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Instructions to Tender for Open Invitation to Tender - Procurement Procedure for the Supply of Website Services to the European Banking Authority (EBA) (Lot 1 and Lot 2) with Reference No. EBA/2011/015/OPS/SER/OP

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Instructions to Tender for Open Invitation to Tender - Reference No. EBA/2011/015/OPS/SER/OP - Procurement Procedure for the Supply of Website Services to the European Banking Authority (EBA) (Lot 1 and Lot 2)

1. Title of the Invitation to Tender

This document contains the Instructions to Tender and Annexes for the Open Invitation to Tender No.EBA/2011/015/OPS/SER/OP. The title of the Procurement Procedure is the Supply of Website Services to the European Banking Authority (EBA) (Lot 1 and Lot 2).

The Contract Notice for this Open Tender has been published in the Official Journal of the European Union (OJEU S252) on 31 December 2011.

2. Objectives and Context of the Invitation to Tender

Please refer to Annex V Terms of Reference.

3. Subject of the Tender

Please refer to Annex V Terms of Reference for a detailed description of the subject of the tender.

4. Participation in the Tender

4.1. Multilateral Agreement on Public Procurement

Participation in this tendering procedure shall be open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which has a special agreement with the European Union in the field of public procurement under the conditions laid down in that agreement.

Where the Multilateral Agreement on Public Procurement concluded within the World Trade Organisation applies, the tendering procedure shall also be open to nationals of the countries which have ratified this agreement, under the conditions laid down in that Agreement. In that connection, it should be noted that the services under Annex II-B to Directive DIR/2004/18/EC and the R&D services listed in category 8 of Annex II-A to that Directive are not covered by the Agreement.

4.2. Subcontracting

Subcontracting is not allowed.

5. Additional Documentation Available to Tenderers

Further information about the work of the EBA can be obtained from its website: <http://www.eba.europa.eu>.

6. Information and/or Site Visit

No information or site visit is deemed necessary.

7. Variants

Not Applicable.

8. Estimated Contract Volume

The volume and scope of the services for Lot 1 are defined in detail in Annex V. For Lot 2 EBA estimates, without this being binding, that over a four year period, the overall value may range from GBP £45,000 to GBP £60,000 exclusive of VAT.

9. Price

9.1. Currency of Tender

Prices should be submitted in GBP. Annex I Costing Sheet attached to these Instructions to Tender must be used to submit a financial offer. **Please note that the Costing Sheet must be submitted in a separate binder or folder, which must be clearly labelled, and placed inside a separate sealed envelope.**

9.2. All-Inclusive Prices

Prices submitted in response to this tender must be inclusive of all costs involved. No expenses incurred in the performance of the services will be reimbursed separately by the EBA.

9.3. Price Revision

Prices submitted in response to this tender shall be fixed and not subject to revision during the first year of performance.

From the beginning of the second year of performance prices may be revised upwards or downwards each year, where such revision is requested by one of the contracting parties by notice served no later than three months before the anniversary of the date on which the contracts became effective.

Specific Contracts or Purchase Orders related to Lot 2 shall be concluded on the basis of the prices in force on the date on which they are signed. Such prices shall not be subject to revision.

This revision shall be determined by the trend in the Retail Price Indices (RPI) covering the United Kingdom, where the services are to be performed. The RPI is published on a monthly basis by the National Statistics Office, 1 Drummond Gate, London SW1V 2QQ, www.statistics.gov.uk.

Revision shall be calculated in accordance with the following formula:

$$Ar = Ao \frac{Ir}{Io}$$

where

Ar = revised total amount;

Ao = total amount in the original tender;

Io = index for the month in which the validity of the tender expires;

Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices.

9.4. Costs Involved in Preparing and Submitting a Tender

The EBA will not reimburse any costs incurred in the preparation and submission of a tender. Any such costs must be paid by the tenderer.

9.5. Period of Validity of the Tender

Tenderers must enclose a confirmation that their tenders and prices given are valid for six months from the date of submission of the tender.

9.6. Protocol on the Privileges and Immunities of the European Union

EBA is, as a rule, exempt from all taxes and duties, and in certain circumstances is entitled to a refund for indirect tax incurred such as Value Added Tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union. Tenderers must therefore give prices which are exclusive of any taxes and duties and must indicate the amount of VAT separately.

10. Payment Arrangements

Payments shall be executed only if the Contractor has fulfilled all its contractual obligations by the date on which the invoice is submitted, including the specified deliverables.

11. Description of the Contract

EBA intends to conclude two separate contracts with the same provider namely (i) a services contract for the hosting, operation, related services and redesign of its website (Lot 1) and (ii) a framework contract for the provision of additional website services (Lot 2). Tenderers must therefore provide a technical and financial offer for both Lot 1 and Lot 2. Both contracts will be concluded for an initial period of one year with the possibility of renewal for three further periods of one year each. The framework contract will establish the terms governing the specific contracts or purchase orders to be awarded during a given period, in particular the scope and price of the services. Signature of the framework contract imposes no obligation on the EBA to order services. Only the implementation of the framework contract through specific contracts or purchase orders is binding for the EBA. Each specific contract or purchase order will contain details of the services to be provided. Draft contracts are attached to these Instructions to Tender as Annex IV. Tenderers must confirm acceptance of the contracts as well as the terms and conditions of the tender as part of their tender response.

12. Exclusion Criteria

Tenderers shall be excluded from participation in this procurement procedure if:

- they are insolvent (or the subject of bankruptcy proceedings if an individual) 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 those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- they have been convicted of an offence (if an individual) or judgment has been made against them concerning their professional conduct by a judgment which has the force of *res judicata*;

- they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- they have not fulfilled 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 contracting authority or those of the country where the contract is to be performed;
- 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;
- 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.
- Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:
 - are subject to a conflict of interest;
 - are guilty, either knowingly or negligently, of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

Tenderers **must** complete, date and sign the declaration in Annex II in relation to Exclusion Criteria. Only the successful tenderer will be required to provide all the supporting documentation indicated in Annex II at a later stage prior to signature of the contracts.

13. Selection Criteria: Financial and Economic Capacity

Tenderers should be in a stable financial position and have the economic and financial capacity to perform the contract. **The minimum financial and economic capacity requirement for Lot 1 and Lot 2 is as follows: Tenderers must have had an average annual turnover in the last three years (2009, 2010 and 2011) of at least GBP £350,000.** Tenderers are requested to provide the following documentation to enable an assessment of their financial and economic capacity:

1. A copy of the most recent audited accounts that cover the last three years of trading or for the period that is available if trading for less than three years.
2. A statement of the company's turnover, profit and loss, and cash flow position for the most recent full year of trading (or part year if full year not applicable) and an end period balance sheet, where this information is not available in audited form at point 1 above.
3. Where documents mentioned under point 2 cannot be provided, please provide a statement of the company's cash flow forecast for the current year and a bank letter outlining the current cash and credit facility position.
4. If the organisation is a member of a group of companies, documents under points 1, 2 and 3 are required for both the tenderer and its ultimate holding company. Where a consortium or association is proposed, the information is requested for each member company.
5. Please enclose a separate statement of the tenderer's turnover that relates directly to the requirements of the EBA for the past three years, or for the period the tenderer has been trading (if less than three years).

6. Evidence of relevant insurance for the contracts.

If the tenderer is not obliged to publish its accounts under the company law of the country in which it is established, please supply copies of such accounting information as the tenderer is willing to provide relating to the last three financial years or any period since the end of the last financial year.

14. Selection Criteria: Technical and Professional Capacity

The minimum professional and technical capacity requirements for Lot 1 and 2 are as follows:

- (a) Tenderers must have at least 3 years of experience during the last 3 years (2009, 2010 and 2011) providing similar services (i.e. website redesign, hosting, transitions, development, security, availability on a daily basis) to the ones described in Annex V Terms of Reference.
- (b) Tenderers must possess all the necessary resources (i.e. sufficient qualified staff, equipment, premises, hosting servers, software) in order to be able to carry out the services described in Annex V Terms of Reference.

Tenderers are requested to provide the following documentation to enable an assessment of their technical and professional capacity:

- Proof of authorisation to perform the contract under national law, as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register
- A description of the company profile and structure including human resources, equipment, premises, hosting servers, software
- A list of the principal services performed during the last 3 years (2009, 2010 and 2011) giving the dates, name and address of the client, and description of the services undertaken including name and role of any sub-contractors and/or consortium members. The EBA may elect to contact any of the aforementioned companies for a reference. Your permission to do so will be assumed unless you state any objections

15. Award Criteria

The award criterion which will apply to this tender is the most economically advantageous tender where technical merit is weighted against price on a 75/25 basis:

Tenderers complying with the **selection criteria** will have their tender evaluated in terms of technical merit as described below.

Technical Merit:

The technical merit shall be assessed in terms of the following criteria:

Technical Award Criteria	Maximum Points
<u>Understanding:</u> This criterion is used to assess whether tenderers have understood all the issues involved, as well as the nature of the work to be undertaken and whether all of the aspects required to attain the EBA's objectives are taken into consideration in order to provide the services and/or products requested.	30

Project Management, Resources and Availability: This criterion relates to the quality of project planning, the organisation of the team with a view to managing a project of this nature and the quality and availability of the human and technical resources for the timely and accurate completion of the tasks.	30
Quality of Technical Solution: This criterion relates to the quality of the technical solution proposed by the tenderer (e.g. CMS, hosting, server, security, service level agreement, redesign)	30
Creativity: This criterion is used to assess the originality of ideas and the creativity the tenderer intends to bring in its approach.	10
Total:	100

Tenderers must achieve a minimum of **70 points** of the total available points for technical merit to be admitted to the financial evaluation. Tenderers must provide the following information to enable an assessment of the technical merit of their tender:

- A detailed description of the composition and organisation of the tenderer's proposed team, including CVs, and resources which ensures maximum efficiency in terms of the costs, speed and quality of the services requested;
- A detailed description of the technical solutions proposed by the tenderer to meet the EBA's requirements described in the Terms of Reference;
- A detailed description of the tenderer's understanding of EBA's needs and of the services requested;
- A description of the approach and ideas the tenderer proposes for the redesign of the EBA website. This description should present both the project cycle proposed (methodology and timeline) and preliminary ideas in terms of design and layout.

Price:

The financial evaluation will be made on the basis of the prices offered in Annex I and the table below. The cheapest price for each criterion (P1/P2/P3) receives the maximum points available. The remaining prices receive lower points in proportion to the cheapest price.

Financial Award Criteria	Maximum Points
P1 Service operation, design and transition	40
P2 Website re-design and transition	30
P3 Additional service design and transition	30

Financial scores shall be calculated therefore according to the following formula: Financial score for Tender A = $40 * (P1 \text{ min} / P1 A) + 30 * (P2 \text{ min} / P2 A) + 30 * (P3 \text{ min} / P3 A)$

Where:

P (1/2/3) min = cheapest price among the tenders for P1, P2, P3

P (1/2/3) A = price for P1, P2, P3 from Tender A

Final Evaluation

The **most economically advantageous tender** will then be calculated by weighing technical merit against price on a 75/25 basis according to the following formula:

For Tender A = $75/100 * (\text{technical score Tender A}) + 25/100 * (\text{financial score Tender A})$

16. Tender to be Submitted

In order to assess each tenderer according to the abovementioned criteria, **the following information must be submitted by the tenderer:**

- A letter enclosing the tender on the official letter headed paper of the tenderer signed by an authorised representative of the tenderer.
- An information sheet on the tenderer indicating:
 - the name and registered business address including telephone and fax numbers, e-mail address and website address, and any other different, current or previous trading name;
 - the name and contact details of the person who may be contacted with any queries regarding this tender;
 - the legal status of the tenderer;
 - if the tenderer is a partnership the full details of the partners;
 - if the tenderer is a company the company registration number, VAT registration number and date of incorporation;
 - if the tenderer is a member of a group of companies the relationship between the tenderer and the ultimate holding company, the name and address of the holding company and its registration number, whether the ultimate holding company would be prepared to guarantee the liabilities in connection with this contract;
 - details of organisational structure including organisation chart;
 - number and locations of premises;
 - number of employees;
 - name of the person authorised to sign contracts on behalf of the tenderer.
- Completed declaration in Annex II relating to the exclusion criteria.
- Completed Legal Entity and Bank Account Files
- Documentation requested to enable assessment of the selection criteria (points 13 and 14 above).
- The technical information requested to enable assessment of the award criteria (point 15 above).
- A statement to confirm that information provided in response to this tender is accurate and complete as at the date of submission and acknowledgement that the provision of false information, either knowingly or negligently, in response to this tender could result in the tenderer being excluded from future tenders for contracts with the EBA.
- Confirmation of acceptance of the draft contracts and terms and conditions of the tender.

- An undertaking to inform the EBA promptly following any matter which would alter or add to any of the information given in response to this tender.
- Tenders submitted by consortia or by groups of service providers or suppliers must indicate the role, title and experience of each member or of the group.
- **To be submitted in a separate, clearly labelled binder or folder, which must be placed inside a sealed envelope,** a detailed financial tender using the Costing Sheet attached in Annex I, exclusive of VAT, and signed by an authorised representative of the tenderer.
- Tenderers are requested to make use of the checklist given in Annex III to ensure that no enclosure has been omitted in their tender.

Annexes

- I Costing Sheet to be used by Tenderers
- II Exclusion Criteria Statement and Details of Supporting Documentation Required
- III Summary Checklist of Documents Which Tenderers Must Submit
- IV Draft Contracts
- V Terms of Reference
- VI Legal Entity and Bank Account Files

Annex I: Costing Sheet

Tenderers must use the Costing Sheet to submit their financial offer. **Tenderers must submit the Costing Sheet in a separate binder or folder which must be clearly labelled and placed inside a separate, sealed envelope.** All prices must be submitted in GBP. The prices offered shall be "all-inclusive". No other extra costs will be charged to the EBA.

Name of Tenderer: _____

	<u>Service Item</u>	<u>Unit</u>	<u>Number of Units</u>	<u>Unit Price in GBP</u>	<u>V.A.T.</u>	<u>Total Price (incl. V.A.T.)</u>
P1	Service operation, design and transition (Lot 1)	Month	12			
P2	Website re-design and transition (Lot 1)	Fixed Price	1			
P3	Additional service design and transition (Lot 2)	man/day	N/A			

Date:

Signature of Authorised Representative:

(Print Name):

Position in Company:

Annex II

Exclusion Criteria Declaration upon Honour and Details of Supporting Documentation Required

Tenderers must:

- Answer the following questions by indicating yes or no in each case. A “yes” response to questions 1-11 inclusive will result in the tenderer being eliminated from the procedure. A “no” response to questions 12-17 will result in the tenderer being eliminated from the procedure.
- Ensure that the declaration is signed and dated by the tenderer.
- Ensure that signature is by either a company director or any person with powers of representation or control in relation to the tenderer.
- Note that where subcontracting is envisaged the subcontractor must provide a signed declaration.
- Note that if the tenderer is a legal entity, it must provide, if requested by the EBA at a later stage in the procedure, any further information on the ownership or on the management, control and power of representation of the legal entity.

Declaration upon Honour

The undersigned declares upon honour the following answers in relation to the company or organisation that he/she represents:

1. Is the tenderer insolvent (or the subject of bankruptcy proceedings if an individual) or being wound up?	Yes/No
2. Is the tenderer having its affairs administered by the courts?	Yes/No
3. Has the tenderer entered into an arrangement with creditors?	Yes/No
4. Has the tenderer suspended its business activities?	Yes/No
5. Is the tenderer the subject of proceedings concerning any such matters referred to in 1, 2, 3 or 4 above or in any analogous situation arising from a similar procedure provided for in national legislation or regulations?	Yes/No
6. Has the tenderer been convicted of any offence (if an individual) or judgment been made against it concerning its professional conduct by a judgment which has the force of res judicata?	Yes/No
7. Has the tenderer been guilty of grave professional misconduct?	Yes/No
8. Has the tenderer failed to fulfil its 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 contracting authority or those of the country where the contract is to be performed?	Yes/No

9. Has the tenderer 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?	Yes/No
10. Following any other procurement procedure or grant award procedure financed by the European Union budget, has the tenderer been declared to be in serious breach of contract for failure to comply with their contractual obligation and is the tenderer subject to any administrative penalty as a result of this?	Yes/No
11. Does the tenderer have conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties, or any other relevant connection or shared interest?	Yes/No
12. Will the tenderer inform the EBA, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest?	Yes/No
13. Does the tenderer confirm that it has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract?	Yes/No
14. Does the tenderer confirm that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, 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?	Yes/No
15. Does the tenderer confirm that it is not guilty of any serious misrepresentation, either knowingly or negligently, in supplying any information required by the EBA?	Yes/No
16. I note that the EBA reserves the right to check the responses to the above information.	Yes/No
17. I agree to provide the supporting documentation listed below should the tenderer be awarded a contract by the EBA.	Yes/No

I declare upon my honour that the above responses are correct.

Date: _____ Signature of authorised representative: _____
(Print name): _____
Position in Company: _____
Representing (name of tenderer): _____

Signature should be by either a company director or any person with powers of representation or control in relation to the tenderer.

Tenderers must note that the following supporting documentation will have to be provided at a later stage prior to contract signature but only by the successful tenderer. No contract can be signed without receipt of such supporting documentation. For successful joint tenderers exclusion criteria declarations and supporting documents are required from each company individually.

In support of the above responses, the successful tenderer will provide the following documents:

The proof regarding the situations mentioned in points 1, 2, 3, 4, 5, 6 and 9 in the form of a recent extract from the judicial record, or failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that these requirements are satisfied. The extract(s) or equivalent documentation must be the most reasonably available.

The EBA will accept a recent certificate issued by the competent authority of the country concerned as satisfactory evidence that the tenderer is not in the situation mentioned in point 8 above. The certificate must be dated less than four months before the final date for submission of tenders.

Where no such certificate is issued in the country concerned, it may be replaced by a sworn or a solemn statement made by the tenderer before a judicial or administrative authority, a notary or a qualified professional body in the country of origin or provenance.

Annex III

Summary Checklist of Documents which Tenderers must submit

1. Letter enclosing the tender on the official letter headed paper of the tenderer and signed by an authorised representative of the tenderer.
2. Tender in one paper original and two paper copies with one copy of all documents on CD-ROM, containing the following elements:
 - Information sheet on the tenderer (as detailed in Section 16 above).
 - Completed declaration in Annex II relating to the Exclusion Criteria.
 - Documentation requested to enable assessment of the Selection Criteria (Sections 13 and 14 above).
 - The information requested to enable assessment of the Award Criteria (Section 15 above).
 - Completed Legal Entity and Bank Account Files
 - A statement to confirm that information provided in response to this tender is accurate and complete as at the date of submission and acknowledgement that the provision of false information, either knowingly or negligently, in response to this tender could result in the tenderer being excluded from future tenders for contracts with the EBA.
 - Confirmation of acceptance of the draft contracts and terms and conditions of the tender.
 - An undertaking to inform the EBA promptly following any matter which would alter or add to any of the information given in response to this tender.
 - Tenders submitted by consortia or by groups of service providers or suppliers must indicate the role, title and experience of each member or of the group.
 - **To be submitted in a separate binder or folder, which must be clearly labelled, and placed inside a separate, sealed envelope** a detailed financial tender using the Costing Sheet attached in Annex I, and exclusive of VAT, signed by an authorised representative of the tenderer.

END

Annex IV

Draft Contracts

(see separate document)

Annex V

Terms of Reference

(see separate document)

Annex VI

Legal Entity and Bank Account Files

(see separate document)