



OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

INVITATION TO TENDER OHIM No° AO/004/15

Provision of services for the Production of animated videos for the Office for Harmonization in the Internal Market (OHIM) for Trade Marks and Designs

ANIM

ANNEX I – TENDER SPECIFICATIONS

1 INTRODUCTION

The Office for Harmonisation in the Internal Market (OHIM) was created as a decentralised agency of the European Union to offer IP rights protection to businesses and innovators across the EU and beyond. We have been based in Alicante, in Spain, since 1994, where we manage registration of the Community trade mark and the registered Community design. These industrial property rights are valid throughout the European Union. More recently, our remit has been extended in the form of the European Observatory on Infringements of Intellectual Property Rights which brings public and private stakeholders together in the fight against piracy and counterfeiting.

2 SUBJECT OF THE INVITATION TO TENDER

The production of animated videos is needed as a support for the communication activities of OHIM.

3 GENERAL DESCRIPTION OF THE PROJECT

The winning tenderer will be required to produce animated videos according to OHIM's needs and under OHIM's supervision. The tenderer will need to use modern technologies, appropriate equipment and expertise to provide the Office with high quality services. The detailed description of the required services can be found in Annex II "Technical Specifications".

Office for Harmonization in the Internal Market, Avda de Europa 4, E-03008 Alicante, Spain

Tel.: +34 965 139 100; Fax: +34 965 138 500

<http://oami.europa.eu>

4 PURPOSE

The purpose of this Call for Tender is the signature of a Framework Contract with one tenderer. The duration of the contract will be 1 year, renewable 3 times, the maximum duration being 4 years.

5 SUBMISSION OF TENDERS, DEADLINE FOR SUBMISSION AND PROCEDURES

If you wish to participate in this invitation to tender, please submit your tender in one of the official languages of the European Union, in accordance with the following procedure.

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

5.1 Deadline and submission

- by registered post or by courier service, posted not later than 18/09/2015 as evidenced by the postmark or the date of the deposit slip, to the following address:

Office for Harmonization in the Internal Market (Trade Marks and Designs)
Invitation to tender OHIM No AO/004/15
Procurement
Avenida de Europa 4
E-03008 Alicante
Spain

- or by hand (in person or by a representative of the tenderer), to the following address:

Office for Harmonization in the Internal Market (Trade Marks and Designs)
Invitation to tender OHIM No AO/004/15
Sandrine BUARD
Procurement
Avenida de Europa 4
E-03008 Alicante
Spain

not later than 18/09/2015. In this case, proof of submission will consist of a receipt dated and signed by an Office's authorized staff to whom the tender was delivered.

Tenders may be delivered by hand during the Office's opening hours, namely from 09.30 to 13.00 and from 15.00 to 17.00.

5.2 Presentation of tenders

5.2.1 Tenders must be submitted in a sealed envelope, itself enclosed within a second sealed envelope. The two envelopes must be sealed.

The inner envelope should be marked as follows:

Tender from:

Invitation to tender OHIM N° AO/004/15

Title: Provision of services for Production of animated videos (ANIM) of the Office of Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)

THIS ENVELOPE IS NOT TO BE OPENED BY THE INTERNAL MAIL SERVICE

If self-adhesive envelopes are used, they must be sealed with adhesive tape and the sender must sign across this tape.

- 5.2.2** The tender must be submitted in duplicate.
- 5.2.3** The tender must be signed by the tenderer or its duly authorised representative.
- 5.2.4** The tender must be completely legible in order to eliminate any doubt whatsoever as to the terms used and the figures proposed.
- 5.2.5** Each page of the tender must bear the name of the company and the initials of the person responsible for the tender.
- 5.2.6** The tender must be drawn up using the SRF included in the tender documents.
- 5.2.7** The Office concludes contracts and makes payments in EURO. Therefore, all prices must be expressed in EURO.
- 5.2.8** Since the Office is exempt from all duties and taxes, prices quoted should be NET OF TAX.
- 5.2.9** An electronic version of the tender documents on CD-ROM would be desirable. If a CD-ROM is provided, it should be placed in the inner envelope with the other tender documents. Any information presented in tabular form on a CD-ROM should be in a usable format such as a worksheet. In the event of discrepancies between the paper and electronic versions, the paper version will be considered authentic.
- 5.2.10** It is strongly recommended that tenders are submitted in an environmentally friendly way, limiting attachments to what is required and reducing plastic folders or binders to its minimum.

6 PERIOD OF VALIDITY OF TENDERS

Tenders will remain valid for a period of at least nine months from the final date for submission of tenders indicated in Point 5.1 above. Tenderers shall undertake to comply with all the terms and conditions of their tenders during this period.

7 ACCEPTANCE OF CONDITIONS

Submission of a tender implies that the tenderer accepts the terms and conditions laid down in these Tender Specifications, in the Technical Specifications and the Draft Framework Contract and, where applicable, renounces its own general or special terms and conditions. Submission of a tender will bind the successful tenderer for the duration of the Framework Contract.

8 CONTACTS WITH THE OFFICE

Contacts between the Office and tenderers during the whole of the procurement procedure are not authorised, except in exceptional cases, and may only be made under the following conditions:

- Before the closing date for the submission of tenders
 - At the initiative of the tenderer, the Office may provide further information with the strict aim of clarifying the nature of the Framework Contract.

Requests for additional information should be introduced in the section “Questions and answers” of the call for tenders published in e-Tendering:

<https://etendering.ted.europa.eu/cft/cft-display.html?cftId=942>

Important information: Any additional information and all answers to questions concerning this invitation to tender will be made available exclusively on the call for tenders page in e-Tendering.

The Office is not bound to reply to requests for additional information made less than five working days before the deadline for submission of tenders.

- At its own initiative, the Office may inform interested parties of any error, lack of precision, omission or clerical error in the text of the tender documents.
- After the opening of the tenders
 - If any clarification is required in connection with a tender, or if obvious clerical errors in the tender must be corrected, the Office may contact the tenderer in writing, although such contact may not lead to any alteration of the terms of the tender.
- Contract award notice
 - At the end of the award procedure, all tenderers will be informed of the outcome of their tenders. Tenderers are reminded that the evaluation process and award procedure may last several weeks, even months.

- A contract award notice will be published in the Official Journal of the European Union within 48 days after the signature of the Framework Contract.

9 TENDER GUARANTEE

The submission of a tender is not subject to lodging a preliminary tender guarantee.

10 VISIT TO THE PREMISES

Visiting of the premises is not applicable to the subject of this call for tenders.

11 SUBMISSION OF SAMPLES

The submission of a tender is not subject to submitting any samples.

12 PUBLIC OPENING OF TENDERS

On 28/09/2015 at 11:00, at the Office's premises in Avenida de Europa, 4, E-03008 Alicante, Spain, there will be a public opening of the tenders received.

Each tenderer may send up to two representatives. The Office should be informed by fax on +34 96 513 85 00 or by email to procurement@oami.europa.eu of the names and identity document numbers of the visitors before 25/09/2015.

The sole purpose of the opening session is to check compliance with the formal requirements for the submission of tenders referred to in Point 5 of these Tender Specifications. The Framework Contracts will not be awarded during this opening session.

No information on the content of the tenders will be divulged at this meeting.

13 EVALUATION AND AWARD

13.1 Exclusion criteria

Tenderers shall be excluded from this invitation to tender where:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of res judicata;
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;

- d) they are not in compliance with their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union's financial interests;
- f) they are currently subject to an administrative penalty referred to in Article 109(1) of Regulation (EU, Euratom) N° 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.
- g) they are subject to a conflict of interests.
- h) they are guilty of misrepresenting the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply that information.

Tenderers must show that they are not in one or more of the situations listed above.

Candidates and tenderers shall provide together with their tender a solemn declaration, duly signed and dated and presented before a judicial or administrative authority, a notary or a qualified professional body in their country of origin or provenance, certifying that they are not in one of the situations referred to in 13.1.a to 13.1.h above (Annex 4 of the SRF).

At the end of the award procedure, the tenderer to whom the contract is to be awarded must, as an obligation, and to avoid being excluded from the invitation to tender, provide evidence that it is not in one of the situations referred to above. The tenderer shall have a 15 calendar time limit (which may be extended in exceptional cases) preceding the signature of the contract for providing the requested documentary evidence hereunder:

- In relation to items (a), (b) and (e) above, relevant extract(s) from the judicial record or, failing that, equivalent documentation issued by a judicial or administrative authority in the country where the tenderer is established. The extract(s) or equivalent documentation must be the most recent available. Depending on the national legislation of the country in which the tenderer is established, these documents must relate to entities with legal personality and/or natural persons; in the latter case, they must relate to the person(s) empowered to represent the tenderer and sign the Framework Contract. (Annex 1 of the SRF). If it so wishes, the tenderer may already submit, together with the tender, some or all of the documentary evidence required.
- In relation to item (d) above, the most recent certificates issued by the competent social security and tax authorities of the country where the

tenderer is. Where no such certificate is issued in that country, it can be replaced by a sworn or solemn statement made before a judicial or administrative authority, a notary or a qualified professional body in that country. The statement provided must be dated less than four months before the final date for submission of tenders. Depending on the national legislation of the country in which the tenderer is established, these documents must relate to entities with legal personality and/or natural persons; in the latter case, they shall relate to the person(s) empowered to represent the tenderer and sign the Framework Contract. (Annex 2 and Annex 3 of the SRF). If it so wishes, the tenderer may already submit, together with the tender, some or all of these documentary evidence required.

- In relation to items (c), (f), (g) and (h) above, Annex 4 of the SRF referred to above is valid.

However, where the tenderer or the candidate has already submitted the abovementioned documentary evidence in the framework of another procurement procedure with the Office and provided that the issuing date of these documents does not exceed one year and that they are still valid, the tenderer may request the re-use of such documentary evidence by indicating in Annex V of the SRF the exact reference of the previous OHIM procurement procedure.

Nevertheless, the Office reserves the right to request the tenderer to whom the contract is to be awarded to submit the relevant documentary evidence afresh should the Office deem it necessary.

13.2 Selection criteria

Tenderers will be selected if they can prove that they have sufficient economic and financial capacity, on the one hand, and sufficient technical and professional capacity, on the other hand.

During the selection phase no information relating to the technical proposal or financial proposal should be part of the file.

13.2.1 Economic and financial capacity

In order to prove that the tenderer has sufficient economic and financial capacity to perform the Framework Contract, the following documentation must be presented:

- solvency bank certificates of the company (Annex 5B of the SRF);
- certified financial statements and audit reports for the last three financial years for which accounts have been closed, or equivalent documentation (e.g. where company law in the country in which the tenderer is established does not require publication of balance sheet) (Annex 6 of the SRF);
- a statement of overall turnover during the last three financial years (Annex 7 of the SRF);

A minimum cumulative company turnover of €100,000.00 during the last three years for which accounts have been closed is required.

- if the tenderer relies on the capacities of other entities, a written undertaking on the part of those entities confirming that they will place the resources necessary for performance of the Contract at the disposal of the tenderer is required. The statement in Annex 8A of the SRF is to be used in case of a parent company, Annex 8B of the SRF in case of a group of companies, f.e. a consortium and Annex 8C of the SRF in case a group of companies constituting a separate entity.

However, where the tenderer or the candidate has already submitted the abovementioned documentary evidence in the framework of another procurement procedure with the Office and provided that the issuing date of these documents does not exceed one year and that they are still valid, the tenderer may request the re-use of such documentary evidence by indicating in Annex V of the SRF the exact reference of the previous OHIM procurement procedure.

Nevertheless, the Office reserves the right to request the tenderer to whom the contract is to be awarded to submit the relevant documentary evidence afresh should the Office deem it necessary.

13.2.2 Technical and professional capacity

Tenderers are required to prove that they have sufficient technical and professional capacity to perform the Framework Contract. To that end they must present documentation as to the following criteria:

- Presentation of the Company (History, activities,...) (Annex 9 of the SRF);
- The educational and professional qualifications of the company's managerial staff.(Annex 10 of the SRF);
- List of relevant projects carried out in the last three years, with the sums, dates and place. The list of the most important projects shall be accompanied by certificates of satisfactory execution, specifying whether they have been carried out in a professional manner and have been fully completed (Annex 11 of the SRF);
- A statement of the average annual manpower and the number of managerial staff of the service provider in the last three years (Annex 12 of the SRF);
- Presentation of the proposed team foreseen, with detailed profile of each team member, including provision of Curricula Vitae (Annex 14 of the SRF); Presentation of the profiles with the European Curriculum Vitae is preferred. One CV must be presented for each one of the requested key profiles (one CV per key profile requested – cf. point 4 of Annex II). CVs which do not satisfy the essential requirements set out in the Technical Specifications (Annex II Point 4 Description of profiles) shall be eliminated. Moreover a clear statement certifying that the Company can provide at least one additional person to support each of the profiles that meet the minimum requirements specified necessary to support the development for services. The same person(s) cannot be proposed for different profiles. (Annex 14 of the SRF).
- Recent proof of inclusion in a professional register (Annex 15 of the SRF);

- Declaration certifying that, if awarded the Framework Contract, and if the services will be performed on Spanish territory, the tenderer undertakes to comply with Spanish legislation on health and safety at work (Annex 16 of the SRF).

13.3 Technical Evaluation

The tenderers must present a technical proposal, in accordance with the Technical Specifications (Annex 17 of the SRF).

The technical proposal will be evaluated by establishing for each tender an overall technical score taking into account the individual scores of the different technical criteria as listed hereafter. Each criterion has a weight in the scoring.

Because of the strategic importance of the service, tenders which do not reach 50.00% of the overall score of the technical evaluation will be eliminated at this stage.

The framework contract shall be awarded on the basis of the most economically advantageous tender and in strict compliance with the technical specifications, taking into account the following criteria:

Criterion 1: Creation of a video sample based on storyboard (see Section 5.1 of Annex II). 35 points.

1. Capability to develop the storyboard to deliver a completed video, following correctly a set of basic instructions. 10 points.
2. Use of modern animation techniques and transitions. Degree of complexity of graphics and movements, reflected in high quality visuals and fluid graphic movements of characters (including facial expressions) or objects. 20 points.
3. Compliance with the look and feel of the current OHIM website, and correct use of OHIM's logo and visual identity. 5 points.

Criterion 2: Creation of a video sample based on the topic "OHIM's digital journey 2014" storyboard (see Section 5.2 of Annex II): 35 points.

The quality of the sample provided will be evaluated in terms of:

1. Suitability for the target group (a multi-lingual audience of users and potential users). This evaluation point includes assessment of how easily the video sample can be adapted into multi-lingual versions. 10 points.
2. Clarity – a clear and informative animated illustration of the four key objectives outlined in the original website text, as well as a clear and informative animated explanation and rendering of a chosen sample of the figures provided in the original text. 10 points.

3. Functionality – one of the objectives of the exercise is to attain a video sample that could potentially replace the part of the text in the webpage centred on the four key objectives. 10 points.
4. Compliance with the look and feel of the current OHIM website, and correct use of OHIM's logo and visual identity. 5 points.

Criterion 3: Management and work methodology storyboard (see Section 5.3 of Annex II): 20 points

The following will be evaluated: the proposed approach for the delivery of the services, timetable and other actions leading to fulfilment of the tasks described in the Technical Specifications, quality control, flexibility (ability to adapt to changes, order cancellation/modification).

Criterion 4: Analysis of a selection of videos storyboard (see Section 5.4 of Annex II): 10 points

This criterion serves to assess whether, or to what degree, the tenderer has understood the scope of the Call for Tender, knowledge of main multimedia issues in the online environment as well as technical quality issues regarding animated videos.

Description of creation of the video samples can be found in Annex II Technical Specifications.

TOTAL : 100 points

Min 50 points have to be obtained

Tenderers scoring below 50 points in the overall result of the technical evaluation will be eliminated at this stage.

13.4 Financial evaluation

Tenderers are required to fill in the financial evaluation document in Annex 18 of the SRF.

The prices in this tender shall be "all-inclusive". No other extra costs will be charged to the OHIM.

The tender found to be the cheapest will receive a price indicator of 100 points. The remaining tenders will receive lower price indicators in proportion to their prices.

13.5 Award

The tender with the best technical score will receive a quality indicator of 100 points. The remaining tenders will receive lower quality indicators in proportion to their technical scores.

Price will be given a weighting of 40%, and quality will be given a weighting of 60%.

The final score will be obtained by using the following formula:

$((\text{Number of quality points} * 60\%) + (\text{Number of price points} * 40\%))$

14 CONTRACTUAL PROCEDURES

14.1 article not applicable

14.2 article not applicable

14.3 The Framework Contract, a draft of which is attached as Annex 3 to the tender documents, will be concluded for an initial period of one (1) year, renewable by tacit agreement for no more than three times, each time for a period of one (1) year and under the same conditions, save where one of the parties informs the other of its intention not to renew the framework contract, by a registered letter sent at least three months before the due expiry date. The total duration of the Framework Contract may under no circumstances exceed four (4) years.

14.4 The conclusion of a Framework Contract does not grant the contractor any exclusive rights in relation to the services referred to in this Invitation to tender.

14.5 Tenderers should be aware that by awarding this Framework Contract the Office is not bound to order all or part of the tenderer's services.

14.6 This invitation to tender shall in no way bind the Office. The Framework Contract will only enter into effect on the date of signing of the Framework Contract with the successful tenderer.

14.7 Until the Framework Contract has been signed, the Office may abandon the invitation to tender or cancel the award procedure, and tenderers shall have no entitlement to claim any compensation. In this case, reason(s) shall be given for such a decision, and all tenderers informed thereof.

14.8 Terms of application for Liquidated Damages are defined in Article 17 of the General Terms and Conditions.

15 PERFORMANCE GUARANTEE:

The current Contract is not subject to the submission of a performance bank guarantee.

16 VOLUME OF THE FRAMEWORK CONTRACT

The total volume of the Framework Contract, for four (4) years, is estimated at €250,000.00.

Please note that the volume indicated is an estimation only and that the total value of the Contract depends on the quantities the Office will order. However, the Office cannot commit itself to exact quantities to be ordered. The Office may exercise the option to increase the estimated market amount at a later stage via negotiated procedure with the successful tenderer(s) in accordance with Article. 134 (1) (f) of

Commission Delegated Regulation (EU) n° 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) N° 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union.

17 USE OF EXISTING SOFTWARE

If the Contractor uses software of which he/she is the proprietor or which is owned by a third party, or if the software provided incorporates software of which the Contractor is the proprietor or which is owned by a third party, the Contractor shall:

- mention this software explicitly in the tender submitted in response to the invitation to tender;
- indicate whether the use thereof by the Office gives rise to the payment of development or user licences, and provide an estimate of the cost;
- specify whether the use thereof by third parties (for example, the Member States or other institutions) would give rise to the payment of development or user licences.

It is reminded that, in any case, as stated in Article 13.4 of these tender specifications, the prices in the tender shall be “all-inclusive”. No other extra costs shall be charged to the OHIM.

The Office shall give its agreement in writing to the use of such software within the framework of the Specific Contract on software development.

The Office reserves the right to disseminate and/or distribute the results of any software development to third parties, even where this includes existing software, subject to compliance with licensing rights as regards any software owned by the Contractor or a third party mentioned in the tender submitted in response to the invitation to tender.

18 USER MANUALS AND DOCUMENTATION

The Contractor shall draw up the manuals and documentation necessary for the satisfactory and proper operation of the software and shall place these at the disposal of the Office. In drawing up these documents, the Contractor shall comply with the norms and standards in force.

In general, these documents shall include:

- an installation manual;
- an administration manual;
- a user manual;
- installation documentation.

The Contractor shall, as necessary, update and replace the user manuals.

19 PROVISION OF REFERENCE MATERIAL

In accordance with Article 28 of the General Terms and Conditions Applicable to Contracts with the Office, the Office shall be the sole proprietor of any documentation specifically developed for the Office.

The provision of reference material shall be subject to the obtaining of a collective use licence, the terms of which shall be appropriate to the nature and subject of the training concerned.

20 PERSONAL DATA

Personal data gathered for the purpose of the present procedure shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data.

Said data will be processed only for the purpose of evaluating the tenders on the basis of the specifications of the invitation to tender. The tenderer may, upon request, obtain the communication of his personal data and rectify any inaccurate or incomplete data. Any request to that effect shall be addressed to Data Controller responsible for the Call for tenders (Procurement.DataProtectionController@oami.europa.eu). The tenderer also has a right of recourse at any time to the European Data Protection Supervisor pursuant to Regulation (EC) No 45/2001.

21 ENVIRONMENT POLICY

The Office runs an environmental management system (EMAS) and aims to minimise the environmental impact of all its activities, including those carried out under contracts. The successful tenderer will, therefore, be requested to apply the Office's environmental guidelines in their work, (see Office integrated management systems policy document annexed to the tender documentation). In accordance with its policy, the Office recommends to apply as far as possible Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 allowing voluntary participation by organisations in a Community eco-management and audit scheme for all goods, works and services requested by the Office.