

# INSTRUCTIONS TO TENDERERS

**REFERENCE:** <according to the participation notice>

When submitting their tenders, tenderers must follow all instructions, forms, terms of reference, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified may lead to the rejection of the tender.

These instructions set out the rules for submitting, selecting and implementing contracts financed under this call for tenders, in conformity with the practical guide, (available on the internet at this address: <https://wikis.ec.europa.eu/display/ExactExternalWiki/ePRAG>).

## 1. Services to be provided

The services required by the contracting authority are described in the terms of reference. They are set out in Annex II to the draft contract, which forms Part B of this tender dossier.

### Timetable

	DATE	TIME*
Deadline for requesting clarification from the contracting authority	<05.06.2023>	10:00
Last date for the contracting authority to issue clarification	<05.06.2023>	10:00
Deadline for submitting tenders	<05.06.2023>	10:00
Completion date for evaluating technical offers	<05.06.2023>	10:00
Notification of award	<05.06.2023>	10:00
Contract signature	<05.06.2023>	-
Start date	<05.06.2023>	-

\* All times are in the time zone of the country of the contracting authority

□ Provisional date

## 2. Participation, experts and subcontracting

- Participation in this tender procedure is open only to the invited tenderers. For the eligibility, please see point 10 of the contract notice.
- Natural or legal persons are not entitled to participate in this tender procedure or be awarded a contract if they are in any of the situations mentioned in Sections 2.4. (EU restrictive measures), 2.6.10.1.(exclusion criteria) or 2.6.10.1.2.(rejection from a given procedure) of the **practical guide**. Should they do so, their tender will be considered unsuitable or irregular respectively.
- In the cases listed in Section 2.6.10.1.1. of the **practical guide** tenderers may be excluded from EU financed procedures and be subject to financial penalties up to 10% of the total value of the contract in accordance with the Financial Regulation in force. This information may be published on the Commission website in accordance with the Financial Regulation in force.

- d) The contract between the tenderer/contractor and its experts shall contain a provision that it is subject to the approval of the partner country. It is furthermore recommended that this contract contains a dispute resolution clause.
- e) Subcontracting is allowed but the contractor will retain full liability towards the contracting authority for performance of the contract as a whole. If the tenderer intends to subcontract one or more parts of the contracted services, this must be clearly stated in the organisation and methodology and the tender submission form.
- f) All subcontractors and capacity providing entities must be eligible for the contract. If the identity of the intended subcontractor is already known at the time of submitting the tender, the tenderer must furnish a statement guaranteeing the eligibility of the subcontractor. If any subcontractor/capacity-providing entity identified in this way does not meet the eligibility criteria, the tender shall be rejected. If the identity of the subcontractor is not known at the time of submitting the tender, any subcontract must be awarded according to Article 4 of the general conditions of the contract.
- g) Subcontractors and capacity providing entities cannot be in any of the exclusion situations listed in Section 2.6.10.1 of the practical guide.
- h) For the avoidance of doubt, where the experts are not directly employed or contracted by the tenderer/contractor but through a third party, the latter is a sub-contractor.

Experts made available by any third party (sub-contractors) are considered for all purposes related to the present contract to be the personnel of the contractor.

### 3. Content of tenders

Offers, all correspondence and documents related to the tender exchanged by the tenderer and the contracting authority must be written in English and/ or Romanian.

Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are accompanied by a translation into the language of the procedure. For the purposes of interpreting the tender, the language of the procedure has precedence.

Failure to fulfil the requirements in clauses 4.1, 4.2 and 7 will constitute an irregularity and may result in rejection of the tender.

#### 4.1. Technical offer

The technical offer must include the following documents:

- (1) **Tender submission form** including:
  - a) Signed statements of exclusivity and availability (using the template included with the tender submission form)
  - b) A signed **declaration** together with a signed "Declaration on honour on exclusion criteria and selection criteria"<sup>1</sup>, using the format attached to the tender submission form.
  - c) A completed **financial identification form** to indicate the bank account into which payments should be made if the tender is successful. (If the tenderer has already signed another contract with the European Commission, it may provide instead

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<sup>1</sup> See PRAG 2.6.10.1.3 A)



either its financial identification form number or a copy of the financial identification form provided on that occasion, unless it has changed in the meantime).

- d) The **legal entity file** and supporting documents (if the tenderer has already signed another contract with the European Commission, it may provide instead either its legal entity number or a copy of the legal entity file provided on that occasion, unless it has changed its legal status in the meantime).
  - e) Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorised to do so.
- (2) **Organisation and methodology** (will become an Annex to the contract), to be drawn up by the tenderer using the format to the draft contract.
- (3) Non key experts may also be instrumental to achieve the contract objectives. However, they are not subject to evaluation by the evaluation committee. Their positions and responsibilities may be defined in Section 6.1.2 of the terms of reference in Annex II to the draft contract.
- (4) Documentary proof, self-declaration or statements required under the law of the country in which the natural person, company (or each of the companies for consortia), the sub-contractors and the capacity providing entities are effectively established, to show that they are not in any of the exclusion situations listed in Section 2.6.10.1 of the practical guide. This evidence, documents or statements must be dated, no more than one year before the date of submission of the tender. In addition, a statement must be furnished stating that the situations described in these documents have not changed since then.

If the nature of your entity is such that it cannot fall into the exclusion situations and/or cannot provide the documents indicated above (for instance, national public administrations and international organisations), please provide a self-declaration explaining this situation.

The contracting authority may waive the obligation of any tenderer to submit the documentary evidence referred to above based on a risk assessment, or if such evidence has already been submitted for the purposes of another procurement procedure, provided that the issue date of the documents does not exceed one year and that they are still valid. In this case, the tenderer must declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that his/her situation has not changed.

- (6) No documentary evidence of the selection criteria in point 16 of the contract notice shall be submitted but no pre-financing will be granted.

If the documentary evidence submitted is not written in one of the official languages of the European Union, a translation into the language of the procedure must be attached. Where the documents are in an official language of the European Union other than the one of the procedure, it is however strongly recommended to provide a translation into the language of the procedure, in order to facilitate the evaluation of the documents. Documentary proof or statements may be in original or copy. If copies are submitted, the originals must be available to send to the contracting authority upon request.

Tenderers are reminded that the provision of false information in this tender procedure may lead to the rejection of their tender and to their exclusion from EU-funded procedures and contracts.

#### **4.2. Financial offer**

The financial offer must be presented as an amount in EUR and must be submitted using the template for the global-price version included in the tender dossier. The electronic version of this document 'B8 — Budget for a global-price contract' can be found on the website

[https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesB\(Ch.3\):Servicecontracts](https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesB(Ch.3):Servicecontracts).

Tenderers are reminded that the budget available for this contract, as stated in the contract notice, ranges:

until MDL 69 155 for procurement of consulting services in tourism and business development

Payments under this contract will be made in the currency of the tender, i.e. in MDL at the commercial exchange rate of the bank on the day of the transfer.

The applicable tax and customs arrangements are as follows:

##### Exemption of taxes

The European Commission and the Government of the Republic of Moldova have agreed in EU-Republic of Moldova Financing Agreement to allow full exemption from the following taxes: exempt from VAT with the right of deduction, exempt from excise duties, payment of customs tax, tax for carrying out customs procedures, tax for goods which, in the process of use, cause environmental pollution, according to the Government Decision no. 246/08.04.2010.

#### **4. Variant solutions**

Tenderers are not authorised to tender for a variant in addition to this tender.

#### **5. Period during which tenders are binding**

Tenderers are bound by their tenders for 90 days after the deadline for submitting tenders or until they have been notified of non-award.

The selected tenderer must maintain its tender for a further 60 days. A further period of 60 days is added to the validity period irrespective of the date of notification. This period can be further extended when the contracting authority is required to obtain the recommendation of the panel referred to in Section 2.6.10.1.1 of the practical guide, up to the adoption of that recommendation.

#### **6. Additional information before the deadline for submitting tenders**

Tenderers may submit questions in writing to the following address up before the deadline for submission of tenders, specifying the publication reference and the contract title:

Contact name: Sergiu Rența, project manager  
Address: 2 Piața Independenței, Cahul, MD-3901, Republic of Moldova  
E-mail: [sergiurența.ch@gmail.com](mailto:sergiurența.ch@gmail.com)

The contracting authority has no obligation to provide clarification after this date.

Any tenderer seeking to arrange individual meetings with the contracting authority and/or the government of the partner country and/or the European Commission concerning this contract during the tender period may be excluded from the tender procedure.

No information meeting or site visit is foreseen.

## **7. Submission of tenders**

Tenders must be sent to the contracting authority. They must include the requested documents in clause 4 above and be sent:

- **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<sup>2</sup>, to:

Cahul District Council  
2 Piața Independenței, Cahul, MD-3901, Republic of Moldova

**Tenders submitted by any other means will not be considered.**

The contracting authority may, for reasons of administrative efficiency, reject any tender submitted on time to the postal service but received, for any reason beyond the contracting authority's control, after the effective date of approval of the short-list report or of the evaluation report, if accepting tenders that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

## **8. Amending or withdrawing tenders**

Tenderers may amend or withdraw their tenders by written notification prior to the deadline for submitting tenders. Tenders may not be amended after this deadline.

Any such notification of amendment or withdrawal must be prepared and submitted in accordance with Clause 7. The outer envelope (and the relevant inner envelope) must be marked 'Amendment' or 'Withdrawal' as appropriate.

## **9. Costs for preparing tenders**

No costs incurred by the tenderer in preparing and submitting the tender are reimbursable. All such costs must be borne by the tenderer, including the cost of interviewing proposed experts.

## **10. Ownership of tenders**

The contracting authority retains ownership of all tenders received under this tendering procedure. Consequently, tenderers do not have the right to have their tenders returned to them.

## **11. Evaluation of tenders**

### **12.1. Evaluation of technical offers**

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<sup>2</sup>It is recommended to use registered mail in case the postmark would not be readable.



The quality of each technical offer will be evaluated in accordance with the award criteria and the weighting detailed in the evaluation grid in this tender dossier. No other award criteria will be used. The award criteria will be examined in accordance with the requirements indicated in the terms of reference.

The evaluation of the technical offers will follow the procedures set out in Section 3.4.10.3 of the practical guide (available on the internet at <https://wikis.ec.europa.eu/display/ExactExternalWiki/3.+Service+Contracts>).

#### **12.1.1. Interviews**

No interviews are foreseen.

#### **12.2. Evaluation of financial offers**

Upon completion of the technical evaluation, the envelopes containing the financial offers for tenders that were not eliminated during the technical evaluation will be opened (i.e. those with an average score of 75 points or more). Tenders exceeding the maximum budget available for the contract will not be accepted and will therefore not be further evaluated.]

#### **12.3. Choice of selected tenderer**

The best price-quality ratio is established by weighing technical quality against price on an 80/20 basis.

#### **12.4. Confidentiality**

The entire evaluation procedure is confidential, subject to the contracting authority's legislation on access to documents. The evaluation committee's decisions are collective and its deliberations are held in closed session. The members of the evaluation committee are bound to secrecy. The evaluation reports and written records are for official use only and may be communicated neither to the tenderers nor to any party other than the contracting authority, the European Commission, the European Anti-Fraud Office and the European Court of Auditors.

### **12. Ethics clauses / Corruptive practices**

#### **a) Absence of conflict of interest**

The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or the contracting authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

#### **b) Respect for human rights as well as environmental legislation and core labour standards**

The tenderer and its staff must comply with human rights and applicable data protection rules. In particular and in accordance with the applicable basic act, tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation

conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

<b>Zero tolerance for sexual exploitation, abuse and harassment:</b>
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The European Commission applies a policy of 'zero tolerance' in relation to all wrongful conduct which has an impact on the professional credibility of the tenderer.
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Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.
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c) Anti-corruption and anti-bribery

The tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. The European Commission reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if the contracting authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, 'corrupt practices' are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with the contracting authority.

d) Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds.

e) Breach of obligations, irregularities or fraud

The contracting authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, the contracting authority may refrain from concluding the contract.

### **13. Signature of contract(s)**

#### **14.1. Notification of award**

The successful tenderer will be informed in writing that its tender has been accepted.

#### **14.2. Signature of the contract(s)**

Within 30 days of receipt of the contract already signed by the contracting authority, the selected tenderer shall sign and date the contract and return it to the contracting authority.



Failure of the selected tenderer to comply with this requirement may constitute grounds for annulling the decision to award the contract. In this event, the contracting authority may award the tender to another tenderer or cancel the tender procedure.

The other tenderers will, at the same time as the notification of award is submitted, be informed that their tenders were not retained, by electronic means or standard letter, including an indication of the relative weaknesses of their tender by way of a comparative table of the scores for the winning tender and the unsuccessful tender. The second best tenderer is informed of the notification of award to the successful tenderer with the reservation of the possibility to receive a notification of award in case of inability to sign the contract with the first ranked tenderer. The validity of the offer of the second best tenderer will be kept. The second tenderer may refuse the award of the contract if, when receiving a notification of award, the 90 days of validity of their tender has expired.

The contracting authority will furthermore, at the same time, also inform the remaining unsuccessful tenderers and the consequence of these letters will be that the validity of their offers must not be retained.

#### **14. Cancellation of the tender procedure**

In the event of cancellation of the tender procedure, the contracting authority will notify tenderers of the cancellation.

Cancellation may occur, for example, where:

- the tender procedure has been unsuccessful, i.e. no suitable, qualitatively or financially acceptable tender has been received or there is no valid response at all;
- there are fundamental changes to the economic or technical data of the project;
- exceptional circumstances or force majeure render normal performance of the contract impossible;
- all technically acceptable tenders exceed the financial resources available;
- there have been breach of obligations, irregularities or frauds in the procedure, in particular if they have prevented fair competition;
- the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market).

In no event shall the contracting authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if the contracting authority has been advised of the possibility of damages. The publication of a contract notice does not commit the contracting authority to implement the programme or project announced.



## **15. Appeals**

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See Section 2.12. of the practical guide.

## **17. Data Protection**

Processing of personal data related to this tender procedure by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

The tender procedure and the contract relate to an external action funded by the EU, represented by the European Commission. If processing your reply to the invitation to tender involves transfer of personal data (such as names, contact details and CVs) to the European Commission, they will be processed solely for the purposes of the monitoring of the procurement procedure and of the implementation of the contract by the Commission, for the latter to comply with its obligations under the applicable legislative framework and under the financing agreement concluded between the EU and the Partner Country without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law. For the part of the data transferred by the contracting authority to the European Commission, the controller for the processing of personal data carried out within the Commission is the head of contracts and finance unit R4 of DG Neighbourhood and Enlargement Negotiations.

## **18. Early detection and exclusion system**

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations of early detection or exclusion, their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the early detection and exclusion system, and communicated to the persons and entities concerned in relation to the award or the execution of a procurement contract.