

Tender 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

Application for pre-qualification for this Tender is done by completing and submitting the ESPD Document (see Pre-qualification Document for further information).

This Tender Document is only relevant to candidates who have been pre-qualified to submit bids. The Tender Document contains the guidelines for the submission of Tenders, communication between the Tenderer and the Contracting Authority, as well as information about the Tender.

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

The Tenderer must ensure that the documents have been correctly completed, as a failure to comply could result in the Tender being unconditional and thus not be included in the Tender evaluation process.

The draft Framework Agreement constitutes a significant part of the Tender Documents and includes the terms which apply to the performance of the Framework Agreement, including payment, delivery, deadlines, breach and liability.

It is not possible to make reservations regarding the Framework Agreement and it is recommended that the terms specified in the Framework Agreement are considered when submitting the Tender.

2. SCOPE OF THE TENDER

The Danish Energy Agency Country Programs will provide technical assistance combined with policy dialogue, in promotion of Renewable Energy and Energy Efficiency – aiming for low carbon development and reduced CO₂ emissions. The Program will build capacity with the current partner countries which include Ukraine, Turkey, Indonesia, Ethiopia, India, USA, UK and Germany and future partner countries to i) provide convincing input for governmental energy, climate/low carbon policies, strategies and plans and ii) deal with implementation aspects of EE and of high shares of variable RE in the national power and heating/cooling systems in a cost-efficient manner.

The programs in the current partner countries are ongoing but are at different phases of implementation. The experiences from ongoing activities in the programs, as well as the technical assistance provided by the Danish Energy Agency (DEA) will provide input for the future activities. The aim is to unite the earlier interventions with future activities utilising the Danish experience with energy transition, while continuing the authority-to-authority element with the partner institutions in the current seven partner countries as well as future potential partner countries. There are a number of development engagements (DEs) in each

current programme country that support the development objectives at country level and long-term goals at programme level.

This Tender aims to provide a Framework Agreement to provide Technical Assistance services to the Danish Energy Agency Energy Country Programs and Projects.

3. THE FRAMEWORK AGREEMENT

The Danish Energy Agency is not required to use this Framework Agreement when purchasing consultants which are within the scope of this Framework Agreement. Thus, it is possible for the Danish Energy Agency to purchase consultants through other Framework Agreements, through independent EU-Tenders or in other ways. However, the Danish Energy Agency's internal guidelines clearly indicate that this Framework Agreement is to be used for all purchases of consultants falling within the scope of the Framework Agreement, and it should therefore be an exception that the consultants in question are purchased differently.

3.1 SUPPLIER

The Contracting Authority intends to award the entire Framework Agreement to a single Supplier (whether this is a single operator, a Consortium or another association of suppliers).

3.2 DURATION

The term of the Framework Agreement is three years from the date of conclusion. However, it is possible to extend the Framework Agreement for one year.

If the contracting entity wishes to apply the possibilities of extension, the Contracting Authority will inform the Tenderer no later than 2 (two) months before the expiry of the Framework Agreement.

3.3 DIVISION INTO LOTS

The offered Framework Agreement is not divided into lots. This is due to the need to draw on the same consultants across the different countries covered by the different Country Programs.

3.4 BUDGET

The value of the Framework Agreement is estimated to be approximately DKK 16 million. However, it should be noted, that this is an estimate, thus, the Tenderer who wins the Framework Agreement is not guaranteed this value, although the value is estimated to be realistic.

For a more detailed description, see the Terms of Reference in Annex B.

4. SUBMISSION OF TENDERS

The Tenders must be submitted no later than

Tuesday, the 19th of December 2017, at 12:00 GMT +1.

Tenders, received after this deadline, will be rejected.

Tenders must be submitted on the following address:

Danish Energy Agency

Att. Nadeem Niwaz

Amaliegade 44

DK-1256 Copenhagen K

It is not possible to submit Tenders in any other way, including via e-mail.

The Tender must be submitted in 3 (three) paper copies as well as 1 (one) electronic copy on a USB memory stick in PDF format.

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:

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

If a Tender 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 Tender may be rejected.

The Tenderer may modify or withdraw its Tender after submitting it, if the modification or notice of withdrawal is received in writing before such prescribed time for submission of Tenders but not thereafter.

The Tenderer should initially read the entire Tender Documents before submitting the Tender.

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

Each Tenderer may only submit one Tender, and the Tender must remain open for acceptance for six months from the deadline for submitting a Tender.

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

Alternative submissions of Tenders are not accepted.

5. THE TENDER MATERIAL

The Tender Documents are the basis for the Tenderer's preparation of their Tenders. The Tender Material is available on <https://ens.dk/en/our-services/current-tenders>.

The Tender Material consists of the following Documents:

- **Tender Notice** (EUT No. 2017/S 201-413642 of 20/10/2017)
- **XML-file for the ESPD Document**
- **Pre-qualification Document**
- **Tender Document** (Current)
- Annexes to the Tender Document:
 - Annex A: Evaluation of the Tenders (award criteria and evaluation method)
 - Annex B: Terms of Reference (ToR)
 - Annex C: Template for the Tender Letter, which the Tenderer is requested to use when submitting their Tender.
- **Draft Framework Agreement** containing the legal provisions governing the relationship between the contracting parties.
- **Draft Appendices 1-7 to the Framework Agreement** containing the detailed requirements for the services procured and which become part of the Framework Agreement after the completion of the Tender.
 - Appendix 1: Terms of Reference
 - Appendix 2a: Key Personnel
 - Appendix 2b: Key Personnel's competence
 - Appendix 3a: Resource Base
 - Appendix 3b: Resource Base competence
 - Appendix 3c: Resource Base List
 - Appendix 4: Energy Modelling and Analysis
 - Appendix 5: Price Schedule
 - Appendix 6: Social Responsibility
 - Appendix 7: Declaration of Support

If the Tenderer finds that there are elements in the Framework Agreement and/or the Appendices to the Framework Agreement which are unacceptable or clearly inappropriate, the Tenderer may, in accordance with the procedure in section 7, propose a change of the Framework Agreement / Appendices to the Framework Agreement. The Contracting Authority will specifically decide whether the proposed changes will be incorporated or not.

Any changes to the Tender Documents will be communicated to all Tenderers participating

in the Tender via e-mail and will continuously be published on <https://ens.dk/en/our-services/current-tenders>.

6. ERRORS AND OMISSIONS

In the event of errors or omissions in the Tender 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 Tenderer 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 Tenderers 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 the Tenderer's own risk.

7. COMMUNICATION AND QUESTIONS TO THE CONTRACTING AUTHORITY

The Tender and all communication during the Tender and contract period must be in English via mail to ikkedep@ens.dk.

The Tenderer may obtain additional information about the Tender Documents by submitting written questions. Questions must be asked in English.

In case of uncertainty or unclarity, the Tenderer is encouraged to ask justified questions and possibly suggest different wordings.

Changes will not be taken into consideration to the extent that the suggested change constitutes significant changes of the original Tender Documentation, or to the extent that the changes risk causing distortion of competition or discrimination.

If the Tenderer becomes aware of errors or inappropriateness in the Tender Documents, the Tenderer should immediately notify the Contracting Authority in order to allow for correction by publication of a corrigendum.

Questions or proposed changes will not necessarily result in amendments of the Tender Documents. Thus, the Contracting Authority will determine whether and to which extent the Tender Material must be amended based on the questions received and any proposed wording.

Questions must be asked in writing by email to the contact person specified in the top of this section.

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 14 days before the deadline for submission of Tenders will be answered no later than 6 (six) Days before the deadline for submission of Tenders.

Questions asked later than 14 days before the deadline for submission of Tenders will be answered to the extent that an answer can be provided no later than 6 days before the deadline for submission of Tenders.

Answers to questions asked later than 6 (six) Days before the deadline for submission of Tenders cannot be expected.

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

8. TENDERS MUST BE FINAL AND COMPLETE

The Contracting Authority cannot negotiate with the Tenderers regarding the Tenders submitted. The Tender should therefore be prepared in such a way that the Framework Agreement can be concluded without prior discussions between the Tenderer and the Contracting Authority.

Tenderers should therefore, as far as possible, use wordings that are suitable for carrying out legal obligations, thus wordings such as "it could be assumed that...", "one might also think that," or "we usually used ... ", " we have often successfully done ... ", " one could also restrain that ... " or " it might be resolved that ... " should not be used. Formulations that are not suitable for carrying out legal obligations may, as the case may be, be treated as a reservation with the consequent consequences outlined in section 11 below.

It is the Tenderer's responsibility to ensure that the Tender is complete and designed in accordance with the guidelines in the Tender Documents.

9. SUB CONSULTANTS

Any entity may be proposed as a prospective sub-consultant by more than one Tenderer.

Whenever an entity not invited to Tender is to be associated as a sub-consultant, the major part of the Services must be rendered by the entity invited to Tender.

If, in the opinion of the Contracting Authority, the selection of sub-consultants locally or within specific fields of expertise is limited, the Contracting Authority may object to exclusive agreements (agreements that prohibit the sub-consultant from entering into agreements with other Tenderers).

10. CONSORTIUMS (OR OTHER ASSOCIATIONS OF UNDERTAKINGS)

If an association of several Tenderers has been pre-qualified in the pre-qualification phase, this association must take on joint liability when submitting their Tender. The entity appointed during the pre-qualification phase as the association's authorised representative, who may enter into binding agreements with the Contracting Authority, will continue in this role. The association will be jointly liable towards the Contracting Authority.

11. RESERVATIONS

Any reservations and justifications must explicitly appear from the Tender.

The Tenderer is encouraged to clarify any ambiguities and uncertainties in the Tender Documents by asking questions regarding the Tender Material, cf. section 7 above, to avoid reservations to the widest possible extent.

It is specified that any reservations regarding essential elements in the Tender Documents, including the Framework Agreement or any minimum requirements, will oblige the Contracting Authority to disregard the Tender. In case of reservations which do not relate to essential elements of the Tender Documents, the Contracting Authority is entitled to disregard the Tender or in the alternative to seek to achieve a pricing of the reservation, to the extent this is considered possible. If a reservation of a financial value cannot be priced, the Contracting Authority is obliged to disregard the Tender.

Consequently, the Tenderers should carefully consider whether the Tender should include reservations regarding the Tender Documents, as any reservation entails a risk that the Contracting Authority is entitled and/or obliged not to include the Tender in the Tender Evaluation.

Professional reservations, e.g. reservations that are considered normal within a specific industry, will be considered as any other reservation.

12. EXCLUSION CRITERIA

The ESPD document submitted relating to the pre-qualification process continues to apply during the Tender phase, thus the Tenderer shall only enclose this document, if any of the conditions have changed since the Pre-qualification process.

13. CONFIDENTIALITY

The Tenderers must observe strict confidentiality in relation to unauthorized third parties concerning information which may come into the Tenderer's possession in connection with this Tender. The Tender Documents must be treated in strict confidence, and the Tenderer is not authorised to use this material or the knowledge obtained in any other connection.

After conclusion of the contract, the Contracting Authority reserves the right to publish a short summary of the evaluation of the selected Tender.

The Contracting Authority will not publish information which the undertaking has defined as confidential information. However, the Contracting Authority is comprised by the rules on public access to documents, due to which parts of the Tenderer's Tender may be subject to the said rules.

The Contracting Authority will in all circumstances be entitled and obliged to provide access to the extent necessitated by legislation.

14. OPENING AND EVALUATION OF THE TENDERS

The Contracting Authority will open the Tenders after the expiration of the deadline.

There will not be an opportunity for the Tenderer to be present when the received Tenders are opened. The Contracting Authority is not obliged to return a Tender to the Tenderer.

After the Tenders have been opened, the Contracting Authority will assess whether the Tenders meet the formal requirements of the Tender Documents. The Contracting Authority may apply the procedure in section 159 (1) of the Public Procurement Act. 5 and 6 if the Tender does not meet the formal requirements of the Tender.

Notwithstanding the use of the word "must" or "shall" in the Tender Documents, the Contracting Authority reserves the right to obtain further information within the framework of the above-mentioned provisions.

The Contracting Authority may also clarify any uncertainties in the Tenders within the scope of the Public Procurement Act.

However, the Contracting Authority is not required to obtain additional information or documentation from the Tenderers.

The Contracting Authority also assesses whether the Tenders are conditional. The Tenders will be evaluated as described in Annex A.

Following the Contracting Authority's decision to award the contract, the Contracting Authority notifies all Tenderers about the award decision.

The notification of the Tenderers who have submitted a conditional Tender but who are not awarded the contract, will contain a brief explanation of the relevant reasons for the decision, including the characteristics and benefits of the winning Tender in relation to the unsuccessful Tender and the name of the winning Tenderer. The notification will further inform the Tenderer of the expiration date of the standstill period.

15. CONTENT OF THE TENDER SUBMITTED

A Tender consists of the following documents:

- A. Letter of Tender (Annex C)
- B. Completed Appendices

The Tender does not have to contain the contract and the Appendices to the contract, which are not to be completed by the Tenderer. The contract and its Annexes are considered accepted by the Tenderer.

A) Letter of Tender

Tenderers shall attach a Letter of Tender (Annex C), which should contain the following information:

- Which company or association that submits the Tender
- E-mail address and phone number, which the Contracting Authority may contact regarding the Tender.

B) Appendices

The Tenderer is requested to complete the following Appendices /Documents:

- Appendix 2a Key Personnel
- Appendix 2b Key Personnel's competence
- Appendix 3a Resource Base
- Appendix 3b Resource Base competence
- Appendix 3c Resource Base List
- Appendix 4 Energy Modelling and Analysis
- Appendix 5 Price Schedule

Each Appendix contains an indicative text explaining how to complete the Appendix / Document.

All duties, taxes, VAT, and other levies applicable for the contract in question payable by the Consultant in relation to the performance of the Agreement, or for any other cause, shall be included in the rates, prices and total Tender Price submitted by the Tenderer, and the evaluation and comparison of Tenders by the Contracting Authority shall be made accordingly.

All prices and unit rates quoted in the Price Schedule shall be in DKK.

16. EVALUATION METHOD

The evaluation of the Tenders is carried out in accordance with the description provided in Annex A.

The award criteria used are the Economic Most Advantageous Tender by The Best Price-Quality Ratio, based on the following criteria and sub-criteria:

Quality	80 %
- Key Personnel	50%
- Resource Base	30%
- Energy Modelling and Analysis	20 %
Price	20 %

17. CONCLUSION OF THE TENDER PROCEDURE

When the Contracting Authority has evaluated the Tenders, the Contracting Authority will ask the Tenderer, which the Contracting Authority intends to award the contract to, for documentation confirming the information given in the ESPD submitted in relation to the pre-qualification phase. It will usually take between 2-4 weeks to obtain the documentation.

It must be noted that the reference list listed in the ESPD Document constitutes the final documentation of the references, thus no additional documentation must be provided for this part of the information provided.

When the Contracting Authority has obtained the necessary documentation, all affected Tenderers will be informed of the Contracting Authority's award decision as soon as possible and at the same time.

Notification of the award to the successful Tenderer(s) is not a promise that a Framework Agreement will be concluded with such Tenderer but only a notification that, in the opinion of the Contracting Authority, the Tenderer has submitted the most economically advantageous Tender based on the criterion of the best price-quality ratio.

Before awarding the Framework Agreement, the Contracting Authority will review the documentation submitted by the Tenderer who has submitted the Most Economically Advantageous Tender, based on the request from the Contracting Authority. If the documentation is sufficient, notification of the Contracting Authority's award decision will be given to all Tenderers at the same time. The notification of the award will be accompanied by a brief explanation of the relevant reasons for the decision.

The Contracting Authority does not consider the Tender process concluded until the Framework Agreement has been signed, and the Contracting Authority reserves the right to cancel the competition on objective grounds.

The Contracting Authority's notification of the award decision does not exempt unsuccessful Tenderers from the obligations under the Tender, which remains in force during the period for which the Tender will remain open for acceptance, cf. section 4.

Even if the Framework Agreement is awarded to other Tenderers, the Tenderer is bound by its Tender until the Contracting Authority has concluded the Framework Agreement, though no longer than the period for which the Tender will remain open for acceptance specified in section 4.

After such notification of the Tenderers, a standstill period of 10 Days will apply pursuant to sections 2 and 3 of the Danish Act No. 492 of 12 May 2010 regarding enforcement of the procurement rules etc. This means that the Contracting Authority cannot enter into an agreement with the successful Tenderer until the standstill period has expired.

The Tenderer's costs in relation to the call for Tenders is of no concern to the Contracting Authority, including if the Contracting Authority cancels the competition on objective grounds without concluding the Framework Agreement.

18. ADDITIONAL INFORMATION

18.1 RETURN OF AND COMPENSATION FOR TENDERS

The Tender Documents including Appendices will not be returned or delivered.

The Tenderer shall bear all costs incurred in the preparation and submission of its Tender, including visits, interviews, meetings of clarifications and other actions mentioned or implied by the Tender Documents. The Contracting Authority will not be responsible or liable for such costs, regardless of the conduct or outcome of the Tendering process.

18.2 INTERPRETATION

Words and expressions defined in the Conditions of the Framework Agreement shall have the same meanings in this Tender Document.

18.3 BRIBERY ETC.

No offer, payment, consideration, or benefit of any kind, which constitutes illegal or corrupt practice, shall be made, either directly or indirectly, including bribery of foreign public officials, as an inducement or reward in relation to:

- the Tendering,
- the award of the assignment, or
- the implementation of the Agreement.

Any such practice will be grounds for the immediate cancellation of the Agreement and for such additional actions through civil and/or criminal courts as may be appropriate.