

SERVICE CONTRACT NOTICE

External Provider for Legal and Procedural Optimization of PEP, Serbia

1. Reference

1-06-404-73/2021

2. Procedure

Simplified

3. Programme title

Country Action Programme for the Republic of Serbia for the year 2019 - EU Support to Competitiveness, Research & Development and Innovation

4. Financing

Financing Agreement

5. Contracting authority

Development Agency of Serbia, Belgrade, Serbia

CONTRACT SPECIFICATION

6. Nature of contract

Global price

7. Contract description

Development Agency of Serbia (RAS) and Ministry of Economy have been awarded direct grant from IPA 2019 Programme, "IPA 2019 – Direct Grant to the Development Agency of Serbia – Scaled up and technologically improved production capacity solutions among micro and small enterprises and entrepreneurs" in 2021. The duration of implementation of Action (i.e. grant) is foreseen to be 48 months.

Purpose of the Action is to provide scaling up of very successful national program Programme for purchase of equipment PEP, which has been implemented in partnership with commercial banks and leasing companies for several previous years. Action will enable more favorable financing terms for SME investment loans, in terms of lower interest rates offered by the banks and elimination of hard collateral (i.e. mortgage), as requested collateral. Hence, it will support recovery of investments in SME sector after COVID-19 slow-down of the project. Through providing financial support for purchasing of new equipment, the Serbian SMEs will expand and technologically improve production capacity which would lead to an increase in competitiveness of Serbian SMEs and consequently economy as whole.

Action shall be implemented through three main Components: Component 0 – Management of the Action; Component 1 – Implementation of PEP; Component 2 – Implementation of technical assistance (TA) support.

Under technical assistance component – **External Provider for Legal and Procedural optimization of PEP** will provide services of independent audit of existing PEP programme procedures from legal and procedural aspect and assure that procedures are transparent, open and applied on a fair and equal treatment basis in line with PRAG rules. For the purpose of this Action, following recommendations of **External Provider for Legal and Procedural Optimization of PEP's** audit, Ministry of Economy will update existing PEP for formal adoption by the Government for program cycle in 2022. Subsequently, Ministry of Economy will update PEP Instructions, as well as supporting documents.

8. Number and titles of lots

One lot only

9. Maximum budget

EUR 195,000

CONDITIONS OF PARTICIPATION

10. Eligibility

Participation is open to all natural persons who are nationals of and legal persons [participating either individually or in a grouping (consortium) of 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 23 below). Participation is also open to international organisations.

Please be aware that after the United Kingdom's withdrawal from the EU, the rules of access to EU procurement procedures of economic operators established in third countries will apply to candidates or tenderers from the United Kingdom depending on the outcome of negotiations. In case such access is not provided by legal provisions in force at the time of contract award, candidates or tenderers from the United Kingdom could be rejected from the procurement procedure.

11. Number of tenders

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

12. Grounds for exclusion

As part of the tender, tenderers must submit a signed declaration, included in the tender form, to the effect that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the practical guide.

Tenderer 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.

13. Sub-contracting

Subcontracting is allowed. .

PROVISIONAL TIMETABLE

14. Provisional commencement date of the contract

December 2021

15. Implementation period of the tasks

21 month

SELECTION AND AWARD CRITERIA

16. Selection criteria

The following selection criteria will be applied to the tenderers. In the case of tenders 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.

Same criteria for legal and natural person.

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

Financial criteria for legal and natural persons:

- a) The average annual turnover of the candidate over the last three years (2018, 2019, 2020) must be at least 95,000 EUR.; and
- b) Current ratio (current assets/current liabilities) in the last year for which accounts have been closed must be at least 1. In case of a consortium this criterion must be fulfilled by each member.

2) Professional capacity of the tenderer (based on items 4 of the tender form).

The reference period which will be taken into account will be the last three years preceding the submission deadline.

- a) At least 3 permanent staff are currently working for the candidate in the fields of legal consultancy related to commercial and/or public law or adequate similar field.

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

- a) The candidate has provided services under at least two contracts (with portion of the services carried out, under each contract, by the legal entity being at least EUR 20,000) in the field of legal consultancy and or/optimisation of legal framework and/or organisational processes related to public and private entities, which were implemented at any moment during the following period: in the course of the past 5 years (starting from 1st of November 2016 up to the deadline for receipt of application).

This means that the service contract the tenderer refers to could have been started at any time during the indicated period but it does not necessarily have to be completed during that period, nor implemented during the entire period. Tenderers are allowed to refer either to service contracts completed within the reference period (although started earlier) or to service contracts not yet completed. Only the portion satisfactorily completed during the reference period will be taken into consideration. This portion will have to be supported by documentary evidence (-statement or certificate from the entity which awarded the contract, proof of payment) also detailing its value. If a tenderer has implemented the service contract in a consortium, the percentage that the tenderer has successfully completed must be clear from the documentary evidence, together with a description of the nature of the services provided if the selection criteria relating to the pertinence of the experience have been used.

Previous experience which would have led to breach of contract and termination by a contracting authority shall not be used as reference. This is also applicable concerning the previous experience of experts required under a fee-based service contract.

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. It must in that case prove to the contracting authority that it will have at its disposal the resources necessary for the 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 - notably that of nationality - 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 the tender 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 services for which these capacities are required. With regard to economic and financial criteria the entities upon whose capacity the tenderer relies become jointly and severally liable for the performance of the contract.

17. Award criteria

Best price-quality ratio.

TENDERING

18. Deadline for submission of tenders

The deadline for submission of tenders is specified in point 8 of the instruction to tenderers.

19. Tender format and details to be provided

Tenders must be submitted using the standard tender form for simplified procedures, the format and instructions of which must be strictly observed. The tender form is available from the following internet address: <http://ec.europa.eu/europeaid/prag/annexes.do?group=B> , under the zip file called Simplified Tender dossier.

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

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>

Any additional documentation (brochure, letter, etc.) sent with a tender will not be taken into consideration.

20. How tenders may be submitted

Tenders must be submitted in English exclusively to the contracting authority, using the means specified in point 8 of the instructions to tenderers.

Tenders submitted by any other means will not be considered.

By submitting a tender tenderers accept to receive notification of the outcome of the procedure by electronic means.

21. Alteration or withdrawal of tenders

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

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with point 9 of the instructions to tenderers. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

22. Operational language

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

23. Legal basis

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 - See Annex A2 of the practical guide.

24. Additional information

Financial data to be provided by the candidate in the standard application 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 November 2021, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.

Opening hours of the Contracting Authority: 8:30-15:00 CET.