by the tenderer will be taken into account.

After submitting a tender, but before the deadline for receipt of tenders, a tenderer may definitively withdraw its tender⁴, or withdraw it and replace it with a new one⁵. A withdrawal receipt will be provided by e-Submission as proof of withdrawal. In case that more than one version of its electronic tender are submitted in the e-Submission system, **only the last version** of the tender that was uploaded before the deadline will

³ The supported browsers, file types, size of attachments and other system requirements can be consulted at: <https://webgate.ec.europa.eu/fpfis/wikis/x/f6dqEg>. In case of technical problems, please contact the e-Submission Helpdesk as soon as possible (see contact details in the e-Submission Quick Guide) or DIGIT-ESUBMISSION-SUPPORT@ec.europa.eu within a reasonable time before the end of the submission period.

⁴ A submitted tender can be withdrawn directly in the "Procurement/My Submission(s)" area in the F&T Portal. For detailed instructions on how to withdraw a tender please consult the above referred e-Submission Quick Guide.

⁵ To submit a new version, the tenderer must create a new tender in e-Submission and include all the information and documents required in the procurement documents with the submission of a tender, even if some of them had already been included in the replaced tender.

be taken into consideration. All previous versions will automatically be treated as invalid and will not be considered during the opening session.

All costs incurred in the preparation and submission of tenders are to be borne by the tenderers and will not be reimbursed.

3.3) Contact during the submission phase

Contacts between the Office and the economic operators are forbidden during the entire procedure, save, exceptionally, under the conditions laid down in this invitation to tender.

Upon request, the Office may provide additional information solely to clarify the procurement documents.

Any requests for additional information must be made in writing and only through the above link to the TED eTendering website in the 'questions and answers' tab by clicking 'create a question'.

The Office is not bound to reply to requests for additional information received less than six working days before the time limit for receipt of tenders.

The Office may, on its own initiative, inform interested parties of any error, inaccuracy, lack of precision, omission or any type of clerical error in the text of the procurement documents.

Important information: Any additional information and all answers to questions concerning this invitation to tender will be made available exclusively on the above link to the TED eTendering website. It is the responsibility of the tenderer to check for updates and modifications during the submission period.

4) PUBLIC OPENING OF TENDERS

On **30/10/2020 at 11.00 (GMT+1)**, at the Office's premises in Avenida de Europa, 4, 03008 Alicante, Spain, there will be a public opening of the tenders.

A maximum of two representatives per tender may attend the opening session. For organisational and security reasons, the Office should be informed by email to procurement@euipo.europa.eu of the full name(s) and ID or passport number of the representatives at least two working days in advance.

Please note that, due to the present sanitary situation, the Office may restrict visitors on its premises over specific period of times, following national/local authorities instructions or internal health and safety measures. In such cases, the Office reserves

the right to organise the session through video conference. Those representatives who have confirmed attendance will then be notified on how to access the video conference.

The public part of the opening session will be strictly limited to the following aspects:

- verification that each tender has been submitted according to the submission requirements of the call for tender;
- announcement of the received tenders: the names of the tenderers (all members in the case of a joint tender) will be announced;

No information on the content of the tenders will be divulged at this meeting, except for the tender price in case of a lowest price or lowest cost award method.

Tenderers not present at the opening session may send an information request to procurement@euipo.europa.eu if they wish to be provided with the information announced during the public opening.

Once the Office has opened the tenders, they shall become its property and will be treated confidentially.

5) EVALUATION PHASE

The Office will perform the tender evaluation assessing the fulfilment of the requirements of the criteria set in the tender specifications (Annex I). Failure to meet any of the requirements in the selection phase will result in not being admitted to the next stage of the evaluation. Failure to meet any of the thresholds established in the award criteria will lead to the rejection of the tender from further evaluation.

The assessment will be performed in the order decided by the Office before starting the evaluation of the tenders and the phases are given here in random order:

- exclusion criteria checks;
- selection criteria assessment;
- compliance of the technical proposal with the minimum requirements;
- award criteria: technical and financial evaluation.

Contact during the evaluation phase

Except in duly explained cases, tenderers who have failed to submit evidence or to make statements as required in the procurement documents, will be contacted by the Office to provide the missing information or clarify supporting documents.

The Office may correct obvious clerical errors in the tender after confirmation of the correction by the tenderer.

Tenderers should be prepared to reply in writing to such requests for clarification within a short deadline specified by the Office in the email request. Replies received after the deadline indicated in the request for clarification will not be taken into account.

This information, clarification or confirmation will not substantially change the terms of the tender submitted within the deadline for receipt of tenders. Furthermore:

- Tenderers must not modify their submitted tender or add any new elements to it (other than purely administrative documentation). Their reply must, therefore, make clear reference to the relevant information already present in the file.
- Where the financial proposal is concerned, tenderers must not add any new prices, but only explain the proposal on the basis of elements already present in the file, which should be explicitly mentioned.

If tenderers fail to observe these instructions, replies may be disregarded and the Office may reject the tender.

6) AWARD PHASE

Submission of a tender implies acceptance of receiving notification of the outcome of the procedure by electronic means.

Tenderers will be notified of the outcome of this procurement procedure by email. The notification will be sent to the email address provided in the e-Submission application for the tenderer (group leader in case of a joint tender) under the section Tender Contact Info. The same email address will be used by the Office for all other communications with the tenderer. It is the tenderer's responsibility to provide a valid email address and to check it regularly. The sending out of the notification letters does not create any contractual relationship.

Tenderers are reminded that the evaluation process and award procedure may last several weeks or months.

Tenderers may submit any observations concerning the procurement procedure to the Office using the contact details under Heading I.1 of the contract notice. If tenderers believe that there is maladministration, they may lodge a complaint to the European Ombudsman within two years of the date when they become aware of the facts which form the basis for the complaint (see <http://www.ombudsman.europa.eu>).

A contract award notice will be sent for publication in the Official Journal of the European Union within 30 days after the signing of the Contract.

Within two months of notice of the outcome of the procedure (contract award decision), tenderers may launch an action for its annulment. Any request tenderers may make and any reply from the Office, or any complaint for maladministration, will have neither the purpose nor the effect of suspending the time limit for launching an action for annulment nor open a new period for launching an action for annulment.

The body responsible for hearing annulment procedures is indicated in Section VI.4.1 of the contract notice.

7) CONTRACT PHASE

The contractual relationship between the Office and the successful tenderer will be governed by a direct contract.

All the terms governing the provision of the services or supplies are defined at the outset. Once signed, they can be implemented directly without any further contract procedures (e.g. order forms or specific contracts).

When preparing their offers, tenderers should take full account of all provisions included in the procurement documents, as they will define and govern the contractual relationship to be established between the Office and the successful tenderer.

8) DATA PROTECTION

Personal data gathered for the purpose of the present procedure will be processed pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. This data will be processed by the Office as indicated in the privacy statement published on the Office's website (<https://euipo.europa.eu/ohimportal/en/public-procurement>). Any request regarding your personal data will be addressed to the data controller responsible for the call for tenders (FD.DataProtection@euipo.europa.eu). You may also contact the Office's Data Protection officer (DPO) at DataProtectionOfficer@euipo.europa.eu.

If your request has not been responded to adequately by the data controller and/or DPO, you can lodge a complaint with the European Data Protection Supervisor at edps@edps.europa.eu.

Thank you for the interest you are showing in the Office.

Yours faithfully,

The Authorising Officer