



EUROPEAN
COURT
OF AUDITORS

Veronica Ardelean

Director of Human Resources, Finance and General Services
Secretariat-General

Luxembourg, 14 September 2021

Subject: Invitation to tender

Ref.: Open call for tenders AO 779 – “Provision of external expertise in the field of banking supervision and resolution”

Lot 1 - SRB resolution planning and execution/actions, valuation, Fund aid assessment/state aid assessment

Lot 2 - ECB supervisory activities

Dear Madam, dear Sir,

1. SUBJECT MATTER

The European Court of Auditors (hereinafter referred to as “Court”) is planning to award the contracts resulting from the above procurement procedure.

The procurement documents consist in the contract notice, this invitation letter, the draft contract, the tender specifications with their annexes and the model offer.

The procurement documents are only available on TED e-Tendering website¹ via the following link:

¹ Subscription to the call for tender at the above link allows interested economic operators to receive e-mail notifications when new information or documents are published. Subscription is free of charge and does not involve any commitment to submit a tender.

<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=9309>

2. SUBMISSION OF TENDERS

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

Economic operators must submit tenders exclusively via the electronic submission system available at the following web address:

<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=9309>

under the tab, "Submit a tender".

Tenders submitted in any other way (e.g. e-mail or by letter) will be disregarded.

For detailed instructions on how to submit a tender, please consult the e-Submission Quick Guide². In case of technical problems, please contact the e-Submission Helpdesk (see contact details in the e-Submission Quick Guide) as soon as possible.

In order to submit a tender using e-Submission, 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 in the PIC-management [Quick Guide for Economic Operators](#)³. Economic operators already registered in the Participant Register shall reuse their existing PICs when preparing tenders in e-Submission.

The closing date for the submission of tenders is **Friday 5 November 2021, 16:00 CET**.

Make sure you submit your tender on time: we advise you to start completing your tender as early as possible. To avoid any complications due to late receipt/non-receipt of tenders by the deadline, please ensure that you submit your tender several hours before the deadline. Any tenders received after the deadline indicated in the tender documents 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 tenders⁴.

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

² https://webgate.ec.europa.eu/digit/opsys/esubmission/assets/documents/manual/quickGuide_en.pdf and joint to the procurement documents in the document library on the above-mentioned TED e-Tendering website.

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>.

³ https://webgate.ec.europa.eu/supplier_portal_toolbox/quickGuide/SP_quickGuide_en.pdf.

⁴ 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.

The following documents shall be dated and signed, either by hand or by applying a qualified or an advanced electronic signature based on a qualified certificate, by an authorised representative of the signatory:

- Declaration(s) on Honour on exclusion and selection criteria (Model offer - Annex 3 - Form 5);
- and
- the submission report (a document generated by e-Submission and listing all the documents included in the tender, to be signed by the tenderer or the group leader in case of a joint tender).

When the Declaration(s) on Honour and/or the submission report are signed by hand, a scanned copy must be attached to the tender in e-Submission. The hand-signed originals must be sent by letter to the Court's postal address at the latest on the first working day following the electronic submission of tender.

- The following label must be attached to the **envelope of this letter with the hand-signed originals**:

<p>European Court of Auditors Reception Desk – Procurement Service 12, rue Alcide de Gasperi L-1615 Luxembourg</p> <p>INVITATION TO TENDER No AO 779</p> <p>NOT TO BE OPENED BY THE RECEPTION DESK OR MAIL SERVICE OR ANY UNAUTHORISED PERSON</p>
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Only the originals of the Declaration on Honour and the submission report are to be sent by letter, no other documents.

After submitting a tender, but before the deadline for receipt of tenders, a tenderer may definitively withdraw its tender⁵, or withdraw it and replace it with a new one⁶. A withdrawal receipt will be provided by e-Submission as proof of withdrawal.

Tenders not complying with the rules referred to above shall be considered inadmissible.

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

⁵ 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.

⁶ 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 have already been included in the replaced tender.

3. PRESENTATION OF TENDERS

Tenders must be:

- accurate, concise, complete and perfectly legible so that there can be no doubt as to words and figures. Incomplete or illegible answers could result in disqualification;
- drawn up using the model reply forms in Annex 3;
 - The model reply forms must be accompanied by any supporting documents requested. Tenderers may also add any other information that they consider will substantiate the aspects of their tender; and
- accompanied by all the documents and information requested in Annex 3.

4. GENERAL CONDITIONS

The validity period of the tender, during which tenderers may not modify the terms of their tenders in any respect, is indicated under Heading IV.2.6 of the contract notice.

Submission of a tender implies for the tenderer:

- acceptance of all the terms and conditions set out in the Financial Regulation and its Annex 1⁷;
- acceptance of all the terms and conditions set out in the procurement documents;
- irrevocable commitment to perform the contract under the conditions set out in the offer should the contract be awarded to the tenderer; and
- waiver of the tenderer's own general or specific terms and conditions.

Before submitting a tender, tenderers must take all the steps required to gain a proper understanding of the scale and nature of the subject of the invitation to tender and of any potential difficulties. In submitting a tender, tenderers acknowledge that they are aware of the risks and problems in connection with performance of the contract.

Submission of a tender is binding on the tenderer to whom the contract is awarded for the duration of the contract.

Once the Court has opened the tender, the document shall become the property of the Court of Auditors and it shall be treated confidentially.

5. CONTACTS DURING THE PROCUREMENT PROCEDURE

Contacts between the Court and tenderers are prohibited throughout the procedure save in exceptional circumstances and under the following conditions only:

- Before the time-limit for receipt of tenders (submission phase):
 - Upon request, the Court may provide additional information solely for clarifying the procurement documents.

⁷ See point 9 “Legal framework”.

Any requests for additional information must be made in writing through the indicated TED e-Tendering website in the "questions and answers" tab, by clicking "create a question": <https://etendering.ted.europa.eu/cft/cft-display.html?cftId=9309> (registration on TED e-Tendering is required to be able to create and submit a question).

Requests for additional information made less than six working days before the time limit for receipt of tenders might not be processed.

- The Court may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other clerical error in the text of the procurement documents.

Any additional information including that referred to above will be published on indicated TED e-Tendering website (<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=9309>). The website will be updated regularly and it is the tenderer's responsibility to check for updates and modifications during the submission period.

Tenderers' attention is drawn to the fact that procurement documents may be subject to change, including the Price Offer Form and other Annexes. For this purpose, it is recommended that tenderers register in the TED e-tendering website in order to receive the notifications.

- After the opening of tenders (evaluation phase)
 - Pursuant to Article 151 Financial Regulation⁸, where a participant fails to submit evidence or to make statements, the evaluation committee or, where appropriate, the authorising officer responsible shall, except in duly justified cases, ask the participant to provide the missing information or to clarify supporting documents.
 - Pursuant to the same provision, the Court may correct obvious clerical errors in application documents after confirmation of the intended correction by the tenderer.
 - Such information, clarification or confirmation shall in both cases not substantially change application documents.

6. AWARD AND SIGNATURE OF THE CONTRACT

This invitation to tender is in no way binding on the Court. The Court's contractual obligation starts only when both parties sign the contract with the successful tenderer. Likewise, submission of a tender shall in no way entitle a tenderer to the award of the contract or a part thereof.

Up to the signature of the contract, the Court may cancel the procurement procedure, without the tenderers being entitled to claim any compensation. Where applicable, the reasons for that decision will be stated and communicated to all the tenderers.

Tenderers will be notified of the outcome of this procurement procedure by e-mail. The notification will be sent to the e-mail 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 Court for all other

⁸ See point 9 "Legal framework".

communications with the tenderer will use the same e-mail address. It is the tenderer's responsibility to provide a valid e-mail address and to check it regularly.

7. PERSONAL DATA

If processing your reply to the invitation to tender involves the recording and processing of personal data (such as your name, address and CV), such data will be processed pursuant to Regulation (EU) 2018/1725 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.

Unless indicated otherwise, any personal data will be processed solely for the purpose of the tenders' opening and evaluation by the authorising officer signing the invitation letter. Details concerning the processing of your personal data are available in the privacy statement at:

<https://www.eca.europa.eu/en/Pages/PersonalDataProtection.aspx>

However, personal data may, where appropriate, be transferred to our external audit provider and internal audit service, the panel referred to in Article 143 of the Financial Regulation and the European Anti-Fraud Office (OLAF) of the European Commission and the Early Detection and Exclusion System (EDES) set up by the Commission. Data regarding economic operators which are in one of the situations referred to in Articles 136 of the FR may be recorded in the EDES System set up by the Commission and communicated to persons designated by the Commission, to other institutions, agencies, authorities and bodies referred to in Article 142(4) of the Financial Regulation. For more information, see the Privacy Statement on (http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm).

You may, upon request, obtain access to your personal data and ask for any inaccurate or incomplete personal data to be rectified. Should you have any queries concerning the processing of your personal data, please address them to the data controller indicated above. You may also address yourself to the Court of Auditors' Data Protection Officer (ECA-data-protection@eca.europa.eu). You have the right to lodge a complaint at any time to the European Data Protection Supervisor (edps@edps.europa.eu).

8. OPENING OF THE BIDS

Tenders will be opened in public at the time and place indicated under Heading IV.2.7 of the contract notice. This session may take place online using the platform Microsoft Teams. In this case a link will be provided to the tenderers in due time in reply to your email registering for participation. A maximum of one representative per tender may attend the opening session. For organisational and security reasons the tenderer must provide the full name and nationality of the representatives⁹ at least two working days in advance to eca-procurement.service@eca.europa.eu.

The representatives will be required to present the submission receipt generated by e-Submission and to sign an attendance sheet. The Court reserves the right to refuse access to its premises if the above information or the tender reception confirmation are not provided as required.

⁹ This data is necessary to ensure access to Court's buildings. Details concerning the processing of personal data for visitors to the European Court are available in the privacy statement at:

https://www.eca.europa.eu/Lists/ECADocuments/PRIVACY_STATEMENT/Privacy-statement-visitors-en.pdf

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

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

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

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

9. LEGAL FRAMEWORK

The present procedure is governed by Regulation (EU, Euratom) No 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union¹⁰ (referred to in the invitation letter as the “Financial Regulation”).

This procurement procedure is an open procedure pursuant to Article 164 (2) of the Financial Regulation.

¹⁰ REGULATION (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2018:193:TOC>.

10. ANNEXES

The following annexes that are available on the above-mentioned TED e-Tendering website form an integral part of this invitation to tender:

- Annex 1: Draft contract;
- Annex 2: Tender specifications (administrative part and tender specifications); and
- Annex 3: Model offer including all standard reply forms.

I look forward to hearing from you and thank you in advance for your interest in the Court's activities.

Yours faithfully,

Veronica Ardelean

Director