



KOSOVO SPECIALIST CHAMBERS & SPECIALIST PROSECUTOR'S OFFICE

Additional information about the Contract Notice

Tender reference: KSCR/PROC/2021-2023/0902

Contract title: Framework contract for provision of Documentum Consultancy Services - Development & Maintenance to the Kosovo Specialist Chambers

Location – The Hague, The Netherlands

The financing decisions of the Contracting Authority (the Kosovo Specialist Chambers (KSC)) are generally adopted on an annual basis and run from 15 June through 14 June of the following year. The current financing decision of the Contracting Authority runs for two years, starting on 15 June 2021 and ending on 14 June 2023.

Please note that the awarding of the contract is subject to the condition of **the prior adoption of a financing decision and the prior conclusion of a financing agreement, which does not modify the elements of the procurement procedure (this will be the case, for instance, if the budget initially foreseen is different or if the timeframe, the nature or the condition of the implementation are altered). If the precedent condition is not met, the contracting authority will either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation.**

Please note that any contract resulting from this tender procedure whereby continuation of such contract is foreseen to continue beyond 14 June 2024, as well as beyond the same calendar day 14 June of the three years thereafter in case of any contract renewals, will be subject to the condition of **the prior adoption of a financing decision and the prior conclusion of a financing agreement, which does not modify the elements of the procurement procedure under which the contract(s) was awarded (this will be the case, for instance, if the budget initially foreseen is different or if the timeframe, the nature or the condition of the implementation are altered).** If the precedent condition is not met, the contract(s) shall be suspended with immediate effect and should the period of suspension exceed 90 days, the contract(s) will automatically terminate **without the Contractor(s) being entitled to claim any compensation.**

1. Nature of contract

Fee-based

2. Programme title

Kosovo Specialist Chambers: Support for re-located judicial proceedings within a Member State under the mandate of EULEX Kosovo.

3. Financing

EU Grant Contract CFSP/2021/17 Kosovo Specialist Chambers

4. Legal basis, eligibility and rules of origin

2021.1

Additional information contract notice0902_LIMITE

Council Decision (CFSP)2021/904;

EU Grant Contract CFSP/2021/17 Kosovo Specialist Chambers;

Article 4 Kosovo Law No.05/L-053;

Article 6 Agreement between the Kingdom of The Netherlands and the Republic of Kosovo concerning the Hosting of the Kosovo Relocated Specialist Judicial Institution in The Netherlands (Art. 4 of the related Interim Agreement).

Participation is open to all natural and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) without limitations. Participation is also open to international organisations.

All supplies under this contract may originate in any country.

Candidature

All eligible natural and legal persons (as per item 4 above) or groupings of such persons (consortia) may participate or tender.

A consortium may be a permanent, legally established grouping or a grouping which has been constituted informally for a specific procurement procedure. All partners of a consortium (i.e., the leader and all other partners) are jointly and severally liable to the contracting authority.

The participation or tender of an ineligible natural or legal person will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

5. Number of requests to participate or tenders

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

In case of lots, the candidates or tenderers may submit only one request to participate or tender per lot. Contracts will be awarded lot by lot and each lot will form a separate contract.

6. Grounds for exclusion

Candidates must submit a signed declaration, included in the request to participate form, to the effect that they are not in any of the situations listed in Section 2.6.10.1 of the **practical guide (PRAG)**. Where the candidate intends to rely on capacity providing entities or subcontractor(s), he/she must provide the same declaration signed by this/these entity(ies).

Candidates 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.

For natural persons:

After the successful tenderer has been informed by the contracting authority about its provisional decision of contract award, the successful tenderer will be required to provide the following additional documents prior to signature of the contract:

- a) A copy of a photographic national identity document (Passport / Identity Card)* .

- b) The Security Questionnaire included in this tender dossier, duly filled out, dated and signed.
- c) A Criminal Record Check / Certificate of Conduct, in The Netherlands known as ‘Verklaring Omtrent Gedrag’ (VOG), issued by a relevant body not earlier than 6 months before the date of its submission to the contracting authority.

** To be verified against the original when requested by the contracting authority’s Head of Security and Safety.*

Prior to final contract award, the contracting authority will execute a security investigation with the competent authorities of the Host State in respect of the tenderer. In addition, the contracting authority will assess the information provided by the tenderer. If the security investigation and/or if the contracting authority’s information assessment results in security concerns, as a result of which the contracting authority decides to not award a contract, the provisional decision of contract award will be revoked. In this event, the contracting authority may award the contract to another tenderer or cancel the tender procedure.

For legal persons:

After the successful tenderer has been informed by the contracting authority about its provisional decision of contract award, the successful tenderer will be required to provide the following additional documents for any and all of its personnel, officials, or agents who will be undertaking work at the KSC-SPO premises on a regular basis, prior to signature of the contract:

- a) A copy of a photographic national identity document (Passport / Identity Card)*.
- b) The Security Questionnaire included in this tender dossier, duly filled out, dated and signed.
- c) A Criminal Record Check / Certificate of Conduct, in The Netherlands known as ‘Verklaring Omtrent Gedrag’ (VOG), issued by a relevant body not earlier than 6 months before the date of its submission to the contracting authority.

** To be verified against the original when requested by the contracting authority’s Head of Security and Safety.*

Prior to final contract award, the contracting authority will execute a security investigation with the competent authorities of the Host State in respect of the tenderer’s personnel, officials, or agents who will be undertaking work at the KSC-SPO premises on a regular basis. In addition, the contracting authority will assess the information provided by the tenderer in respect of the tenderer’s personnel, officials, or agents. If the security investigation and/or if the contracting authority’s information assessment results in security concerns, as a result of which the contracting authority may decide to not award a contract, the contracting authority can request the tenderer to propose alternative personnel, officials, or agents. If ultimately reasons continue to exist for the contracting authority to decide to not award a contract, the provisional decision of contract award will be revoked. In this event, the contracting authority may award the contract to another tenderer or cancel the tender procedure.

7. Sub-contracting

Sub-contracting is allowed.

8. Number of candidates to be short-listed

On the basis of the request to participate received, between 4 and 8 candidates will be invited to submit detailed tenders for this contract. If the number of eligible candidates meeting the selection criteria is less than the minimum of 4, the contracting authority may invite the candidates who satisfy the criteria to submit a tender. If the number of eligible candidates meeting the selection criteria is more than the maximum allowed, the contracting authority will rank them using the re-

examination criteria stated below.

9. Short-list alliances prohibited

Any tenders received from tenderers having a different composition than the ones mentioned in the short-listed request to participate forms will be excluded from this restricted tender procedure, unless prior approval from the contracting authority has been obtained – see practical guide 2.6.3. Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

10. Provisional date of invitation to tender

01 March 2023

11. Provisional commencement date of the contract

15 June 2023

12. Period of implementation of tasks

Any contract resulting from this tender procedure will take the form of a Framework Contract and its implementation will be done through Order Forms.

The period of implementation of each Order Form shall correspond to the timelines specified therein.

Any contract resulting from this tender procedure will be concluded for an initial period of 12 months starting from the date of its signature by both the Contracting Authority and the Contractor.

Such contract shall then be renewed automatically up to 3 times – each time for a period of maximum 12 months each, bringing the total maximum duration to 4 years – under the same terms and conditions, unless written notification to the contrary is sent by one of the parties and received by the other 3 months prior to the expiry of the initial period or any subsequent renewal thereof.

13. Language of the procedure

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

14. Additional information

Financial data to be provided by the candidate in the request to participate form or in the tender submission form must be expressed in EUR.

SELECTION AND AWARD CRITERIA

15. Selection criteria

Capacity-providing entities

An economic operator (i.e. candidate or tenderer) 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. If the economic operator relies on other entities, 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 and notably that of nationality as the economic operator relying on them 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 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 tasks for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the economic operator relies, become jointly and severally liable for the performance of the contract.

The following selection criteria will be applied to candidates. In the case of requests to participate 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.

The candidate shall not use previous experience which caused breach of contract and termination by a contracting authority as a reference for selection criteria.

The selection criteria for each tenderer are as follows:

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

Criteria for legal and natural persons:

- The average annual turnover¹ over the last 3 accounting years for which the candidate's accounts have been closed must be equal to or exceed 500 000 Euro (EUR)².

¹ Gross annual income if the candidate is a natural person.

² $[(2 \text{ years before last year turnover} + \text{Year before last year turnover} + \text{Last year turnover}) / 3] \geq 500,000.00$ EUR.

2) Professional capacity (based on items 4 and 5 of the request to participate form for service contracts and on items 4 and 5 of the tender form for supply contracts). The reference period which will be taken into account will be the last three years preceding the submission deadline.

- The candidate – whether a natural or a legal person – is duly registered, licensed or otherwise empowered to provide the services for which this tender is being made;
- **For natural persons:** The candidate is currently working as manager and/or team-leader with a pool of at least 10 Documentum developers who have the following primary responsibilities: Administrating the Documentum platform; maintaining and augmenting applications built on the Documentum platform using xCP; bugfixing applications built on the Documentum platform using xCP; creating documentation; managing user requirements; conducting change management & release management.
- **For legal persons:** At least 10 persons of the permanent staff of the candidate are currently working as Documentum developers with the following primary responsibilities: Administrating the Documentum platform; maintaining and augmenting applications built on the Documentum platform using xCP; bugfixing applications built on the Documentum platform using xCP; creating documentation; managing user requirements; conducting change management & release management.

3) Technical capacity (based on items 5 and 6 of the request to participate form for service contracts and on items 5 and 6 of the tender form for supply contracts). The reference period which will be taken into account will be the last three years from submission deadline.

Criterion applicable to both legal and natural persons:

- The candidate has successfully provided Documentum software development and maintenance services under at least 3 contracts, with a budget of no less than 300,000.00 Euros (EUR) each, at any time during the 3 years before the deadline for submission of applications.

This means that the contract the candidate 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. Candidates are allowed to refer either to projects completed within the reference period (although started earlier) or to projects 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 candidate has implemented the project in a consortium, the percentage that the candidate has successfully completed must be clear from the documentary evidence, together with a description of the nature of the services provided/supplies delivered if the selection criteria relating to the pertinence of the experience have been used.

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the request to participate of these candidates must be re-examined in order to rank them and identify the 8 best requests to participate for the tender procedure. The only additional comparative criteria that which will be taken into consideration during this re-examination, in the order in which they appear below, are:

- 1) the highest number of contracts that meet the selection criterion 3 above (technical capacity)
- 2) the highest cumulated value of all the contracts that meet the selection criterion 3 above (technical capacity)

- **N.B.:** additional comparative criterion No 1 shall be applied to all the eligible candidates that meet the selection criteria. If, after applying additional comparative criterion No 1, it is not possible to identify the 8 best candidates because two or more candidates are tied for the 8th position, additional comparative criterion No 2 shall be applied only to these tied candidates.

16. Award criteria

Best price-quality ratio.

PARTICIPATION

17. Requests to participate format and details to be provided

Requests to participate must be submitted using the request to participate form, the format and instructions of which must be strictly observed. The request to participate form is available from the following Internet address:

<https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes>

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

[https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA\(Ch.2\):General](https://wikis.ec.europa.eu/display/ExactExternalWiki/Annexes#Annexes-AnnexesA(Ch.2):General)

Any documentation (brochure, letter, etc.) sent with a request to participate in addition to what has been requested will not be taken into consideration.

18. How requests to participate may be submitted

Requests to participate must be submitted in English exclusively to the contracting authority in a sealed envelope.

- **Highly recommended, EITHER by courier service**, in which case the evidence shall be constituted by the date of the deposit slip, to:

Kosovo Specialist Chambers
Procurement Unit
Raamweg 47
2596 HN The Hague
The Netherlands

- OR, also **highly recommended, hand delivered** by the participant in person or by an agent directly to the premises of the contracting authority in return for a signed and dated receipt, in which case the evidence shall be constituted by this acknowledgement of receipt, to:

Kosovo Specialist Chambers
Procurement Unit
Raamweg 47
2596 HN The Hague
The Netherlands

Please note that all KSC procurement staff has been ordered to work remotely as a precautionary measure to contain the spread of the COVID-19 pandemic. The telework status is expected to last until the 19 May 2020, but it may well be extended further if the current risk of infection persists. During this time, the KSC will not be able to issue acknowledgment receipts to tenderers who choose to hand-deliver their applications to the Raamweg 47 location, whilst at some stage in future it is not unlikely that the possibility of physical bid delivery may stop altogether.

- **OR, technically possible, but not recommended**, by regular post/mail, either (i) unregistered without track & trace, in which case the evidence shall be constituted by the postmark, or (ii) registered with track & trace, or (iii) registered with track & trace AND requiring a signature for receipt, in which case the evidence shall be constituted by the date of the registration slip, to:

Kosovo Specialist Chambers
Procurement Unit
P.O. Box 47
2501 CA The Hague
The Netherlands

IMPORTANT NOTE! Please note that the premises of the Kosovo Specialist Chambers and Specialist Prosecutor's Office, Raamweg 47, The Hague, does not have an external mailbox or readily accessible reception area. Any delivery is diverted by the Security staff to a designated expedition area. It is strongly recommended to submit applications by courier service or by hand-delivery. Registered and unregistered mail through the normal post system should always be sent to the P.O. Box 47 address. Sending registered and unregistered mail to the physical address Raamweg 47, but also to the P.O. Box 47 address, which is mail that will ultimately be handled by the official postal system of The Netherlands, has proven to not be 100% reliable and runs the risk of non-delivery/receipt. In spite of an applicant being able to provide proof of the date and time of sending an application, the responsibility of actually delivery of the application to the Kosovo Specialist Chambers lies fully with the applicant. The use of unregistered mail is fully at the risk of the applicant.

The contract title and publication reference (see contract notice) must be clearly marked on the envelope containing the request to participate and must always be mentioned in all subsequent correspondence with the contracting authority.

Requests to participate submitted by any other means will not be considered.

19. Deadline for submission of requests to participate

The candidate's attention is drawn to the fact that there are two different systems for sending Requests to participate: one is by post, private mail service/courier, the other is by hand delivery.

In the first case, the request to participate must be sent before the date and time-limit for submission, as evidenced by the postmark or deposit slip³, but in the second case it is the acknowledgment of receipt given at the time of the delivery of the request to participate that will serve as proof.

The deadline for submission of requests to participate can be found in the Contract Notice under IV.2.2. Unless the Time Zone is specified otherwise in Contract Notice, the "Local Time"

³ It is recommended to use registered mail in case the postmark would not be readable.

mentioned under IV.2.2 in the Contract Notice shall be understood as Amsterdam Time.

Any request to participate sent to the contracting authority after this deadline will not be considered. The contracting authority may, for reasons of administrative efficiency, reject any request for participation submitted on time but received, for any reason beyond the contracting authority's control, after the effective date of approval of the short-list report, if accepting requests to participate that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

20. Clarifications on the contract notice

Any request for clarifications must be made in writing at the latest 21 days before the deadline for submission of requests to participate stated at section **IV.2.2) of the contract notice and** can be sent to:

victor.fona@scp-ks.org

Clarifications will be published on KSC's website at the latest 8 days before the deadline for the submission of requests to participate. The website will be updated regularly and it is the candidates responsibility to check for updates and modifications during the submission period.

21. Outcome of the evaluation

By submitting a request to participate candidates accept to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the request to participate form.

22. Alteration or withdrawal of requests to participate

Candidates may alter or withdraw their requests to participate by written notification prior to the deadline for submission of requests to participate. No requests to participate may be altered after this deadline.

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