

Additional information about the Contract Notice

Capacity Building of BiH Railways Regulatory Board focusing on the Fourth Railway Package

Location - Western Balkans; *Bosnia and Herzegovina*

1. Nature of contract

Global price

2. Programme title

Annual Action Programme for Bosnia and Herzegovina for the year 2017 – Objective 2

3. Financing

B2020-22.020102

4. Eligibility and rules of origin

Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) No 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable instrument under which the contract is financed (see also heading 'Legal basis' below). Participation is also open to international organisations.

For UK candidates or tenderers: Please be aware that following the entry into force of the EU-UK Withdrawal Agreement* on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union and to goods originating from an eligible country, as defined under Regulation (EU) No 236/2014** and Annex IV of the ACP-EU Partnership Agreement***, are to be understood as including natural or legal persons residing or established in, and to goods originating from, the United Kingdom ****. Those persons and goods are therefore eligible under this call.

* Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community.

** Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action.

*** Annex IV to the ACP-EU Partnership Agreement, as revised by Decision 1/2014 of the ACP-EU Council of Ministers (OJ L196/40, 3.7.2014)

**** including the Overseas Countries and Territories having special relations with the United Kingdom, as laid down in Part Four and Annex II of the TFEU

5. Candidature

All eligible natural and legal persons (as per item 4 above) or groupings of such persons (consortia) may apply.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure. All partners of a consortium (i.e., the leader and all other partners) are jointly and severally liable to the contracting authority.

The participation of an ineligible natural or legal person will result in the automatic exclusion of

that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

6. Number of applications or tenders

No more than one application or tender can be submitted by a natural or legal person whatever the form of participation (as an individual legal entity or as leader or partner of a consortium submitting an application/tender). In the event that a natural or legal person submits more than one application or tender, all applications or tenders in which that person has participated will be excluded.

In case of lots, the candidates or tenderers may submit only one application or tender per lot. Contracts will be awarded lot by lot and each lot will form a separate contract.

7. Shortlist alliances prohibited

Any tenders received from tenderers having a different composition than the ones mentioned in the short-listed application forms will be excluded from this restricted tender procedure, unless prior approval from the contracting authority has been obtained – see practical guide 2.6.3. Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

8. Grounds for exclusion

Candidates or tenderers must submit a signed declaration, included in the application form or tender form, to the effect that they are not in any of the situations listed in Section 2.6.10.1. of the **practical guide (PRAG)**.

Candidates or tenderers included in the lists of EU restrictive measures (see Section 2.4. of the PRAG) at the moment of the award decision cannot be awarded the contract.

9. Sub-contracting

Sub-contracting is allowed.

10. Number of candidates to be short-listed

On the basis of the applications received, between 4 and 8 candidates will be invited to submit detailed tenders for this contract. If the number of eligible candidates meeting the selection criteria is less than the minimum of 4, the contracting authority may invite the candidates who satisfy the criteria to submit a tender. If the number of eligible candidates meeting the selection criteria is more than the maximum allowed, the contracting authority will rank them using the re-examination criteria stated below.

11. Provisional date of invitation to tender

December 2020

12. Provisional commencement date of the contract

June 2021

13. Period of implementation of tasks

18 months

SELECTION AND AWARD CRITERIA

14. Selection criteria

The following selection criteria will be applied to candidates. In the case of applications submitted by a consortium, these selection criteria will be applied to the consortium as a whole if not specified otherwise. The selection criteria will not be applied to natural persons and single-member companies when they are sub-contractors.

The selection criteria for each tenderer are as follows:

1) Economic and financial capacity (based on item 3 of the service application form). In case of candidate being a public body, equivalent information should be provided. The reference period which will be taken into account **will be the last three years** for which accounts have been closed.

- a) Average annual turnover of the candidate for the reference period mentioned above shall be at least 1.5 MEURO.

2) Professional capacity (based on items 4 and 5 of the application form). The reference period which will be taken into account will be **the last three years** preceding the submission deadline.

- a) The candidate shall have at least twenty (20) staff currently working for the candidate in fields related to this contract;

3) Technical capacity (based on items 5 and 6 of the application form). The reference period which will be taken into account **will be the last five years** from submission deadline.

- a) The candidate has **successfully completed** services **under at least one project of technical assistance** to the national / international institutions **in the field of capacity building of the railway sector**. Such assistance shall concern establishment of **legislative and/or regulatory and/or institutional framework in the railway sector** and shall have a clear link with the EU acquis, in full and/or in part.

In case the relevant activities of capacity building, as defined under a), are presenting only a part /a component of a more complex project which also includes other, not relevant activities, or they are not fully implemented by the candidate but as part of a consortium, relevant activities shall be clearly separated in technical (relevance of services) and financial terms (value of such relevant services), as only such parts of the project / contracts shall be taken in consideration as relevant.

Note:

The following shall not be taken in consideration as relevant references concerning criterion 21. 3) a): designs and studies related to infrastructure development; scientific studies not addressing administrative capacity building; strategies, master plans, action plans and similar; technical assistance related to tram, metro, cable car and similar systems not being exclusively considering railway.

- b) The candidate has **successfully completed** as a consortium leader or the sole contractor at least one project concerning **technical assistance in the railway sector with a** value of its share in the project of at least **1.0 million euro**. This project can be one of the projects/parts of the project already considered compliant under criterion 21. 3) a).

Note:

The following shall not be taken in consideration as relevant references concerning criterion 21. 3) b): technical assistance related to tram, metro, cable car and similar systems not being exclusively considered railway.

Please be reminded that relevance of the references, including the scope and the value of eligible activities, must be clearly addressed in the documentary evidence to be submitted in case a candidate is recommended for the contract.

Project the candidate refers to **must have been completed at any time during the indicated period**, but it does not necessarily have to be started during that period, nor implemented during the entire period.

Previous experience which caused breach of contract and termination by a contracting authority shall not be used as reference.

Capacity-providing entities

An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. If the economic operator relies on other entities it must in that case prove to the contracting authority that it will have at its disposal the resources necessary for performance of the contract by producing a commitment by those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the data for this third entity for the relevant selection criterion should be included in a separate document. Proof of the capacity will also have to be provided when requested by the contracting authority.

With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the tasks for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the economic operator relies, become jointly and severally liable for the performance of the contract.

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the applications of these candidates must be re-examined in order to rank their applications and identify the 8 best applications for the tender procedure. The only additional comparative criteria that which will be taken into consideration during this re-examination, in the order in which they appear below, are:

- a) The highest cumulated value of the projects/part of the projects that meet criterion 21. 3) a
- b) The total value of projects / parts of projects considered relevant as per criterion 21. 3) a) implemented in countries which were the EU Member States and/or countries subject to Stabilization and Association Process at the time of completion of the respective services.

N.B.: additional comparative criterion No 1 shall be applied to all the eligible candidates that meet the selection criteria. If, after applying additional comparative criterion No 1, it is not possible to identify the 8 best candidates because two or more candidates are tied for the 8th position, additional comparative criterion No 2 shall be applied only to these tied candidates.

15. Award criteria

Best price-quality ratio.

APPLICATION AND TENDERING

16. Applications format and details to be provided

Applications must be submitted using the standard application form, the format and instructions of which must be strictly observed. The application form is available from the following Internet address:

<https://ec.europa.eu/europeaid/prag/document.do?isAnnexes=true>

The application must be accompanied by a declaration on honour on exclusion and selection criteria using the template available from the following Internet address:

<https://ec.europa.eu/europeaid/prag/document.do?isAnnexes=true>

Any documentation (brochure, letter, etc.) sent with an application in addition to what has been requested will not be taken into consideration.

17. How applications may be submitted

Applications must be submitted in English exclusively to the contracting authority in a sealed envelope.

- 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, to:

Finance, Contracts and Audit Section - Procurement Team
Delegation of the European Union to Bosnia and Herzegovina
Skenderija 3a, 71000 Sarajevo, Bosnia and Herzegovina

- OR hand delivered by the participant in person or by an agent directly to the premises of the contracting authority in return for a signed and dated receipt, in which case the evidence shall be constituted by this acknowledgement of receipt, to:

Finance, Contracts and Audit Section - Procurement Team
Delegation of the European Union to Bosnia and Herzegovina
Skenderija 3a, 71000 Sarajevo, Bosnia and Herzegovina

The contract title and publication reference (see contract notice) must be clearly marked on the envelope containing the application and must always be mentioned in all subsequent correspondence with the contracting authority.

Applications submitted by any other means will not be considered.

By submitting an application candidates accept to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the application form.

18. Deadline for submission of applications

The candidate's attention is drawn to the fact that there are two different systems for sending applications: one is by post or private mail service, the other is by hand delivery.

In the first case, the application must be sent before the date and time limit for submission, as evidenced by the postmark or deposit slip¹, but in the second case it is the acknowledgment of receipt given at the time of the delivery of the application that will serve as proof.

The deadline for submission of applications can be found in the Contract Notice under IV.2.2.

Any application sent to the contracting authority after this deadline will not be considered.

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

19. Clarifications on the contract notice

Clarifications may be sought from the contracting authority at the following email address: DELEGATION-BOSNIA-AND-HERZEGOVINA-PROCUREMENT@eeas.europa.eu at the latest 21 days before the deadline for submission of applications stated at section **IV.2.2) of the contract notice**.

Clarifications will be published on TED eTendering accessible from the F&T portal at <https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home> at the latest 5 days before the deadline for the submission of applications.

¹ It is recommended to use registered mail in case the postmark would not be readable.

20. Alteration or withdrawal of applications

Applicants may alter or withdraw their applications by written notification prior to the deadline for submission of applications. No applications may be altered after this deadline.

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with precedent item. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

21. Language of the procedure

All written communications for this tender procedure and contract must be in English.

28. Legal basis

Regulation (EU) N°236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II).

29. Additional information

Financial data to be provided by the candidate in the standard application form or the tenderer in the tender form must be expressed in EUR. If applicable, where a candidate refers to amounts originally expressed in a different currency, the conversion to EUR shall be made in accordance with the InforEuro exchange rate of of the month and year of the publication of the present contract notice, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.