

Pre-qualification Document

Restricted Procedure

Framework Agreement for provision of Technical Assistance services to the Danish Energy Agency Energy Country Programs and Projects

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1. GENERAL INFORMATION

This document is relevant for Economic Operators who wishes to apply for pre-qualification to submit a Tender for the Framework Agreement offered in this Tender.

Application for pre-qualification for this Tender is done by completing and submitting the European Single Procurement Document (ESPD Document). The Pre-qualification Document contains the guidelines for the submission of Applications, communication between the Applicant and the Contracting Authority, as well as information about the Tender.

The Applicant must carefully examine the documents of the Tender Dossier. Failure to comply with this Pre-qualification Document or with any other tendering requirements will be at the Applicant's risk. Appendices and forms must comply with the guidelines set out in the appendix or the form and will form part of the Tender and be part of the subsequent Framework Agreement.

The Applicant must ensure that the documents have been correctly completed, as a failure to reply correctly could result in the Application being unconditional and thus not be included in the Pre-qualification evaluation process.

2. PRE-QUALIFICATION

The Contracting Authority intends to pre-qualify 5 (five) Applicants to submit a Tender.

The Applicant should initially read the entire tender documents carefully before submitting the Application.

The Applicant must clearly and unambiguously specify which legal entity is the Applicant and thus liable towards the Contracting Authority. The person signing and submitting the Application pursuant to the Tender Documents must be authorised and qualified to do so. This applies regardless whether the Application has been submitted by a single operation or a consortium or another association of undertakings.

Initially, the Applicant's request for pre-qualification will be assessed against its qualifications. The most qualified Applicants are then invited to submit a Tender.

First, the Applicant's request is evaluated based on a number of minimum requirements regarding qualification, which the Applicant must satisfy in order to qualify for pre-qualification. Subsequently, if the number of qualified Applicants exceeds the number of Applicants which the Contracting Authority intends to pre-qualify, a selection is made between the qualified Applicants, cf. section 8.2.

3. SUBMISSION OF APPLICATIONS

The Applications must be submitted no later than

Tuesday, the 14th of November 2017, at 09:00 GMT +1.

Tenders, received after this deadline, will be rejected.

Applications must be submitted to the following address:

Danish Energy Agency
Att. Nadeem Niwaz
Amaliegade 44
DK-1256 Copenhagen K

It is not possible to submit Applications via e-mail or in any other way other than that indicated below.

The Application must be submitted in 3 (three) paper copies as well as 1 (one) electronic copy on a USB memory stick in an XML version as well as 1 (one) electronic copy on a USB memory stick in a PDF-version.

The inner and outer envelopes shall be addressed to the Contracting Authority at the address and to the person as specified above and shall bear the following identification:

"Application for Pre-qualification to the Tender for Framework Agreement for provision of Technical Assistance services to the Danish Energy Agency Energy Country Programs and Projects – **DO NOT OPEN**".

If an Application is misplaced or opened prematurely because an envelope was not sealed and marked as instructed above, the Contracting Authority shall not be responsible and the Application may be rejected.

The Applicant may modify or withdraw its Application after submitting it, if the modification or notice of withdrawal is received in writing before the time limit for submission of Applications as stated above but not thereafter.

Only the requested documents should be submitted. To the extent that the Applicant chooses to submit other documents as part of its Application, the Contracting Authority cannot take such documents into consideration during the evaluation process.

Each Applicant may submit only one Application.

The original hard copy of the Application shall be signed by a person or persons duly authorised to bind the Applicant. If the Applicant is a Consortium or another association, the Application must be signed by a member authorized to bind the entire Consortium or association.

4. THE PRE-QUALIFICATION MATERIAL

All Tender Material, including the Pre-qualification Material is available on <https://ens.dk/en/our-services/current-tenders>.

All the Tender Documents are important to read before choosing whether to apply for pre-qualification or not (see the Tender Document), but the material to be filled out to apply for pre-qualification is the XML-file for the ESPD Document (see section 5 for further instructions).

Any changes to the Pre-qualification or Tender Documents will be communicated to all Applicants / Tenderers participating in the Tender, via e-mail.

All Tender Documents, including the Pre-qualification Material and any subsequent and additional information, including any revised pages, questions and answers etc., will be available at the Danish Energy Agency website <https://ens.dk/en/our-services/current-tenders>.

5. THE ESPD DOCUMENT

To read and fill out the Contracting Authority's ESPD document, save the XML document included in the Tender Material at your PC.

Then go to the website <https://ec.europa.eu/tools/espd> and follow the instructions on the page you reach by clicking the link above.

You must choose "I am an economic operator" and "import ESPD".

Then upload the XML document from your PC.

Fill in the required information, save it on your own PC by clicking "Overview" in the end of the Document. Then you get a new window in which you have to click "Download as" and then click "Both Formats".

(For further guidance please refer to the Danish Competition and Consumer Agency's guidance in the field which is attached as a supplement to the Tender Material).

The XML file should **only be submitted electronically (on a memory stick)** and does not have to be signed, whilst the PDF version of the ESPD should be **signed** and submitted in paper as well as electronically (see section 3).

6. ERRORS AND OMISSIONS

In the event of errors or omissions in the Pre-qualification Documents submitted, the Contracting Authority may, in so far as it is possible pursuant to Section 159 of the Public Procurement Act, but is not obliged to, request the Applicant to supplement, clarify or complete the information in the documents.

However, it should be emphasized that the possibilities for using section 159 of the Public Procurement Act are not limitless, thus Applicants are strongly encouraged to ensure that all information and documents are complete and final by the time of submission.

If documents are submitted with errors or omissions, this is solely at the Applicant's risk.

7. COMMUNICATION AND QUESTIONS TO THE CONTRACTING AUTHORITY

The Application and all communication during the Pre-qualification phase must be in English via mail to ikkedepp@ens.dk

The Applicants may obtain additional information mainly about the Pre-qualification Documents by submitting written questions. Questions must be asked in English.

Questions must be asked in writing to the e-mail address specified in the top of this clause.

Written questions and answers thereto will be notified to all Tenderers in writing via <https://ens.dk/en/our-services/current-tenders> on an ongoing basis and anonymously. Questions will be answered in English.

Questions asked no later than the **7th November 2017** will be answered no later than 6 (six) Days before the deadline for submission of Applications.

Expect no answers to questions asked later than 6 (six) Days before the deadline for submission of Applications.

If the Contracting Authority needs to notify the Applicants of any additional information later than 6 days before the deadline for submission of Applications, this deadline will be extended accordingly, so the Applicants will always have at least 6 (six) Days to relate to this information.

8. QUALIFICATION REQUIREMENTS

When submitting an Application for Pre-qualification, the Applicant must submit a completed ESPD regarding the qualification requirements, the selection criteria, the exclusion criteria and any sub-suppliers or other supporting businesses.

8.1 MINIMUM REQUIREMENTS

The minimum requirements regarding qualification are as follows:

- A. Economic and financial capacity
 - 1. The Applicant must demonstrate an annual turnover of DKK 32 million as a minimum for the last 3 (three) years.

B. Technical and professional capacity

1. 6 (six) references from the past 5 (five) years within the area of the offered contract. The work must be commenced and if the work is completed it must have been carried out within the last five years.
2. Tenderer must have a Quality Assurance System as per ISO 9001 or equivalent

8.2 SELECTION CRITERIA

If the number of Applicants who meet the qualification requirements exceeds 5 (five), a selection will be made among the qualified Applicants, so that only five Applicants become pre-qualified.

This selection will be based on the following criteria:

1. Economic capacity
2. Evaluation of references including a description of the most important deliveries made during the past five years.

1. Economic Capacity (ESPD PART IV, Littra B, 1st Question):

The size of the Applicants specific turnover (within the area of the Contract). Information must be provided for the last three years.

2. Evaluation of references including a description of the most important deliveries made during the past five years (ESPD PART IV, Littra C, 1st Question):

The description MUST contain the following:

- Contract value
- Duration of the Contract
- Customer
- Customers contact details (contact person, title, phone number and e-mail)
- Overall description of the assignment
- Applicant's role in the task management
- Geographic location for the execution of the task

Based on an overall assessment as set out above, 5 (five) Applicants will be selected and invited to submit a Tender.

9. SUPPORT AND ASSOCIATIONS

9.1 WHEN THE APPLICANT RELIES ON THE CAPACITY OF OTHERS

An Applicant may rely on the economic/financial/technical capacity of other entities regarding performance of the contract or to meet the qualification requirements.

In this case, the conditions below apply regardless of the legal nature of the relationship between the entities.

The Applicant must document that the supporting entity has the required resources, e.g. by completing section C and onward of the ESPD document, which is an expression of the said entities' obligations in this regard.

It must be specified whether the support is financial and/or technical/professional support and exactly what type of support is offered and to which extent. And it must be documented that the supporting entity is legally responsible towards the Applicant.

If an Applicant which relies on the professional capacity of another entity wins the Tender, the supporting entity must carry out the relevant tasks and must not be replaced in this function by other entities including the Applicant itself.

If the Applicant relies on the capacity of other entities, the Applicant must furthermore document that this entity / these entities:

- 1) Meet *the relevant qualification requirements* (i.e. in case of financial support: the financial minimum requirements etc.).
- 2) Are not comprised by the mandatory exclusion criteria

This information must be conveyed through an ESPD Document completed by the supporting entity as well as a Declaration of Support enclosed with the ESPD Document. For this, the form provided in Appendix 7 must be used.

9.2 CONSORTIUMS (OR OTHER ASSOCIATIONS OF UNDERTAKINGS)

Where an Application is submitted by a Consortium including multiple responsible Applicants, each participating legal entity must be specified individually in a clear and unambiguous way, and the Consortium members must also specify a joint authorised representative, who can submit an Application on behalf of the Consortium.

It will furthermore be this person with whom the Contracting Authority may enter into agreements with, with binding effect on the Consortium. The participants in a Consortium or another association of undertakings are jointly and severally liable for both the Application, the Tender and the potential Framework Agreement.

If the Application is submitted by a Consortium, it is the undertaking's *overall capacity*, i.e. financial and technical/professional capacity, which is evaluated. Further, each participating undertaking must document that it is not comprised by the mandatory exclusion criteria nor by the voluntary exclusion ground applicable in this Tender.

Each participant in the Consortium or association must complete and sign an ESPD Document **relating to the Application**.

10. EXCLUSION

If the Applicant is subject to one of the below-mentioned exclusion criteria, the Applicant will be excluded from participating in the Tender procedure.

The obligation to exclude an economic operator also applies where the person convicted by final judgment is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control therein.

The Applicant must use the ESPD document to confirm that the Applicant is not subject to any of the mandatory exclusion criteria (number 1-10) and to confirm that the Applicant is not comprised by the voluntary exclusion criterion included in this Tender (number 11).

The relevant exclusion criteria are:

- 1) Participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA
- 2) Corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in the national law of the Contracting Authority or the economic operator
- 3) Fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests
- 4) Terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision
- 5) Money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council
- 6) Child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council
- 7) Breach of the economic operator's obligations relating to the payment of taxes or social security contributions, where this has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of the Member State of the Contracting Authority
- 8) Where a conflict of interest within the meaning of Article 24 cannot be effectively remedied by other less intrusive measures
- 9) Where a distortion of competition from the prior involvement of the economic **operators** in the preparation of the procurement procedure, as referred to in Article 41, cannot be remedied by other, less intrusive measures
- 10) Where the economic operator has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, has withheld such information or is not able to submit the supporting documents required pursuant to Article 59
- 11) The applicant or the tenderer has been declared bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or where it is in any analogous situation arising from a similar procedure under national legislation in the country where the applicant or the tenderer is based.

Where an Applicant is subject to an exclusion criterion, the Contracting Authority will allow the Applicant to regain eligibility, if it can document that it is no longer comprised by the exclusion criterion in question.

11. NOTICE ON PRE-QUALIFICATION

After evaluation of the Applications for Pre-qualification received, all affected Applicants will be informed of the Contracting Authority's decision as soon as possible and at the same time.

The notification of the Pre-qualification decision will be accompanied by a short explanation. At the same time, the pre-qualified parties will be encouraged to submit a tender.