

INSTRUCTIONS TO TENDERERS

CONTRACT TITLE: FUNCTIONAL REVIEW OF THE MINISTRY OF JUSTICE OF UKRAINE

The present procurement procedure is subject to the French Code of public procurement in its latest version in force as enacted by Order No. 2018-1074 issued on 26 November 2018 and its Implementation Decree No. 2018-1075 issued on 3 December 2018. Expertise France proceeds with open tender in application of L. 2124-2, R. 2161-2, R. 2161-3, R. 2161-4 et R. 2161-5 du CCP.

NB: When submitting their expression of interest as well as their technical and financial tender, tenderers must follow all instructions given in the current document, forms required, 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.

I. SERVICES TO BE PROVIDED

The services required by the Contracting Authority is to carry out a comprehensive functional review of the Ministry of Justice of Ukraine and are fully described in the Terms of Reference (PR TOR C1-02-2019).

II. PROCEDURE'S SCHEDULE

	DATE*	TIME**
Site visit (if any)	Not applicable	Not applicable
Information meeting (if any)	Not applicable	Not applicable
Deadline for submitting tenders	June 24, 2019	18:00 (Paris Time)
Interviews	Not applicable	-
Completion date for evaluating technical offers	June 26, 2019	-
Notification of award	June 27, 2019	-
Contract signature	June 28, 2019	-
Start date	July 1, 2019	-

***Provisional date**

**** All times are in the time zone of the country of the Contracting Authority**

III. PARTICIPATION AND SUBCONTRACTING

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 articles R. 2192-10 and following of The French Code of public procurement or any equivalent ban issued in another country, and detailed in the Annex of the current document "Declaration of honour on exclusion criteria and absence of conflict of interest".

IV. CONTENT OF THE TENDER DOSSIER

The tender dossier is composed by the following documents:

- The present **Instructions to Tenderers**
- **Application form**, including the appended **Declaration of honour** on exclusion criteria and absence of conflict of interest
- **Terms of Reference**, TOR C1-02-2019 MoJ-Functional Review
- **Service Contract**
- **Third-party Identity Sheet**

V. CONTENT OF THE TENDERS

Application material, offers, all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority must be written in English.

Supporting documents 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 described in the current paragraph will constitute a formal error and may result in rejection of the tender.

(i) Expression of interest material

The Application material must include the following documents:

- (1) A completed **Application form**; only the leader of the consortium or tenderer must complete and sign the submission form. The form includes the **Third-party Identity Sheet** and **References** (in total, 5 at most). At a minimum 2 relevant references in management consultancy, organizational assessment, or functional analysis. At least 1 reference in an amount equal to or greater than EUR 100 000 including tax in Ukraine, Eastern Europe, or CIS countries. Provision of the above services for international organisations, in particular for the European Union institutions and technical assistance projects, would be of particular relevance.
- (2) A brief **presentation** of the Tenderer, including information on the key (overall) competences, background, experience, including in management consultancy, organizational assessment, functional analysis;

In case of subcontracting, a statement guaranteeing the eligibility of the subcontractor. The statement must contain information on the financial, economic, technical and professional capacities of the envisaged subcontractor.

(ii) Technical offer

The Technical offer must include the following documents:

- (1) **Methodology** (will become Annex III to the contract), to be drawn up by the tenderer, including:
 - a) Methodological approach:
 - A detailed functional review process description as well as key performance indicators for each of the stages;
 - A preliminary Questionnaire based on (but not limited to) the tasks listed in the Terms of Reference Annex 1. The final version of Questionnaire will be prepared by the successful Tenderer together with representatives of MoJ and the Project.
 - b) Detailed work plan of every activity, overall planning of the mission and timeline for every deliverable identified in the Terms of Reference (including reporting).
 - c) Description of organization, staffing and practical arrangements.
- (2) **CVs** of the proposed consultants (at least 2 international and 1 local consultant) – see Terms of Reference for criteria;
- (3) At least **2 specific reports or package(s)** of other relevant deliverables produced (or contributed to) by each of the proposed consultants. To be assessed per Terms of Reference regarding the extent to which these demonstrate specific advanced experience in conducting similar assessments and analytical work, and in implementing similar projects for public institutions in Ukraine / Eastern Europe or CIS countries.

(iii) Financial offer

The Financial offer must be presented as a contractual fixed lump sum in euro and include all type of expenditures (fees, travel, accommodation...) for all tasks mentioned in the Terms of Reference and must be submitted using the contract agreement. The contract value must be indicated in Article I.3.1 (Price) of the contract agreement.

The Financial offer must include the following documents:

- (1) The duly completed, dated and signed **Service Contract**;
- (2) A **budget** providing a detailed breakdown of the financial offer.

NOTA BENE: Tenderers are reminded that the estimated budget available for this contract, as stated in the notice, is **EUR 250 000** (exclusive of taxes).

Payments under this contract will be made in the currency of the tender.

(iv) 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.

(v) Submission of tenders

In order to submit their tenders, tenderers must enter the following reference in the “current tender – search” field on the e-procurement platform (www.marches-publics.gouv.fr): <https://www.marches-publics.gouv.fr/?page=entreprise.EntrepriseAdvancedSearch&AllCons&refConsultation=429424&orgAronyme=s2d>

Tenders must be submitted through the e-procurement platform before **June 24, 2019 at 18:00 (Paris time)**. They must include the requested documents hereinabove.

Tenders submitted by any other means will not be considered.

The pages of the Technical offer must be numbered.

(vi) Amending or withdrawing tenders

Tenderers may amend or withdraw their tenders by written notification through the e-procurement platform 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 the requirements described hereinabove.

(vii) 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.

VI. EVALUATION OF TENDERERS' CAPACITY

In order to be considered technically capable of providing the tasks and services described in the terms of reference, each tenderer will have to meet the following requirements:

- Demonstrate its legal personality (e.g. registration document);
- Minimum 2 relevant references in management consultancy, organizational assessment, or functional analysis.
- Minimum 1 reference in an amount equal to or greater than EUR 100 000 including tax in Ukraine, Eastern Europe, or CIS countries.

The Tenderer may rely on capacity of other economic operators, including consortium members and subcontractors to meet the requirements.

Failure to meet the above-mentioned requirements or to provide the documents requested as application material will result in the candidate's tender being declared non-compliant and rejected without being analysed.

VII. EVALUATION OF TENDERS

Award criteria

The best value for money is established by weighing technical quality against price on a **70/30** basis.

The quality of each technical and financial offer will be evaluated in accordance with the following award criteria and the weighting:

CRITERIA	WEIGHTS
Quality	70
Relevance of the proposed methodology, work plan and timeline	(45)
Relevance of the experience and competencies of the proposed team (consultants) in relation to the required profiles defined in the terms of reference	(25)
Price/ Financial offer	30
The price criterion will be evaluated out of 30 points maximum, on the basis of a comparison between the financial offers of the different candidates using the following formula: Price = 30 x lowest financial offer/ Tenderer's financial offer	

The Financial Offer is specified by the Tenderer in the Service Contract as a fixed lump sum in euros.	
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Tenders will be appraised and given a score up to 100 points according to these criteria.

Only tenders with scores of at least 45 points on technical evaluation qualify for the financial evaluation.

NB: No other award criteria will be used. The award criteria will be examined in accordance with the requirements indicated in the Terms of Reference.

VIII. NEGOTIATION

Not applicable.

IX. CHOICE OF SELECTED TENDERER

The contract will be awarded to the tenderer whose offer has been given the highest score and thus proposes the best quality at the lowest cost.

X. 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.

XI. 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 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.
- 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) 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.
- d) The Contracting Authority 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 Contracting Authority may refrain from concluding the Contract.

XII. SIGNATURE OF CONTRACT(S)

13.1. Notification of award

The successful tenderer will be informed by electronic means through the above-mentioned e-procurement platform writing that its tender has been accepted.

The other tenderers will, prior to the notification of the contract, be informed that their tenders were not accepted, by electronic means, 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 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.

XIII. 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 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 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 procurement notice does not commit the Contracting Authority to implement the programme or project announced.

XIV. ADDITIONAL INFORMATION BEFORE THE DEADLINE FOR SUBMITTING TENDERS

If the Contracting Authority, either on its own initiative or in response to a request from a tenderer, provides additional information on the tender dossier, it must send such information through its buyer profile on the e-procurement platform at www.marches-publics.gouv.fr to all other tenderers at the same time.

Tenderers may submit questions through the e-procurement platform www.marches-publics.gouv.fr up to 5 days before the deadline for submission of tenders. In order to submit their questions and have access to the tender area, tenderers must use the “current tender – search” field and enter the following reference: <https://www.marches-publics.gouv.fr/?page=entreprise.EntrepriseAdvancedSearch&AllCons&refConsultation=429424&orgAcronyme=s2d>

The Contracting Authority will provide clarification at the latest 3 days before the deadline for submitting tenders.

XV. APPEALS

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint.

The Paris Administrative Court is in charge of complaint procedures (address: 7 rue de Jouy, F-75004 Paris, France; e-mail: greffe.ta-paris@juradm.fr).

Tenderers can obtain information on complaint procedures from the Registry of the Paris Administrative Court (address: 7 rue de Jouy, F-75004 Paris, France; e-mail: greffe.ta-paris@juradm.fr).