

**SOFTWARE ACQUISITION CHANNEL AND RELATED SERVICES
FOR THE AGENCY FOR THE COOPERATION OF ENERGY
REGULATORS**

Framework Contract

TENDER SPECIFICATIONS

OPEN CALL FOR TENDERS

ACER/OP/ADMIN/22/2012

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1. TITLE OF THE INVITATION TO TENDER

Software acquisition channel and related services for the Agency for the Cooperation of Energy Regulators, tender no. ACER/OP/ADMIN/22/2012.

This tender is not divided into lots.

2. BACKGROUND INFORMATION

The Agency for the Cooperation of Energy Regulators (hereinafter the “Agency”) is a European Union body, established in 2010 by Regulation (EC) No 713/2009¹ and is central to the liberalisation of the EU's electricity and natural gas markets. The Agency is based in Ljubljana, Slovenia.

The Agency works towards a competitive, sustainable, secure and transparent Internal Energy Market for the benefit of all consumers in the European Union (EU). Its overall mission is to assist national energy regulatory authorities (NRAs) to perform their duties at the EU level and to coordinate their actions whenever necessary. The Agency thus cooperates closely with NRAs, but also with EU institutions, European associations of stakeholders and market participants, especially the European Networks of Transmission System Operators (ENTSOs), to deliver a series of instruments for the completion of a single EU energy market.

The main areas on which the Agency's activities focus are:

- supporting European market integration: this is mainly done through the development of common network and market rules as well as through the coordination of regional initiatives which are concrete efforts from market participants to work towards greater integration;
- advising the EU institutions on trans-European Energy infrastructure issues: the Agency issues opinions on ten-year network development plans with a view to making sure that these are in line with priorities set at EU level;
- energy market monitoring: the Agency has a general mission in terms of market monitoring at the EU level and has, since the end of 2011, a very specific responsibility when it comes to oversight of wholesale energy trading. More specifically, on 28 December 2011, the Regulation (EU) No 1227/2011² of the European Parliament and the Council on wholesale energy market integrity and transparency (hereafter: REMIT) entered into force.

More information on the Agency can be found on the website www.acer.europa.eu.

3. SUBJECT OF THE CONTRACT

During several years, the Agency has acquired its computer software products and licenses via resellers providing a software distribution channel between the software industry's Independent Software Vendors (ISV) and the Agency.

The purpose of this call for tenders is to conclude a framework Contract with a successful tenderer for the provision of user rights of nonexclusive and non-transferable licenses of a large range of computer software products, the provision of related license maintenance and support services by means of a Software Acquisition Channel (SACHA) which are described in detail in section 2 of Annex I.A to these tender specifications

¹ Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators, OJ L 211, 14.8.2009, p. 1

² Regulation (EU) No 1227/2011 of the European Parliament and the Council on wholesale energy market integrity and transparency, OJ L 326, 08.12.2011, p.1

For technical details please refer to Annex I.A to these tender specifications.

3.1 Quality and standards

The selected Contractor shall perform the services and provide the products in accordance with technical norms, standards and procedures based on best professional practices in the information technology and/or telecommunications field.

The selected Contractor shall guarantee that, once delivered, software meets the operating requirements, specifications and characteristics specified in the Contractor's documents and/or laid down in the framework Contract and/or specific contract(s).

The quality of the Contractor's products and services shall be measured by reference to the definitions, quality standards and procedures defined in the framework Contract and the metrics defined in section 3 of the Annex I.A to these tender specifications.

3.2 Security

The Contractor shall take all the necessary measures and steps to ensure that the data and the media where products are or shall be stored are safely preserved.

The Contractor undertakes to inform the Agency in writing as soon as he has any knowledge of defaults in his products that might endanger the security of the configurations of which they form a part of. He shall immediately take any measures necessary to restore the security of the configurations and correct the defaults.

Should the Contractor, during the performance of the services which are the subject of the framework Contract, need remote access to internal informatics resources from the external domain, he shall be requested to comply with the Agency's internal rules on practical and technical security for remote intervention.

3.3 Documentation and reporting

The Contractor shall keep a record of activities on all procured products or services. The cost of maintaining these records and producing the relevant reports shall be borne solely by the Contractor.

Standard reporting services comprise the following reports and associated schedules:

Name	Schedule	Description
Purchase/delivery report	On Request	Detailed overview of purchases
Contract execution report	Yearly	Overview of expenditure levels
Service Level Agreement (SLA) compliance report	On Request	How well is the Service Level Agreement (SLA) met?
Proactive maintenance alert report	When needed	Alerts for next 3 months
Software inventory report	On Request	Detailed overview of purchases (cumulative)

All reports to be provided "on request" schedule shall be made available to the Agency within seven (7) working days from the date of the request. Description of the reports is included in section 2.2 of Annex I.A to these tender specifications

4. PARTICIPATION IN THE CALL FOR TENDER

Participation in the Agency's procurement procedure is open on equal terms to all natural and legal persons or groupings of such persons (consortia) falling within the scope of the Treaties. It includes all economic operators registered in the EU and all EU citizens.

Pursuant to Article 106 of the general Financial Regulation³ the participation is also open to all natural and legal persons from non-EU countries that have a ratified agreement with the European Union in the field of public procurement on the conditions laid down in that agreement. The Agency can therefore accept offers from and sign contracts with tenderers from 34 countries, namely: the 27 EU Member States, 3 European Economic Area (EEA) Countries (Lichtenstein, Norway, Iceland) and 4 Stabilisation and Associations Agreements (SAA) Countries (Croatia, FYROM, Albania and Montenegro). The Agency's procurement procedures are not open to tenderers from countries covered by the Agreement on Government Procurement (GPA).

5. VARIANTS

No variants are permitted.

6. SIZE OF THE CONTRACT

The Contract shall have an initial duration of two (2) years from the date of signature and may be renewed up to two (2) times for an additional period of one (1) year each time. The total duration of the framework Contract shall not exceed four (4) years. The Agency reserves the right to cancel the Contract with the selected Contractor whose services are deemed to be of insufficient quality.

The maximum total value of the orders which may be placed during the duration of the framework Contract (4 years) is EUR 160,000.00, excluding VAT.

The estimated date for signature of the framework Contract is December 2012.

7. DOCUMENTS AVAILABLE TO THE TENDERER

- Contract notice published in the Official Journal of the European Union (OJ EU) S 194 on 09.10.2012;
- Call for Tender documents and annexes;
- Other documents, as mentioned in these tender specifications.

8. CONTRACTUAL FRAMEWORK

8.1 Type of contract

The services described above will be the subject of a single framework supply Contract. The Contract will lay down the legal, financial, administrative and technical conditions applicable throughout its period of validity, including price indexation.

The draft framework Contract is attached in Annex III to this invitation to tender. Signature of the framework Contract does not commit the Agency to placing orders and does not give the

³ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, as amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006.

Contractor any exclusive rights regarding the services covered by the framework Contract. In any case, the Agency reserves the right, at any time during the validity of the framework Contract, to cease placing orders, without the Contractor having the right to any compensation.

8.2 Modus Operandi

Within one (1) working day of a request for quote being sent by the Agency to the Contractor, the Agency shall receive a notification from the Contractor confirming that the request has been received and is readable. A request for quote originating from the Agency will be submitted via email to a dedicated functional email address. The Contractor will make such an email address available to the Agency within three (3) working days following the contract signature.

A request for quote shall contain at least the following information:

- ISV/publisher
- Full product name + version
- OS: operating system
- ACER product category (as defined in section 2.1 of Annex I.A)
- URL of website (optional)
- Number of licenses
- Maintenance required (yes/no), maintenance type and period
- Support options, if applicable

Within three (3) working days of a request for quote being sent by the Agency to the Contractor, the Agency shall receive a reply from the Contractor informing the Agency whether he intends to submit a quote. Should the Contractor be unavailable, he shall give reasons for refusal within the same period.

Within seven (7) working days of a request for quote being sent by the Agency to the Contractor, and if the latter has confirmed its intention to submit an offer, the Agency shall receive a quote in spread sheet format.

Within four (4) working days of receiving the quote, the Agency shall evaluate the compliance of the submitted quote and inform the Contractor whether the quote: (a) is accepted, (b) needs to be revised or (c) is rejected, providing details for options (b) and (c).

In case the quote needs to be revised, the Contractor shall have three (3) working days to revise the offer according to the Agency's guidelines and re-submit it to the Agency. The Agency shall inform the Contractor within three (3) working days after receiving the revised offer whether the quote is accepted or rejected, providing reasons for the decision.

Once the quote is accepted by the Agency, the Agency shall forward the order form to the Contractor's for signature. The Contractor shall return a duly signed order form to the Agency by e-mail or fax within three (3) working days.

Performance of the tasks starts from the date on which the specific order form is signed by the last contracting party.

In the event of failure to observe any of the above mentioned deadlines or disagreement on the quote, the Contractor shall be considered unavailable.

8.3 Subcontracting

Special attention will be paid to the approach proposed by the Contractor for managing his subcontractors. Tenderers will be required to indicate the kind of work which they plan to

subcontract and the name of any companies to which they are intending to subcontract part of the work.

Subcontracting during the performance of the contract is permitted only with the prior written consent of the Agency. The Contractor remains solely liable for the proper performance of the contract.

9. CONTRACTORS' OBLIGATIONS

9.1 Employment law applicable to transfers of undertakings:

Tenderers are reminded that their bid must be established in conformity with the applicable national and European employment legislation regarding the transfer of undertakings, and specifically Directive 2001/23/EC⁴ and its national implementing measures. In particular, tenderers should take note of the provisions on safeguarding employees' rights in the event of a change of employer as a result of a legal transfer.

9.2 Copyright and other intellectual property rights

The intellectual property rights attached to the acquired off-the-shelf software and its documentation shall remain the Contractor's exclusive property.

The Agency undertakes:

- to take all measures necessary vis-à-vis its end user personnel and persons having access to the software and its documentation, to ensure that the confidentiality of the software is observed;
- not to pledge, assign, sub-license, transfer or lend, for payment or otherwise, the software and its documentation;
- to inform the Contractor immediately in the event of seizure, to protest against it and to take all necessary steps in order to safeguard the integrity of the Contractor's intellectual property rights.

In the event of unauthorised disclosure of confidential information by either party, the other party shall address him a warning, requesting the first party to confirm that he will no longer disclose the said information. If no satisfactory response is obtained within the requested time limit, the other party is entitled to terminate the framework Contract. The parties recognise that damages may not constitute sufficient compensation for the other party, who may require reparation by injunction or other relief judged appropriate or necessary by the appropriate Court of Law.

10. PLACE OF PERFORMANCE

10.1 Place of delivery

The main place of performance of the contract as well as the main place of delivery shall be at the Agency's premises in Ljubljana, Slovenia

If deemed appropriate and at the sole discretion of the Agency, meetings between the Agency and the Contractor could be organised using video conference systems, telephone conferences and/or any other communication means.

⁴ Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or part of undertakings or businesses, OJ L 82 of 22.03.2001, p. 16

A minimum of one (1) coordination meeting with the Agency shall be organised as result of the signature of this framework Contract and prior to the signature of individual orders. This meeting could be organised using video conference systems, telephone conferences or similar means.

10.2 Normal working days and hours

A normal working day corresponds to 7 hours 30 minutes per day (37 hours 30 minutes per week). The normal working time of the Agency is between 8:00 am and 20:00 with core hours from 9:30 to 12:00 and from 15:00 to 16:30.

For the delivery of products and services, the official working days of the Agency shall be observed. The official list can suffer small changes from one year to the next and can be found on the website:

http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Pages/Director%27s-decision.aspx

11. LANGUAGE

The working language of the Agency is English.

All communication, all the required services and all documentation must be provided in English. All meetings shall be held in English.

12. PAYMENT METHODS

Except where the specific contracts provides for otherwise, provisions related to payment are laid down in the draft contract (Annex III to the Invitation to Tender). Payments will be made exclusive of VAT, as the Agency is exempt from all duties and taxes, including value added tax (VAT) under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union. Invoice(s) presented by the Contractor must specify the amount(s) exclusive of VAT.

The services will be invoiced on the basis of the services provided after full delivery and approval of progress reports and against invoice(s), in line with the payment schedule described in the draft Contract (Annex III) to the invitation to tender.

Payment will be made exclusive of VAT, as the Agency is exempt from all duties and taxes, including value added tax (VAT) under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union.

13. PRICES

- The prices should be quoted in Euro.
- Under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities the Agency is exempt from all duties and taxes, including value added tax (VAT). VAT should be indicated separately and will not be taken into account when considering prices.
- The unit prices quoted must be firm and not subject to revision for the first year of the contract.

From the beginning of the second year prices may be revised upwards or downwards according to the harmonised indices of consumer prices (HICP) for Slovenia (MUICP index) and the method laid down in the contract.

The prices quoted should include all services as described in these tender specifications and its annexes, including any delivery and packing charges, corresponding to the order. Ordered items shall be delivered to the official premises of the Agency.

- No expenses incurred within the framework of the preparation of the offer will be reimbursed.

14. SUBMISSION OF OFFERS

Each offer must be accompanied by a **dated cover letter signed by the tenderer** and the **duly completed reference table** related to the exclusion and selection criteria (see Annex I.A of these tender specifications).

The tenderer's offer should include:

- A. The declaration on honour relating to the exclusion criteria listed under section 16 of these tender specifications (model provided in Annex I.C to these tender specifications), fully completed, signed and dated by the tenderer;
- B. All the documents relating to the selection criteria listed under section 17 of these tender specifications;
- C. The technical offer, as described under section 15 of these tender specifications;
- D. The financial offer based on the model in Annex II to the invitation to tender, signed and dated by the tenderer. In addition, the tender shall include a price list for all software products that belong to the channel category, their related yearly maintenance, and support services which is described in section 2.1.3 of the Annex I.A to these tender specifications. In case of multiple licenses in terms of features, all license variants shall be included.

In case the offer involves subcontracting or the tender is submitted by a consortium or grouping of service providers, the tender must contain additional information as specified under section 16 and 17 of these tender specifications.

Tenders may be drafted in any of the official languages of the European Union.

The working language of the Agency is English.

15. TECHNICAL OFFER

Tenderers should include in their bid a technical offer detailing how they intend to perform the tasks covered by the Contract, in compliance with all the requirements of these tender specifications.

The technical offer should not include any of the documents referred to under the exclusion or selection criteria, nor should it refer to matters already covered by the exclusion and selection criteria.

The technical offer shall include the following:

- A. A catalogue for all software products, their related yearly maintenance and support services that belong to the channel category which is described in section 2.1.3 of Annex I.A to these tender specifications;
- B. Description of how delivery of ordered software products would be organized;
- C. Indication of the maximum time period (working days) between the reception of an order for a software product and/or license and delivery to the Agency;
- D. Samples of the reports described in section 3.3 of these tender specifications, which shall contain description of all the information and fields mentioned;
- E. A sample of the tenderer's quote which will contain a description of all the information and fields mentioned in the tender documentation;
- F. Description of the procedures that will be followed in the case the Agency requests a quote for a software which belongs to the "out of list" category which is described in section 2.1.4 of Annex I.A to these tender specifications;
- G. Description of the procedures that will be followed for an easy handover to a potential future Contractor and what will be done in order to guarantee a flawless handover.

16. EXCLUSION CRITERIA

Tenderers must prove that they are not in one of the situations giving rise to exclusion as described below, by providing the following information, evidence and documents with their bid.

Exclusion from participation

Candidates or tenderers will be excluded from participation in a procurement procedure if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning these matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional integrity by a judgment which has the force of res judicata;
- c) they have been guilty of grave professional misconduct proven by any means which the awarding authority can justify;
- d) they have not fulfilled their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established, or with those of the country of the awarding authority, or with those of the country where the contract is to be performed;
- e) they have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the European Union's financial interests;
- f) following another procurement procedure or grant award procedure financed by the European Union budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Evidence

1. Tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations referred to above, using the form provided in Annex I.3 to these tender specifications.
2. The tenderers to whom it is proposed to award the contract shall furnish, within a time-limit specified by the awarding authority and prior to the signature of the contract, the following evidence in support of their declarations:

The contracting authority will accept, as evidence that the candidate or tenderer is not in one of the situations described in points (a), (b) and (e) above, the production of a recent extract from the judicial record (issued less than 90 days prior to the deadline for tender submission) or, failing this, a recent equivalent document (issued less than 90 days prior to the deadline for tender submission), issued by a judicial or administrative authority in the country of origin or provenance, showing that the requirements are met. The contracting authority will accept, as satisfactory evidence that the candidate or tenderer is not in one of the situations described in point (d) above, a recent certificate (i.e. less than 90 days old on the date of the deadline for tender submission) issued by the competent authority of the State concerned.

Where no document or certificate of the type referred to in the paragraph above is issued in the country concerned, and for the other cases of exclusion referred to in points c) and f), it may be replaced by a declaration under oath, or, failing that, a solemn declaration made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

Depending on the national legislation of the country in which the tenderer or candidate is established, the documents referred to above shall relate to legal persons and/or natural persons, including, where considered necessary by the awarding authority, company directors or any person with powers of representation, decision-making or control in relation to the candidate or tenderer.

The Agency reserves the right to check the information provided by tenderers.

Exclusion from award of the Framework contracts

The framework Contract will not be awarded to tenderers who, during the procurement procedure:

- (a) are subject to a conflict of interests.

The Agency must ensure that on the date on which the tender is submitted, no tenderer is subject to a conflict of interests; such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.

The Agency reserves the right to judge whether such a conflict of interests exists.

Tenderers are also asked to declare:

- that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- that they have not granted, sought, attempted to obtain or accepted any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to the award of the contract;

- that they will inform the contracting authority without delay of any situation constituting a conflict of interests or which could give rise to a conflict of interests.
- (b) are guilty of misrepresentation in supplying the information required by the awarding authority as a condition of participation in the procurement procedure, or fail to supply this information.

Evidence:

Tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations referred to above, using the form provided in Annex I.C to these tender specifications.

The Agency reserves the right to check the information provided by tenderers.

Tenders submitted by consortia or groups of service providers – tenders involving subcontracting:

In the case of tenders submitted by consortia or groups of service providers, each of the economic operators involved in the tender must provide a dated and signed declaration on honour, based on the model provided in Annex I.3 to these tender specifications, confirming that none of the exclusion criteria for participation in or award of the contract apply to them.

The tenderers proposed for award of the Framework contract must furnish, within the time-limit specified by the awarding authority and prior to the signature of the Framework contract, the evidence listed above, corroborating the declaration on their honour, in respect of each economic operator forming part of their consortium or group of service providers.

In the case of tenders involving subcontracting, the tenderer proposed for award of the contract must furnish, within the time-limit specified by the awarding authority and prior to the signature of the contract, the declaration on their honour and/or the evidence listed above regarding exclusion criteria for participation in or award of the contract, in respect of each of the subcontractors in respect of whom the Agency requests such evidence.

The Agency reserves the right to check the information provided by tenderers.

17. SELECTION CRITERIA

Tenderers must demonstrate that they have the necessary economic, financial, technical and professional capacity to perform the tasks described in these tender specifications in accordance with the payment schedule specified in the draft Contract at Annex III to the Invitation to Tender.

Where the bid is submitted by a consortium or group of service-providers, the economic and financial capacity must be ascertained at the level of each economic operator forming part of the consortium or group. Technical and professional capacity may be ascertained at consortium or group level, or at the level of each member of the consortium or group.

Where the bid is submitted by a tenderer who intends to subcontract part of the tasks or entrust them to another economic operator, the subcontractors or economic operators involved must demonstrate that they have the requisite economic, financial, technical and professional capacity.

An economic operator may, if necessary and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links he has with them. He must in this case prove to the awarding authority that he will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

Tenderers must provide proof of their professional, economic, financial, and technical capacity by enclosing with their tender the following information and documents, accompanied by the reference table shown in Annex I.A to these tender specifications:

17.1 Professional capacity

For natural and legal persons:

- Duly completed and signed form “Identification of the tenderer” (see Annex I.B to these tender specifications);
- Duly completed and signed financial identification form (see Annex I.D to these tender specifications) - the form can be downloaded from:
http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm
- Certificate of enrolment on the professional or trade register in accordance with the legislation of the Member State in which the tenderer is established;
- Duly completed and signed legal entity form (see Annex I.E to these tender specifications) – the form can be downloaded from:
http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

For legal persons the following information is necessary in addition to the above:

- Legal form;
- Copy of the Company's Articles of Association;
- Names and duties of managerial staff.

17.2 Financial and economic capacity (for natural and legal persons)

Evidence of financial and economic capacity must be provided by means of one or more of the following documents:

- Statements from the bank indicating good financial viability or evidence of professional risk insurance covers;
- Balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;
- A statement of overall turnover concerning the services covered by the contract during the last three financial years.

17.3 Technical capacity

Tenderers must provide the following documentation to enable an assessment of their technical and professional capacity. For joint applications, the capacities of all members of the joint application, including subcontractors, shall be taken into account

The tenderers must provide:

- Details of staff turnover during the last financial year and the total staff turnover.
- Provision, as proof of experience over the last four years, of at least two references for contracts where the tenderer provided software products, licenses and services to medium sized customers.
- A statement by the tenderer confirming the takeover of the on-going maintenance and support agreements for all software products which are under maintenance referred in Annex II to this tender specifications (corporate category) acquired via the previous Agency's software contracts, to ensure transparency and continuity of service.
- A statement allowing the request of products from the "out of the list" category, in which case, best effort will be made to find the requested software product or associated service on the market.
- A statement certifying staff linguistic competence, and the availability of contact points in English language for commercial, technical, and incident communications.

For those tenders including subcontracting, the tenderer must submit:

- A document stating clearly the identity, roles, activities and responsibilities of the subcontractor(s) and specifying the volume/proportion of the tasks of (each of) the subcontractor(s), as well as the description of the quality control measures he intends to apply on the tasks to be carried out by (each of) the subcontractor(s);
- A letter of intent by (each of) the subcontractor(s) stating its unambiguous undertaking to collaborate with the tenderer if he wins the contract and the extent of the resources that it will put at the tenderer's disposal for the performance of the contract;
- In the absence of this, a document stating that the tenderer does not intend to subcontract and that he/she will inform the Agency about any change in this situation. The Agency reserves the right to judge if such change would be acceptable.

For those tenders submitted by a consortium or grouping of service providers, the tender must contain:

- A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the contract;
- A letter signed by each member stating its commitment to execute the services in the tender clearly indicating its role, qualifications and experience;
- A document signed by all members specifying the lead of the consortium or grouping of service providers and authorising the appointed lead of the consortium or grouping of service providers to submit the offer.

Tenders which do not meet the exclusion and/or selection criteria will not be considered. Tenderers who do not provide the documents required in these tender specifications with regard to the exclusion and/or selection criteria may be excluded. The Agency will decide whether the substantiating documents provided constitute compliance with the selection criteria.

18. AWARD CRITERIA

The Contract will be awarded to the tender offering the best value for money on the basis of the criteria specified below.

18.1 Technical quality, with 50% weighting

Tenders scoring less than 60 overall points or less than 50% of the points awarded for each of the single criterion will be excluded from further evaluation.

The quality criteria, their importance factor and system of scoring are presented in detail below:

- A. Capability to offer a wide range of software products and related services (software product catalogue range, variety of different software application fields, update frequency, effectiveness of procedures to offer software which belongs to the “out of list” category). *A maximum of 50 points are assigned for this criterion.*
- B. Quality and effectiveness of the delivery service procedure (organisation of delivery procedure, maximum time between the order and delivery). *A maximum of 10 points are assigned for this criterion.*
- C. Quality of reporting services (completeness of the information provided in the reports, effectiveness and flexibility in presenting the information). *A maximum of 20 points are assigned for this criterion.*
- D. Quality and effectiveness of the procedures for a handover to a potential new contractor. *A maximum of 20 points are assigned for this criterion.*

18.2 Price, with 50% weighting

In order to evaluate the offers, the Agency will calculate a total reference price, based on the financial offer submitted by the tenderer in Annex II to the invitation to tender. The total reference price has no contractual value and will be used solely for the purpose of this evaluation.

The price list and the financial offer shall be contractually binding. In case there will be a difference between the price in the financial offer and the price in the detailed price list which shall not be explained (i.e. the amount of the discount applied), the lower of the two shall apply, unless the difference is unambiguously the result of a clerical error.

18.3 Final evaluation

The formulae to calculate economically the most advantageous offer is:

$$\text{Final score for tender X} = \frac{\text{cheapest total reference price}}{\text{total reference price of tender X}} * 50 + \frac{\text{total technical quality of tenderer X}}{100} * 50$$

The tenderer with the highest mark for the final score will be awarded the Contract.