

Section 2: Instruction to Bidders or Consultants

Table of Contents

- Section 2: Instruction to Bidders or Consultants**..... 1
- 1. Definitions**..... 2
- 2. General Provisions** 2
- 3. Conflict of Interest** 3
- 4. Unfair Competitive Advantage** 3
- 5. Fraud and Corruption** 3
- 6. Structure and content of the tender dossier**..... 4
- 7. Timetable**..... 4
- 8. Participation** 4
- 9. Origin** 4
- 10. Clarification of Bid** 5
- 11. Amendment of Bid** 5
- 12. Preparation of Bid**..... 5
- 13. Bid Submission Form** 5
- 14. Technical Bid Format and Content** 6
- 15. Financial offer** 6
- 16. Currency** 7
- 17. Documents Establishing the Eligibility and Qualifications of the Bidder** 7
- 18. Joint Venture, Consortium or Association** 8
- 19. Validity Period** 8
- 20. Submission, Opening and Evaluation**..... 8
- 21. Withdrawal, Substitution, and Modification of Bid** 10
- 22. Confidentiality**..... 10
- 23. AWARD OF CONTRACT** 10
- 24. Taxes and other charges**

I. Definitions

This section provides detailed instructions to follow to respond to this ITT. Guidelines and Information for Contracting Authority are included.

- i. “Contracting Authority” refers to the issuer of this tender dossier. The Contracting Authority as indicated in the Invitation to Tender Letter (ITT), issues this tender dossier for the procurement of goods or services. Except if otherwise indicated in the ITT letter, Contracting Authority procures only on its name.
- ii. “Bidder” refers to any legal entity that may submit, or has submitted, a Bid for the supply of goods or services requested by Contracting Authority.
- iii. “Consultant” means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Contracting Authority under the Contract.
- iv. “Data Sheet” refers to such part of the Instructions to Bidders used to reflect conditions of the tendering process that are specific for the requirements of the ITT.
- v. “Instructions to Bidders” refers to the complete set of documents which provides Bidders with all information needed and procedures to be followed in the course of preparing their Bid.
- vi. “ITT” refers to the Invitation to Tender consisting of instructions and references prepared by Contracting Authority for purposes of selecting the best supplier or service provider to fulfil the requirement indicated in the Technical Specifications.
- vii. “Services” refers to the entire scope of tasks related or ancillary to the completion or delivery of the goods required by Contracting Authority under the ITT.
- viii. “Reference Number” refers to the identification number of this procurement activity indicated in the ITT letter.
- ix. “Day” means a calendar day, unless otherwise specified as “Business Day”. A Business Day is any day that is an official working day of the Borrower. It excludes the Borrower’s official public holidays.
- x. “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the technical evaluation of the Bidder’s proposal.
- xi. “Proposal” means the Technical Proposal and the Financial Proposal of the Bidder.
- xii. “Terms of Reference (TORs)” means the Terms of Reference that explains the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Contracting Authority and the Bidder, and expected results and deliverables of the assignment.

2. General Provisions

- i. This procurement is conducted in accordance with the Contracting Authority PROCUREMENT POLICY rules and practices of procurement issued, and in line with its **donor’s** rules, practices and guidelines for conducting procurement activities.
- ii. The Contracting Authority principal objective for procurement, is an open and fair competition policy to all bidders providing supplies or services, and Contracting Authority employees involved in procurement will conduct all business with honesty, fairness, integrity and transparency.
- iii. Bidders shall adhere to all the requirements of this bid, including any amendments in writing by the Contracting Authority.

- iv. In preparing the Bid, the bidders are expected to examine the ITT in detail. Material deficiencies in providing the information requested in the ITT may result in rejection of the Bid.
- v. Bidders must check that all the documents listed in the invitation to tender Documents have been received and are complete in all respects. No claims will be considered Contracting Authority arising out of failure to study the details contained herein or to obtain such information.
- vi. Bids received after the date for receipt of bids set out in the invitation to tender or not strictly in accordance with these instructions, may, at the sole discretion of Contracting Authority, be disregarded and returned.
- vii. Contracting Authority reserve the rights to reject any or all accepted bids or request for further explanation from the tenderers.
- viii. Before award, Contracting Authority can request from the tenderers to provide additional information or ask for a quick interview for helping of the evaluation process.

3. Conflict of Interest

- i. The bidder 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.
- ii. The bidder has an obligation to disclose to the Contracting Authority any situation of actual or potential conflict that may have with the Contracting Authority, its Governing board or appointed officials or employees prior to submission of the bid that impacts its capacity to serve the best interest. Failure to disclose such situations may lead to the disqualification of the bidder or the termination of its Contract.

4. Unfair Competitive Advantage

- i. Fairness and transparency in the selection process require that the bidder or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided services or goods related to the assignment in question.

5. Fraud and Corruption

- i. Contracting Authority requires that Bidders, suppliers, and contractors and their subcontractors observe the highest standards of ethics during the procurement and execution of Contracting Authority contracts.
- ii. Contracting Authority strictly enforces a policy of zero tolerance on proscribed practices, including fraud, corruption, and collusion, unethical or unprofessional practices and Bidders are therefore requested not to send gifts or offer hospitality to Contracting Authority personnel.
- iii. Any attempt by a bidder 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.
- iv. The Contracting Authority reserves the right to suspend or cancel the procedure, if it determines that a Bidder recommended for award has engaged in corrupt, fraudulent, collusive, coercive, obstructive or unethical practices while competing for the contract in question.

6. Structure and content of the tender dossier

Section I:	Invitation to Tender (ITT)
Section II:	Instruction to Bidders or Consultants
Section III:	Data Sheet and Technical Specification
Section IV:	Cover Letter and Declaration on honour on exclusion criteria and absence of conflict of interest
Section V:	Technical and Financial Submission Form
Section VI:	Template of Proposed Contract

7. Timetable

	DATE	TIME*
Clarification meeting / Conferences (if any)	[Not applicable]	[Not applicable]
Deadline for requesting clarifications from the contracting authority	08 January 2024	[Not applicable]
Last date on which clarifications are issued by the contracting authority	11 January 2024	[Not applicable]
Deadline for submission of tenders	15 January 2024	16:00
Notification of award to the successful tenderer	January 2024	[Not applicable]
Signature of the contact	January/February 2024	

8. Participation

- i. Participation in this tender procedure is open to all tenderers. These terms refer to all legal entities, companies or partnerships effectively established in Kosovo. For the purposes of proving compliance with this rule, tenderers being legal persons, must present the documents required under that country's law.
- ii. To be eligible to take part in this tender procedure, tenderers must prove to the satisfaction of the contracting authority that they comply with the necessary legal, technical and financial requirements and have the means to carry out the contract effectively.
- iii. Sub-contracting is not allowed.
- iv. The tender procedure is considered valid if there is at least one eligible candidate/bidder.

9. Origin

- i. All services offered in response to this ITT or supplied under any resulting award must meet USAID Geographic Code 937 in accordance with the United States Code of Federal

Regulations (CFR), 22 CFR §228 or EU legislation on rules of origin for customs purposes: the Customs Code (Council Regulation (EEC) No 2913/92) in particular its Articles 22 to 246 thereof, and the Code's implementing provisions (Commission Regulation (EEC) No 2454/93.

10. Clarification of Bid

- i. Bidders may request clarification of any of the ITT documents no later than the number of days indicated Time Table prior to the Bid submission date. Any request for clarification must be sent in writing via courier or through email to the Contracting Authority address indicated in the Invitation Letter. Contracting Authority will respond by replying a responses to the bidder. After which, all Proposers who have accepted in the Invitation will be automatically alerted that such a clarification has been replied.
- ii. Contracting Authority shall endeavor to provide such responses to clarifications in an expeditious manner, but any delay in such response shall not cause an obligation on the part of Contracting Authority to extend the submission date of the Bid, unless Contracting Authority deems that such an extension is justified and necessary.

11. Amendment of Bid

- i. At any time prior to the deadline for submission of Bid, Contracting Authority may for any reason, such as in response to a clarification requested by a Bidder, modify the ITT in the form of a Supplemental Information to the ITT.
- ii. Contracting Authority reserves the right to modify the provisions of this ITT at any time prior to the scheduled date for written responses. Additional scope and requirements can be added. Notification of such changes will be provided to all bidders.
- iii. In order to afford prospective Bidders reasonable time to consider the amendments in preparing their Bid, Contracting Authority may, at its discretion, extend the deadline for submission of Bid, if the nature of the amendment to the ITT justifies such an extension.

12. Preparation of Bid

12.1 Cost

- i. No costs incurred by the tenderer in preparing and submitting the tender are reimbursable.
- ii. Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Contracting Authority shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.

12.1 Language

- i. The Bid, as well as any and all related correspondence exchanged by the Bidder and Contracting Authority, shall be written in the language (s) specified in the Data Sheet (DS No. 10).
- ii. If the supporting documents are not written in a requested Language, a translation into the language of the call for tender must be attached.

13. Bid Submission Form

- i. The Technical Proposal shall be prepared using the Standard Forms provided in Section 3 of the ITT and shall comprise the documents to be submitted listed in the Data Sheet [25].

- ii. The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the ITT. It shall list all costs associated with the assignment.
- iii. Bidders are required to complete, sign and submit the following documents:
 - i. Cover Letter Form (see attached);
 - ii. Documents Establishing the Eligibility and Qualifications of the Bidder (see Data Sheet Documents to be submitted);
 - iii. Technical Bid & Financial Proposal (see attached);
 - iv. Cover Letter and Declaration on honour on exclusion criteria and absence of conflict of interest

14. Technical Bid Format and Content

- i. In preparing the bid, the bidder is expected to examine the ITT in detail. Material deficiencies in providing the information requested in the ITT may result in rejection of the bid.
- ii. Unless otherwise stated in the Standard Forms, the Bidder shall structure the Technical Bid as follows:
 - a. Expertise of Firm/Organization – this section should provide details regarding management structure of the organization, organizational capability/resources, and experience of organization/firm, the list of projects/contracts which are related or similar in nature to the requirements of the ITT, manufacturing capacity. The same shall apply to any other entity participating in the ITT as a Joint Venture or Consortium.
 - b. Technical Specifications and Implementation Plan – this section should demonstrate the Bidder’s response to the Schedule of Requirements and Technical Specifications by identifying the specific components proposed; how each of the requirements shall be met point by point; providing a detailed specification and description of the goods required, plans and drawings where needed; the essential performance characteristics, identifying the works/portions of the work that will be subcontracted; a list of the major subcontractors, and demonstrating how the bid meets or exceeds the requirements, while ensuring appropriateness of the bid to the local conditions and the rest of the project operating environment during the entire life of the goods provided. Details of technical bid must be laid out and supported by an Implementation Timetable, including Transportation and Delivery Schedule where needed, that is within the duration of the contract. All bidders are therefore required to submit the following in their bids :
 - c. Where the Data Sheet requires the submission of the other documents, the other documents shall be included along with the Technical Bid.

15. Financial offer

- i. The Financial Offer shall be prepared using the attached standard form attached, adding separate sheets for details if necessary. It shall list all major cost components associated with the goods and related services, and the detailed breakdown of such costs. All goods and services described in the Technical Bid must be priced separately on a one-to-one correspondence.
- ii. A financial offer calculated on a Delivered at Place [DAP] basis for the goods and related services tendered.
- iii. Any output and activities described in the Technical Bid but not priced in the Financial Offer, shall be assumed to be included in the prices of the items or activities, as well as in the final total price of the bid.

16. Currency

- i. Tenders must be presented in Euro.

17. Documents Establishing the Eligibility and Qualifications of the Bidder

i. 17.1 Tender submission form including:

- a. Technical Proposal and Financial Proposal
- b. Cover Letter and Declaration on honour on exclusion criteria and absence of conflict of interest
- c. Copy of registration certificate and Fiscal & Unique Number certificate from relevant Registry in the country of origin defining the constitution or legal status, place of registration, and principal place of business;
If applicable
- d. Joint Venture/Consortium/Association Information agreement if is permitted.
- e. Financial Statements and Annual Turnover;
- f. CVs of proposed experts for the assignment, as per the qualification requirements in the TOR
- g. Quality Certificate (e.g., ISO, etc.) and/or other similar certificates, accreditations, certifications, awards, references and citations received by the Bidder, if any.

ii. 17.2 Your tender may be rejected if you do not provide satisfactory answers to the following:

- a. Your organization, any director or partner or any other person with representation powers has been convicted or is under disciplinary investigation for unlawful competition, violation of trade secrets, appropriation or misuse of intellectual property or misuse or unauthorized disclosure of internal information of the Employer or other Contractors of his services.
- b. Has, in the past two (2) years, been adjudged to be bankrupt or insolvent by a court of competent jurisdiction, or is currently the subject of proceedings: (i) for a declaration of bankruptcy, (ii) for an order for compulsory winding up or administration by the court or (iii) of any other similar proceedings under the law of Kosovo or any other jurisdiction.
- c. Bids submitted by two (2) or more Bidders shall all be rejected by Contracting Authority if they are found to have any of the following:
 - a. they have at least one controlling partner, director or shareholder in common; or
 - b. any one of them receive or have received any direct or indirect subsidy from the other/s; or
 - c. they have the same legal representative for purposes of this ITT;

iii. 17.3 Rejection for not providing Capacity/Technical ability and eligibility requirements

- a. Not providing sufficient information for similar projects/services for the last three years
- b. Non-compliance with the tender submission requirements.
- c. If tender is not compliant with specifications and/or other substantive requirements.

18. Joint Venture, Consortium or Association

- i. If a tenderer is a joint venture or consortium of two or more persons, the tender must be a single one with the object of securing a single contract, each person must sign the tender and will be jointly and severally liable for the tender and any contract. Those persons must designate one of their members to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium must not be altered without the prior written consent of the contracting authority.

19. Validity Period

- i. Bid shall remain valid for the period specified in the Data Sheet (DS no. 18), commencing on the submission deadline date also indicated in the Timetable. A Bid valid for a shorter period shall be immediately rejected by Contracting Authority and rendered non-responsive.
- ii. In exceptional circumstances, prior to the expiration of the Bid validity period, Contracting Authority may request Bidders to extend the period of validity of their Bid. The request and the responses shall be made in writing, and shall be considered integral to the Bid.

20. Submission, Opening and Evaluation

20.1 Submission

- i. The Bidder shall submit a signed and complete Bid comprising the documents and forms in accordance with Data Sheet [25] (Documents to be submitted).
- ii. An authorized representative of the Bidder shall sign the original submission letters in the required format for both the Technical Proposal and, if applicable, the Financial Proposal.
- iii. The bidders should submit the bid through an electronic copy to email address stated in the Invitation to tender letter with the subject of Reference Number of this ITT. All submitted documents must conform to the requirements outlined in the instructions for tenderers and description of scope. Documents received after the deadline will not be considered.
or
- iv. The tenderers should submit the bid in hard copy, in a clearly marked sealed envelope, to the address marked in the invitation to tender letter with reference title and statement of DO NOT OPEN BEFORE the date and time for the opening of bids, in accordance with ITT.
- v. Documents received after the deadline will not be considered.

20.2 Opening of tenders

- i. The purpose of the opening session is to check whether the tenders are complete, whether the required documents have been properly included and whether the tenders are generally in order.
- ii. The tenders will be opened in restricted session by the appointed committee.
- iii. Information relating to the examination, evaluation, and comparison of Bid, and the recommendation of contract award, shall not be disclosed to tenderers or any other persons not officially concerned with such process, even after publication of the contract award.

20.3 Preliminary Examination of Bid

- i. The aim at this stage is to check that tenders comply with the essential requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

- ii. If a tender does not comply with the tender dossier, it will be rejected immediately and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.
- iii. Contracting Authority shall examine the Bid to determine whether they are complete with respect to minimum documentary requirements, whether the documents have been properly signed, whether or not the Bidder is in the sanctions list of terrorists and terrorist financiers, and in Contracting Authorities list of suspended and removed vendors, and whether the Bid are generally in order, among other indicators that may be used at this stage. Contracting may reject any Bid at this stage.
- iv. Contracting Authority determination of a Bid's responsiveness will be based on the contents of the Bid itself.
- v. A substantially responsive Bid is one that conforms to all the terms, conditions, and specifications of the ITT without material deviation, reservation, or omission.
- vi. If a Bid is not substantially responsive, it shall be rejected by Contracting Authority and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.
- vii. Only those Bids which comply to the Eligibility Criteria will be taken up for further technical evaluation.

20.4 Evaluation of Bid

- i. After analysing the tenders deemed to comply in administrative terms, the evaluation committee will rule on the technical admissibility of each tender, classifying it as technically compliant or non-compliant.
- ii. Contracting's Authority evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and the ITT, applying the evaluation criteria, sub-criteria, and point system specified in the Award Criteria. Each responsive Bidder will be given a technical and financial score.
- iii. In the interests of transparency and equal treatment and to facilitate the examination and evaluation of tenders, the evaluation committee may ask each tenderer individually for clarification of its tender including breakdowns of prices, within a reasonable time limit to be fixed by the evaluation committee. The request for clarification and the response must be in writing, but no change in the price or substance of the tender may be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered during the evaluation of tenders. Any such request for clarification must not distort competition. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation minutes.

20.5 Financial evaluation

- i. Tenders found to be technically compliant will be checked for any arithmetical errors in computation and summation. Errors will be corrected by the evaluation committee as follows:
 - a. where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into account;
 - b. except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will be the price taken into account.
- ii. Amounts corrected in this way will be binding on the tenderer. If the tenderer does not accept them, its tender will be rejected.
- iii. Unless specified otherwise, the purpose of the financial evaluation process is to identify the tenderer offering the lowest price. Where specified in the technical specifications, the evaluation

of tenders may take into account not only the acquisition costs but, to the extent relevant, costs borne over the life cycle of the supplies (such as for instance maintenance costs and operating costs), in line with the technical specifications. In such case, the contracting authority will examine in detail all the information supplied by the tenderers and will formulate its judgment on the basis of the lowest total cost, including additional costs.

21. Withdrawal, Substitution, and Modification of Bid

- i. Bidders are expected to have sole responsibility for taking steps to carefully examine in detail the full consistency of its Bid to the requirements of the ITT, keeping in mind that material deficiencies in providing information requested by Contracting Authority, or lack clarity in the description of goods and related services to be provided, may result in the rejection of the Bid. The Bidder shall assume any responsibility regarding erroneous interpretations or conclusions made by the Bidder in the course of understanding the ITT out of the set of information furnished by Contracting Authority.
- ii. A Bidder may withdraw, substitute or modify its Bid after it has been submitted by cancelling or resending their bid.

22. Confidentiality

- i. Information relating to the examination, evaluation, and comparison of Bid, and the recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process, even after the contract award.
- ii. Any effort by a Bidder to influence Contracting Authority in the examination, evaluation and comparison of the Bid or contract award decisions may, at Contracting's Authority decision, result in the rejection of its Bid.

23. AWARD OF CONTRACT

23.1 Right to Accept, Reject, or Render Non-Responsive Any or All Bid

- i. Contracting Authority reserves the right to accept or reject any Bid, to render any or all of the Bids as non-responsive, and to reject all Bids at any time prior to award of contract, without incurring any liability, or obligation to inform the affected Bidder(s) of the grounds for Contracting Authority action. Furthermore, Contracting Authority is not obligated to award the contract to the lowest price offer.

23.2 Award Criteria

- i. Prior to expiration of the period of Bid validity, Contracting Authority shall award the contract to the qualified and eligible Bidder that is found to be responsive to the requirements of the Technical Specification, and scored the highest points against award criteria.

23.3 Contract Signature

- i. Within five (10) days from the date of receipt of the Contract, the successful Bidder shall sign the Contract.

23.4 Briefings for Unsuccessful Bidders

- i. Contracting Authority intends to offer a feedback session to every tenderer submitting an unsuccessful bid, Contracting Authority reserves the right to control the format and content of any such briefing, and to limit it in any way believed by Contracting Authority to be appropriate

(which includes, in exceptional circumstances, the right to refuse a briefing without giving any reason for doing so).

23.5 Appeals

- i. Tenderers who consider themselves being treated unfairly can file a complaint at the Contracting Authority.
- ii. For any reason of filing a complaint, they must be submitted within 5 (five) days from the day the parties were notified, respectively when the official notification regarding the procedure has been made. Complaints of tenderers must be submitted to the Contracting Authority, who will decide on eventual complaints, no later than 5 days from the day the complaint was filed.

24. Taxes and other charges

The applicable tax and customs arrangements are the following:

ATRC is allowed full exemption from the following taxes:

- Value added (Vat) in Kosovo