

INSTRUCTIONS TO TENDERERS

PUBLICATION REFERENCE: 2018-1

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:

http://ec.europa.eu/europeaid/work/procedures/index_en.htm).

1. Services to be provided

The services required by the Project partner 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.

2. Timetable

	DATE	TIME*
Site visit (if any)	Not applicable	Not applicable
Information meeting (if any)	Not applicable	Not applicable
Deadline for requesting clarification from the Project partner	12 February 2018	-
Last date for the Project partner to issue clarification	22 February 2018	-
Deadline for submitting tenders	5 March 2018	16:00 hours
Interviews (if any)	Not applicable	Not applicable
Completion date for evaluating technical offers	20 March 2018 [□]	-
Notification of award	30 March 2018 [□]	-
Contract signature	15 April 2018 [□]	-
Start date	20 April 2018 [□]	-

* All times are in the time zone of the country of the Project partner

[□] Provisional date

3. Participation, experts and subcontracting.

- a) Participation in this tender is open to all legal persons (participating either individually or in a grouping – consortium of tenderers) which are established in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed, i.e. Interreg IPA CBC Croatia - Bosnia and Herzegovina-Montenegro Programme, other Member States, other IPA II beneficiaries, contracting parties to the Agreement on the European Economic Area or partner countries covered by the European Neighborhood Instrument. Participation is also open to international organisations. Participation of natural persons is directly governed by the specific instruments applicable to the programme under which the contract is financed.
- b) 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 conditions mentioned in Section 2.3.3 of the **Practical Guide**. Should they do so, they may be excluded from tender procedures and contracts in accordance with Section 2.3.4 of the **Practical Guide**.
- c) Tenderers guilty of making false declarations may also be subject to financial penalties representing 2% to 10% of the total value of the contract being awarded. This rate may be increased to 4% to 20% in the event of a repeat offence within five years of the first infringement.
- 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. 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. For this purpose, individual experts recruited for the project as key or non-key experts are not regarded as subcontractors.
- f) Even if subcontracting is allowed, the tenderer must intend to provide the majority of the services itself.
- g) All subcontractors 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 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.
- h) Subcontractors cannot be in any of the exclusion situations listed in Section 2.3.3 of the Practical Guide. Whenever requested by the Project partner, the successful tenderer/contractor shall submit a declaration from the intended subcontractor that it is not in one of the exclusion situations. In the event of doubt, the Project partner shall request documentary evidence that the subcontractor is not in a situation of exclusion.
- i) If the offer includes subcontracting, it is recommended that the contractual arrangements between the tenderer and its subcontractors include mediation, according to national and international practices, as a method of dispute resolution.

4. Content of tenders

Offers, all correspondence and documents related to the tender exchanged by the tenderer and the Project partner must be written in English.

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.

The tender must comprise of a Technical offer and a Financial offer, which must be submitted in separate envelopes (see clause 8). Each Technical offer and Financial offer must contain one original, clearly marked '**Original**', and 1 copy, marked '**Copy**'. Failure to fulfil the requirements in clauses 4.1, 4.2 and 8 will constitute a formal error and may result in rejection of the tender.

4.1. Technical offer

The Technical offer must include the following documents:

- (1) **Tender submission form** (see Part D of this tender dossier) including:
 - a) Signed statements of exclusivity and availability (using the template included with the tender submission form), one for each key expert, the purpose of which are as follows:
 - ❑ The key experts proposed in this tender must not be part of any other tender submitted for this tender procedure. They must therefore commit themselves exclusively to the tenderer.
 - ❑ Each key expert must also undertake to be available, able and willing to work for the whole period scheduled for his/her input to implement the tasks set out in the Terms of Reference and/or in the Organisation and methodology.

Note that non-key experts must not be asked to sign statements of exclusivity and availability.

Any expert working on an EU/EDF-financed project, where the input from his/her position to that contract could be required on the same dates as his/her activities under this contract, must not be proposed as a key expert for this contract under any circumstances. Consequently, the dates included by a key expert in his/her statement of exclusivity and availability in your tender must not overlap with dates on which he/she is committed to work as a key expert on any other contract.

The expert may participate in parallel tender procedures but must inform the Project partner of these in the Statement of Exclusivity and Availability. Furthermore, the expert is expected to notify the tenderer immediately if he/she is successful in another tender procedure and he/she is expected to accept the first engagement offered to him/her chronologically.

If a key expert is proposed as a key expert by more than one tenderer with the agreement of the key expert, the corresponding tenders will be rejected. The same applies if the key expert proposed has been involved in the preparation of the

project. The expert concerned will be excluded from this tender procedure and may also be excluded from other EU/EDF-financed contracts.

Having selected a firm partly on the basis of an evaluation of the key experts presented in the tender, the Project partner expects the contract to be executed by these specific experts. However, after the award letter, the selected tenderer may propose replacements for the key experts under certain conditions (for further information see point 14).

- b) A signed **declaration** from each legal entity identified in the tender submission form, using the format attached to the tender submission form.
 - c) Copy of legal registration of the tenderer
- (2) **Organisation and methodology** (will become Annex III to the contract), to be drawn up by the tenderer using the format in Annex III to the draft contract.
- (3) **Key experts** (to become Annex IV to the contract). The key experts are those whose involvement is considered to be instrumental to achieve the contract objectives.

Annex IV to the draft contract contains the templates that tenderers must use, including:

- a) a list of the names of the key experts;
- b) the CVs of each of the key experts. Each CV should be no longer than 3 pages and only one CV must be provided for each position identified in the Terms of Reference. In case of CVs longer than 3 pages, only the first 3 pages will be taken into account. Non-key experts CVs are not necessary.

The qualifications and experience of each key expert must clearly match the profiles indicated in the Terms of Reference. If an expert does not meet the minimum requirements for each evaluation criterion (i.e. qualification and skills, general professional experience and specific professional experience), he/she must be rejected. In such case the entire tender shall be rejected.

Copies of the diplomas mentioned in Key experts' CVs as well as copies of employer's certificates or references proving the professional experience indicated in their CVs may be requested prior to contract signature if found necessary by the Project partner.

- (4) 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 6.1.1 of the Terms of Reference in Annex II to the draft contract.
- (5) Documentary proofs or statements required under the law of the country in which the company is established, to show that it is not in any of the exclusion situations listed in section 2.3.3 of the Practical Guide may be requested prior to contract signature if found necessary by the Project partner.

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

The electronic version of the technical offer must be included with the printed version in the separate envelope in which the technical offer is submitted. If there are any discrepancies between the electronic version and the original, printed version, the latter has precedence.

4.2. Financial offer

The Financial offer must be presented as an amount in Euro¹ and must be submitted using the template for the global-price version of Annex V to part B of this tender dossier. The electronic version of this document 'B8 — Budget for a global-price contract' can be found on the website

http://ec.europa.eu/europeaid/work/procedures/index_en.htm.

The global price may be broken down by outputs if required from the Terms of Reference.

Tenderers are reminded that the maximum budget available for this contract is 48.100,00 EUR. Payments under this contract will be made in the currency of the tender.

The applicable tax and customs arrangements are as follows.

Exemption of taxes

The European Commission and Bosnia and Herzegovina have agreed in the Framework Agreement between Bosnia and Herzegovina and the European Commission on arrangements for implementation of the Union's financial assistance to Bosnia and Herzegovina within the Instrument of Pre-Accession Assistance (IPA II) (Official Gazette No. 6/15) to fully exonerate all taxes, customs and import duties and levies and/or taxes of equivalent effect. The legal basis for VAT exemption is "Instruction on procedure for exercising the right to customs and tax exemptions in accordance with the Framework Agreement between Bosnia and Herzegovina and the European Commission on arrangements for implementation of the Union's financial assistance to Bosnia and Herzegovina within the Instrument of Pre-Accession Assistance (IPA II)" (Official Gazette No. 91/15).

5. Variant solutions

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

¹ The currency of the tender is the currency of the contract and the currency of payment.

6. 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. In exceptional cases, before the period of validity expires, the Project partner may ask tenderers to extend the period for a specific number of days, which may not exceed 40.

The selected tenderer must maintain its tender for a further 60 days. This further period of 60 days is added to the validity period irrespective of the date of notification.

7. Additional information before the deadline for submitting tenders

The tender dossier should be clear enough to avoid tenderers having to request additional information during the procedure. If the Project partner, either on its own initiative or in response to a request from a tenderer, provides additional information on the tender dossier, such information must be published at the same place as the Contract Notice.

Tenderers may submit questions in writing to the following address up to 21 days before the deadline for submission of tenders, specifying the publication reference and the contract title:

Danijela Papić
Culture and Information Centre Tomislavgrad
Mijata Tomića b.b., 80240 Tomislavgrad
Fax No: 034/352-033
E-mail: kictg@tel.net.ba

The Project partner has no obligation to provide clarification after this date.

Any tenderer seeking to arrange individual meetings with the Project partner 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.

Any clarification of the tender dossier will be communicated simultaneously in writing to all tenderers at the latest 11 calendar days before the deadline for submitting tenders.

No information meeting is planned.

No site visit is planned.

Visits by individual prospective tenderers during the tender period are not organised.

8. Submission of tenders

Tenders must be delivered to the Project partner for **receipt** before **5th March 2018**. They must include the requested documents in clause 4 above and be sent:

- **EITHER** by recorded delivery (official postal service) to:

*Culture and Information Centre Tomislavgrad
Mijata Tomića b.b., 80240 Tomislavgrad, Bosnia and Herzegovina*

- **OR** hand delivered (including courier services) directly to the Project partner against a signed and dated receipt to:

Tenders submitted by any other means will not be considered. Tenders must be submitted using the double envelope system, i.e., in an outer parcel or envelope containing two separate, sealed envelopes, one bearing the words ‘**Envelope A — Technical offer**’ and the other ‘**Envelope B — Financial offer**’. All parts of the tender other than the financial offer must be submitted in Envelope A (i.e., including the Tender submission form, statements of exclusivity and availability of the key experts and declarations).

Any infringement of these rules (e.g., unsealed envelopes or references to price in the technical offer) will lead to rejection of the tender.

The outer envelope should provide the following information:

- a) the address for submitting tenders indicated above;
- b) the reference code of the tender procedure (i.e. 2018-1);
- c) the words “Not to be opened before the tender-opening session” and “Ne otvarati prije službenog otvaranja ponuda”;
- d) the name of the tenderer.

Each envelope must include an index of its contents. The pages of the Technical and Financial offers must be numbered.

9. 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 8. The outer envelope (and the relevant inner envelope) must be marked ‘Amendment’ or ‘Withdrawal’ as appropriate.

10. 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.

11. Ownership of tenders

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

12. Evaluation of tenders

12.1. Evaluation of technical offers

The quality of each technical offer will be evaluated in accordance with the award criteria and the weighting detailed in the evaluation grid in Part C of 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 3.3.10 of the Practical Guide (available on the internet at http://ec.europa.eu/europeaid/work/procedures/index_en.htm).

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 80 points or more). Tenders exceeding the maximum budget available for the contract will be eliminated.

12.3. Choice of selected tenderer

The best value for money 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 Project partner'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 Project partner, the European Commission, the European Anti-Fraud Office and the European Court of Auditors.

13. Ethics clauses / Corruptive practices

- a) Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the Evaluation Committee or the Project partner during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties.
- b) 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.
- c) 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 Project partner 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 Project partner.

- d) 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) The Project partner reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to substantial errors, irregularities or fraud. If substantial errors, irregularities or fraud are discovered after the award of the Contract, the Project partner may refrain from concluding the Contract.

14. Signature of contract(s)

14.1. Notification of award

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

The successful tenderer shall then confirm availability or unavailability of their key-experts within 5 days from the date of the notification of award.

In case of unavailability the tenderer will be allowed to propose replacement key-expert(s). The successful tenderer shall give due justification for the exchange of the key-expert but the acceptance will not be limited to specific cases. Several replacement key-experts may be proposed but only one time-period of 15 days from the date of the notification of award will be offered. The replacement key-expert(s) cannot be an expert proposed by another tenderer in the same call for tender.

The replacement key-expert's total score must be at least as high as the scores of the key-expert proposed in the tender. It must be emphasised that the minimum requirements for each evaluation criteria must be met by the replacement expert.

If replacement key-experts are not proposed within the 15 days delay or if the replacement experts are not sufficiently qualified, or that the proposal of the replacement key-expert amends the award conditions which took place, the Project partner may decide to award the contract to the second best technically compliant tenderer (also giving them a chance to replace a key-expert should he/she not be available).

Should the Project partner learn that a tenderer has confirmed the availability of a key expert and signed the contract although the tenderer has deliberately concealed the fact that the key-expert is unavailable from the date specified in the tender dossier for the start of the assignment, the Project partner may decide to terminate the contract on the basis of article 36.3 (m) of the General Conditions.

It is reminded that the tenderer/contractor may also be subject to administrative and financial penalties foreseen in section 2.3.4 of the PRAG and article 10.2 of the General Conditions of service contracts. Furthermore it may lead to a tenderer's /contractor's exclusion from other contracts funded by the European Union.

14.2. Signature of the contract(s)

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

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 Project partner 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 accepted, by means of a 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 Project partner 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.

The corresponding contract award notice will be published on the website <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome>.

15. Cancellation of the tender procedure

In the event of cancellation of the tender procedure, the Project partner will notify tenderers of the cancellation. If the tender procedure is cancelled before the outer envelope of any tender has been opened, the unopened and sealed envelopes will be returned to the tenderers.

Cancellation may occur where:

- the tender procedure has been unsuccessful, i.e., no qualitatively or financially worthwhile 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 compliant tenders exceed the financial resources available;
- there have been irregularities 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 Project partner 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 Project partner has been advised of the possibility of damages. The publication of a procurement notice does not commit the Project partner to implement the programme or project announced.

16. Appeals

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See section 2.4.15 of the Practical Guide.