

QUESTIONS AND ANSWERS

INVITATION TO TENDER N° ACER/OP/ADMIN/08/2016

Provision of legal services in appeal cases to the Board of Appeal of the Agency for the Cooperation of Energy Regulators

Contract notice: OJ/S 204-367923 of 21.10.2016 (367923-2016-EN)

Last update: 07/11/2016

Question N° 1:

Clause 17.2 [ANNEX I, p.18] stipulates that the tenderer must provide evidence of financial and economic capacity by means of "Evidence of valid professional risk insurance cover(s) concerning the services covered by the FWC".

Given that under national law professional risk insurance is optional, we kindly ask you to clarify, whether it is necessary to provide with the offer a signed professional risk insurance cover contract, or if such contract could be provided along with the evidence of clause 16.2 of the "Tender specifications", prior to the signature of the FWC.

Answer N° 1:

According to point 17.2 of Annex I 'Tender specifications' the tenderers have to provide proof of their financial and economic capacity. In particular, tenderers have to provide evidence of a valid professional risk insurance cover(s) concerning the services covered by the FWC with a detailed description of the covers and restrictions in English. Further, the professional risk insurance cover shall have a limitation of at least EUR 60,000 per claim which shall remain valid for a period of six (6) months after the FWC expires or after the FWC is terminated.

Any tenderer not complying with any of the selection criteria specified in Section 17 of Annex I 'Tender specifications' will not be considered and be excluded from further evaluation.

Question N° 2:

Clause 17.2 [ANNEX I, p.19] stipulates that the tenderer must provide a statement of turnover concerning the services covered by the FWC amounting to at least EUR 200,000 per year for the last two (2) years.

We kindly ask you to clarify, whether failure to meet this requirement shall lead to automatic exclusion from the evaluation procedure.

Answer N° 2:

The sole purpose of the selection criteria, included in Annex I 'Tender specifications' is to determine whether a tenderer has the capacity necessary to implement the contract. According to Section 17 of Annex I Tender specifications the selection criteria listed therein consist of the minimum level(s) or minimum requirement(s) and the relevant supporting documents (Art. 146(1)RAP). The minimum capacity level set for each of the criteria defines the capacity below which the tenderer will not be selected because it shall be considered as not capable of implementing the future contract.

Any tenderer not complying with any of the selection criteria specified in Section 17 of Annex I 'Tender specifications' will not be considered and be excluded from further evaluation.

Question N° 3:

Clause 17.3 [ANNEX I, p.20] requires that the tenderer shall have provided "services [...] for a total amount of at least EUR 1,000,000 for the last five (5) years combined".

We kindly ask you to clarify, whether failure to meet this requirement shall lead to automatic exclusion from the evaluation procedure.

Answer N° 3:

The sole purpose of the selection criteria, included in Annex I 'Tender specifications' is to determine whether a tenderer has the capacity necessary to implement the contract. According to Section 17 of Annex I Tender specifications the selection criteria listed therein consist of the minimum level(s) or minimum requirement(s) and the relevant supporting documents (Art. 146(1)RAP). The minimum capacity level set for each of the criteria defines the capacity below which the tenderer will not be selected because it shall be considered as not capable of implementing the future contract.

Any tenderer not complying with any of the selection criteria specified in Section 17 of Annex I 'Tender specifications' will not be considered and be excluded from further evaluation.