



LIMITE

SERVICE CONTRACT NOTICE

Provision of court reporting and transcription services to the Kosovo Specialist Chambers (KSC) located in The Hague, The Netherlands

Suspensive clause

The financing decisions of the contracting authority are generally adopted on an annual basis and run from 15 June through 14 June of the following year. Thus, the award of the contract for which this tender is made, as well as its continuation beyond the 14 June 2022 and beyond the 14 June of the two years thereafter in case of renewals, will be subject to and be conditional upon:

- (i) the continuation or extension of the mandate of the contracting authority beyond the 14 June 2021;
- (ii) the prior adoption of a financing decision and the prior conclusion of a financing agreement for the contracting authority;
- (iii) the availability of funds in the relevant budget line(s) of such financing agreement.

If any of the above conditions are not satisfied, the contract (if already awarded) shall be suspended with immediate effect and should the period of suspension exceed 90 days, the contract will automatically terminate.

1. Publication reference

KSCR/PROC/2020/0504

2. Procedure

Restricted

3. Programme title

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

4. Financing

EU Grant Contract CFSP/2020/07 Kosovo Specialist Chambers

5. Contracting Authority

Kosovo Specialist Chambers (KSC)

Clarifications may be sought from the contracting authority at the following email address joan.puig-vall@scp-ks.org at the latest 21 days before the deadline for submission of applications stated at the point 23 below.

Clarifications will be posted on the KSC website at the latest 5 days before the deadline.

CONTRACT SPECIFICATION

6. Nature of contract

Fee-based service framework contract

7. Contract description

Production of verbatim transcripts by way of real-time and post-event transcription and post-event editing of court proceedings and any other material for which transcription is requested. The transcription and editing concerns the English, Albanian and Serbian languages.

8. Number and titles of lots

One lot only: Provision of court reporting and transcription services to the Kosovo Specialist Chambers (KSC).

9. Maximum budget

3,000,000.00 € over a 4-year period

10. Scope for additional services

The contracting authority may, at its own discretion, extend the service contract in duration and/or scope subject to the availability of funding up to a maximum not exceeding the length and the value of the initial contract. Any extension of the contract shall be subject to satisfactory performance by the contractor and it shall be granted through a negotiated procedure.

CONDITIONS OF PARTICIPATION

11. Eligibility

Participation is open to all natural persons and legal persons (participating either individually or in a grouping – consortium – of tenderers) on condition that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the PRAG. Participation is also open to international organisations.

12. Candidature

All eligible natural and legal persons (as per item 11 above) or groupings of such persons (consortia) may apply.

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

The participation of an ineligible natural or legal person (as per item 11) 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.

13. Number of applications

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

14. Shortlist alliances prohibited

Any tenders received from tenderers comprising firms other than those mentioned in the short-listed application forms will be excluded from this restricted tender procedure unless prior approval from the contracting authority has been obtained (see practical guide – PRAG – 2.6.3.). Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

15. Grounds for exclusion

As part of the application form, candidates must submit a signed declaration, included in the standard application form, to the effect that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the PRAG.

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.

16. Sub-contracting

Subcontracting is allowed.

17. Number of candidates to be short-listed

On the basis of the applications 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.

PROVISIONAL TIMETABLE**18. Provisional date of invitation to tender**

First fortnight of November 2020.

19. Provisional commencement date of the contract

The commencement date of the contract shall be the 15 June 2021.

20. Initial 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 therein indicated.

Any contract resulting from this tender procedure will be concluded for an initial period of 1 year starting from the commencement date specified in point 19 above.

Such contract shall then be renewed automatically up to 3 times – each time for a period of maximum 1 year 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.

SELECTION AND AWARD CRITERIA

21. Selection criteria

The following selection criteria will be applied to candidates. In the case of applications submitted by a consortium, these selection criteria will be applied to the consortium as a whole unless specified otherwise. The selection criteria will not be applied to natural persons and single-member companies when they are sub-contractors.

1) **Economic and financial capacity of candidate** (based on item 3 of the application form). In case of candidate being a public body, equivalent information should be provided.

- 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 700,000.00 Euro (EUR)².

2) **Professional capacity of candidate** (based on items 4 and 5 of the application form).

- The candidate – whether a natural or a legal person – is duly registered, licensed or otherwise empowered by a governmental authority to provide the services covered by the contract for which this tender is made.
- For natural persons: The candidate has 3 years of proven experience in managing teams of language professionals engaged in tasks similar to those covered by the contract for which this tender is made. All such experience must have been obtained in the 5 years immediately before the deadline for submission of applications.
- For legal persons: At least 3 persons of the permanent staff of the candidate are currently working in fields related to the contract for which this tender is made.

3) **Technical capacity of candidate** (based on items 5 and 6 of the application form).

The candidate has successfully provided court reporting and transcription services under at least 1 contract worth 300,000.00 Euros (EUR) or more, at any time during the 3 years immediately before the deadline for submission of applications.

This means that the service contract the candidate refers to could have been started or completed at any time during the indicated period but it does not necessarily have to be started and completed during that period, nor implemented during the entire period. Candidates are allowed to refer either to service contracts completed within the reference period (although started earlier) or to service contracts not yet completed. In the first case the service contract will be considered in its whole if proper evidence of performance is provided (statement or certificate from the entity which awarded the contract, proof of final payment). In case of service contracts still on-going only the portion satisfactorily completed during the reference period although started earlier will be taken into consideration. This portion will have to be supported by documentary evidence (similarly to service contracts completed) also detailing its value. If a candidate has implemented the service contract 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 if the selection criteria relating to the pertinence of the experience have been used. Documentary evidence is not required at the application stage but will be requested with the invitation to tender.

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

² [(2 years before last year turnover + Year before last year turnover + Last year turnover) / 3] ≥ 700,000.00 EUR.

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Previous experience which caused breach of contract and termination by a contracting authority shall not be used as reference.

An economic operator 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 tenderer relies on other entities it must 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 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 the tender 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 services for which these capacities are required.

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

If more than 8 eligible candidates meet the above selection criteria, their relative strengths and weaknesses must be re-examined in order to rank their applications and identify the 8 best candidates in accordance with point 17 of this contract notice. The only additional comparative criteria that will be taken into consideration during this re-examination, in the order in which they appear below, are:

- 1) the highest number of service contracts that meet criterion 21.3
- 2) the highest cumulated value of all the service contracts that meet criterion 21.3

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.

22. Award criteria

Best price-quality ratio.

APPLICATION

23. Deadline for submission of applications

Applications must be sent to the contracting authority before 17:30 hours (local time in The Netherlands) on Wednesday 14 October 2020.

Any application sent after this deadline will not be considered.

24. Application format and details to be provided

Applications must be submitted using the standard application form, the format and instructions of which must be strictly observed. The application form is available from the following Internet address:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=B> (Form # B3)

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

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A> (Form # A14a)

Any additional documentation (brochure, letter, etc.) sent with an application will not be taken into consideration.

25. How applications may be submitted

Applications (including the declaration on honour on exclusion and selection criteria referred to in point 24 above) must be **sent electronically to joan.puig-vall@scp-ks.org with the following text written in the subject line of the email: ‘Candidate’s name’ – KSCR/PROC/2020/0504**

Applications submitted by any other means will not be considered.

By submitting an application 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 application.

26. Alteration or withdrawal of applications

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

Any such notification of alteration or withdrawal must be submitted electronically to joan.puig-vall@scp-ks.org with the following text written in the subject line of the email: ‘Candidate’s name’ – KSCR/PROC/2020/0504 – ‘Alteration’ or ‘Withdrawal’ as appropriate.

27. Operational language

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

28. Date of publication of prior information notice

30 July 2020.

The prior information notice is posted on the KSC website at the following link: <https://www.scp-ks.org/en/procurement/calls-tender>

29. Legal basis

- Council Decision (CFSP)2020/792;
- EU Grant Contract CFSP/2020/07 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).

30. Additional information

Financial data to be provided by the candidate in the standard application form must be expressed in EUR. If applicable, where a candidate refers to amounts originally expressed in a different currency, the conversion to EUR shall be made in accordance with the **InforEuro exchange rate of September 2020**, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>

Important note:

Court reporters who will be undertaking work at the KSC premises under the contract resulting from this tender procedure (in case of award) will be required to provide the following documents prior to commencing any work:

- 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.*

Such court reporters will also be required to complete a security check with favourable results prior to commencing any work. This security check will be carried out (or caused to be carried out) by the contracting authority well ahead of the court reporters’ actual deployment dates. Court reporters who are unable to successfully pass the security check or who refuse to go through it shall not be given any work whatsoever directly or indirectly connected with the contract resulting from this tender procedure (in case of award). If due to this the contracted services can no longer be effectively performed by the contractor, the contracting authority may decide to terminate the contract in accordance with Article 36 of the General Conditions for Service Contracts.

Likewise, court reporters and other individuals engaged in the execution of the contract resulting from this tender procedure (in case of award) whose work or functions do not entail physical presence at the KSC premises may also be required to undergo a security screening carried out (or caused to be carried out) by the contracting authority, which shall be commensurate with the criticality/sensitivity of the information they will have access to. Those who are unable to successfully pass the security screening or who refuse to go through it shall not be assigned any tasks whatsoever directly or indirectly connected with the contract resulting from this tender procedure (in case of award). If due to this the contracted services can no longer be effectively performed by the contractor, the contracting authority may decide to terminate the contract in accordance with Article 36 of the General Conditions for Service Contracts.

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