



Title of the project: *Improvement of Energy Efficiency through an Inter-Municipal Management Network*
Tender Reference: EuropeAid/133-339/L/ACT/ME – 2013/335-263/05

LETTER OF INVITATION TO TENDER, PROCUREMENT NOTICE AND INSTRUCTIONS TO TENDERERS¹

Bar, 22nd August 2014

Dear Sir

SUBJECT: INVITATION TO TENDER FOR Engagement of the Consultant for Energy Auditing of public facilities

Please find enclosed the following documents, which constitute, together with this letter, the tender dossier:

- 1. THE TEMPLATE OF THE TECHNICAL PROPOSAL**
- 2. THE TEMPLATE OF THE FINANCIAL PROPOSAL**
- 3. THE TEMPLATE OF THE CONTRACT**
- 4. THE TOR**

TENDER DATA

1. Tender reference: EuropeAid EuropeAid/133-339/L/ACT/ME – 2013/335-263/05

2. Procedure

Open

3. Programme

Inter - Municipal Development Grants Programme - 2011 Instrument for Pre-Accession Assistance (IPA), Component I, Support to Local Self Government Reform III

4. Financing

This project is financed by the European Union and co-financed by the government of Montenegro and the municipalities of Bar, Ulcinj, Budva, Kotor, Tivat and Old Royal Capital Cetinje, in accordance with the rules of IPA programme.

5. Contracting Authority

Bar Municipality
Bulevar Revolucije 1
85000, Bar
Montenegro

¹ In submitting a tender, the tenderer accepts in full and without restriction the conditions governing the contract as the sole basis of this tendering procedure, whatever its own conditions of sale may be, which it hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender. No account can be taken of any reservation in the tender as regards the tender dossier; any reservation may result in the immediate rejection of the tender without further evaluation. The instructions included in this invitation set out the rules for the submission, selection and implementation of contracts financed under this call for tenders.

CONTRACT SPECIFICATIONS

6. Nature of the contract

Global price

7. Description of the contract

The main objective of this assignment is to perform preliminary energy audits of the public buildings and other facilities under jurisdiction of Local Self Government of Ulcinj, Budva, Tivat, Kotor and Cetinje. According to EBPB requirements and national legislation these audits can be performed only by trained professionals for energy auditing. Audits performed will provide sufficient information for energy efficiency improvements and all necessary data for already established Central Information System of Energy Consumption (CISEC) as well as National Information System for Monitoring and Verification of Energy Savings. Audits will also represent a basis for consideration of present building stock conditions giving overview of constructive and energy performances. All these information are necessary for any future analyses, programs and plans, as well as benchmark comparisons.

8. Number and titles of lots

One lot

TERMS OF PARTICIPATION

9. Eligibility

Participation in tendering is open to all legal or natural persons participating either individually or in a grouping (consortium) or tenderers which are established in one of the Member States of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the IPA programme under which the contract is co-financed². Participation is also open to International Organisations.

10. 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.

11. Grounds for exclusion

Tenderers must submit a signed declaration, included in the Application of the tenderer, to the effect that they are not in any of the situations listed in point 2.3.3 of the **Practical Guide to contract procedures for EC external actions**.

12. Number of tenders

Tenderers may submit only one tender. Tenders for parts of a lot will not be considered. Tenderers may not submit a tender for a variant solution in addition to their tender:

13. Tender guarantee

Tender guarantee is not requested.

² Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom, Croatia, The former Yugoslav Republic of Macedonia, Turkey, Albania, Bosnia, Montenegro, Serbia, including Kosovo, Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestinian Authority of the West Bank and Gaza Strip, Russian Federation, Syria, Tunisia, Ukraine, Iceland, Lichtenstein, Norway

14. Guarantee(s)

Performance guarantee is not requested in the tender phase. In the template for the contract the guarantee requirements are specified.

15. Tender validity

Tenders must remain valid for a period of 90 days after the deadline for submission of tenders.

16. Period of implementation of tasks

The implementation will last 3 months.

SELECTION AND AWARD CRITERIA

17. Selection criteria

1. Economic and financial capacity of candidate:

1. The average annual turnover of the tenderer in the past 3 years must be at least EUR 16.000 (sixteen thousands Euro). If the turnover is not submitted in Euro, the exchange rate applied is the average exchange rate of the year concerned in accordance with the Inforeuro (<http://ec.europa.eu/budget/inforeuro/>).

In the case of a tender submitted by a consortium the economic and financial criteria required must be fulfilled as follows:

- the leader must meet minimum 60%, and
- the consortium as a whole must meet 100% of the above mentioned criteria.

The Company³/Consortium that will have the contract awarded will have to provide copies of the balance sheets and of the income statements for the last three years.

2. Professional capacity of candidate:

The candidate's key personnel must be composed of at least the following profiles:

The Contractor will have to provide an expert / a team of experts, engineers able to express the following professionalities (please note: Each proposed engineer is not required to have all the characteristics listed below, it is enough that the below listed characteristics are present in the team in such a way to allow to the team to deliver the final products).

He/she shall possess

General qualification and experience:

- To have at least graduate degree in engineering in the following fields: civil or mechanical or electrical or architecture
- To have at least 4 years of postgraduate experience working as trained professionals for energy auditing;
- To be fluent Montenegrin speaker and fluent in English;
- Computer literacy; very good computer skills: MS Office including Excel and PowerPoint, Internet;
- Proven experience with statistical and database applications is indispensable - ENSI software or similar

Specific professional experience:

- To have authorization to perform energy audits, issued by the Ministry of Economy of Montenegro;
- To have experience and good overview of energy efficiency at municipal level and proven

³ The company means all legal or natural persons participating either individually or in a grouping (consortium).

- experience working with municipalities in the field of energy auditing of public facilities;
- To have knowledge and most recent experience in South-East Europe (Energy Community Countries), specific and practical experience in EU-accession countries will be considered as an extra asset;
 - To have experience in organizing and conducting presentations;
 - To have excellent coordination and communication skills, as well as sound time management;
 - To have proven experience working with energy efficiency indicators and statistic data processing;
 - To have experience in preparation of inventory of building stock and similar documents..

In case of a team of experts, the Energy auditor should be team leader.

The contractor will have to select additional professionals (if necessary) to properly implement this service contract.

The Company/Consortium that will have the contract awarded will have to provide copies of the university degrees, professional certificates if required of the proposed experts as well as certifications proving the professional experience included in the CVs of the experts for the last ten years or since the beginning of the professional career in case the expert has less than ten years of professional experience. In duly justified cases, the experts can provide self-certifications.

3. Technical capacity of candidate:

1. The tenderer must have successfully completed as prime contractor, over the last 3 (three) years (Timing ending on the deadline for submission of this tender) at least 1 (one) contract of similar complexity.

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. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of 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.

The Company/Consortium that will have the contract awarded will have to provide documents supporting the references included in the tender.

18. Award criteria

Lowest compliant price

TENDERING AND CONTRACTING

19. How to obtain the tender dossier

The tender dossier is available from http://www.uom.co.me/?page_id=1507. Tenders must be submitted using the standard tender form included in the tender dossier, whose format must be strictly observed. English language is the official language. Translation in local language is to be considered as an informal and not binding translation.

Tenderers with questions regarding this tender should send them in writing to Ms. Slađana Lazarević, Project Manager, Bulevar Revolucije 1, 8500 Bar on fax no. 030/301-476 or at e- mail sladjana.lazarevic@bar.me (mentioning the tender reference shown in item 1) at least 21 days before the deadline for submission of tenders given in clause 21. The Contracting Authority shall reply to all tenderers' questions at least 11 days before the deadline for submission of tenders.

Eventual clarifications or minor changes to the tender dossier will be published at the latest 11 days before the submission deadline under the address http://www.uom.co.me/?page_id=1507.

20. Modifications to tender documents

The Contracting Authority may amend the tender documents by publishing modifications up to 11 days before the deadline for submission of tenders.

Each modification published will constitute a part of the tender documents and will be published on the following website http://www.uom.co.me/?page_id=1507.

The Contracting Authority may, as necessary and in accordance with Clause 18, extend the deadline for submission of tenders to give tenderers sufficient time to take modifications into account when preparing their tenders

21. Timetable

	DATE	TIME*
Deadline for request for any additional information from the Contracting Authority	8 th September 2014	15.00
Last date on which additional information are issued by the Contracting Authority	18 th September 2014	-
Deadline for submission of tenders	29 th September 2014	10.00 a.m.
Notification of award to the successful tenderer[Ⓜ]	September 2014	-
Signature of the contract[Ⓜ]	October 2014	-

Ⓜ Provisional dates

Any tender received after the deadline will not be considered.

22. Content and presentation of tender

The tender must include a technical proposal and a financial proposal.

The technical proposal comprises the application form duly filled in each part.

The financial proposal comprises the budget form duly filled in in each part

23. Sealing, marking and submission of tenders

The complete tender must be submitted in one original, clearly marked "original" and 2 copy, also clearly marked "copy". In the event of any discrepancy between them the original will prevail.

The technical and financial offers must be placed together **in two separate sealed envelopes. The envelopes should then be placed in another sealed envelope/package.**

All tenders must be received by the Contracting Authority before the deadline specified above, by registered letter with acknowledgement of receipt or hand-delivered against receipt signed by the project manager of the Contracting Authority or its representative.

The tender shall be sent to the following address:

Bar Municipality
Bulevar Revolucije 1
85000, Bar
Montenegro

Ms. Slađana Lazarević, Project Manager

If the tenders are hand delivered they should be delivered to the following address:

Bar Municipality
Bulevar Revolucije 1
85000, Bar
Montenegro

Ms. Slađana Lazarević, Project Manager, Monday-Friday, from 11 o'clock to 15 o'clock.

The external sealed envelope should bear only:

- (a) the above address;
- (b) the reference of this tender procedure, (i.e.: EuropeAid EuropeAid/133-339/L/ACT/ME – 2013/335-263/05)
- (c) the words “Not to be opened before the tender opening session” in the language of the tender dossier and “Ne otvarati prije otvaranja tendera”.
- (d) the name of the tenderer.

24. Evaluation of tenders

The Contracting Authority reserves the right to ask a tenderer to clarify any part of this offer that the evaluation committee may consider necessary for the evaluation of the offer. Such requests and the responses to them must be made in writing. They may in no circumstances alter or try to change the price or content of the tender.

The Contracting Authority reserves the right to check information submitted by the tenderer if the evaluation committee considers it necessary.

a. Examination of the administrative conformity of tenders

The aim at this stage is to check that tenders comply with the requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of the Contracting Authority or the tenderer's obligations under the contract or distort competition for tenderers whose tenders do comply. Decisions to the effect that a tender is not administratively compliant must be duly justified in the evaluation minutes.

The evaluation committee will check that each tender:

- has been properly signed;
- all the elements in the administrative compliance grid are acceptable;
- has complete information;
- substantially complies with the requirements of these tender documents.

If a tender does not comply with the requirements of the administrative compliance grid, it may be rejected by the evaluation committee when checking admissibility.

b. Technical evaluation

The evaluation committee must evaluate only those tenders considered substantially compliant in accordance with Clause “a” above.

The purpose of the evaluation process is to identify the tenderers that most likely can enable the Contracting Authority to achieve its objectives and meets the published criteria. The Contracting Authority will examine in detail all the information supplied by the tenderers and will formulate its judgement.

At this step of the evaluation procedure the committee will analyse the tenders technical conformity in relation to the technical specifications, classifying them technically compliant or non-compliant.

c. Financial evaluation

Once the technical evaluation has been completed the evaluation committee unseal the envelopes containing the financial proposal and checks whether in the sealed envelope there is a financial proposal. In case there is not a financial proposal, the tender is rejected. In case there is a financial proposal, the Evaluation Committee checks whether the financial proposal is under or equal to the thresholds included in the budget. The financial evaluation will have to identify the best financial offer, i.e. the lowest compliant price.

25. Notification of award, contract clarifications

Prior to the expiration of the period of validity of tenders, the Contracting Authority will notify the successful tenderer, in writing, that its tender has been selected. This notification may take the form of an invitation to clarify certain contractual questions raised therein, to which the tenderer must prepare himself to reply. This clarification will be confined to issues that had no direct bearing on the choice of the successful tender. The outcome of such clarifications will be set out in a memorandum of clarifications, to be signed by both parties and incorporated into the contract.

Documentary evidence required from the successful tenderer:

Before the Contracting Authority signs the contract with the successful tenderer, the successful tenderer must provide the documentary proof or statements required under the law of the country in which the company (or each of the companies in case of a consortium) is established, to show that it does not fall into any of the exclusion situations listed in section 2.3.3 of the Practical Guide to contract procedures for EC external actions. This evidence or these documents or statements must carry a date, which cannot be more than 1 year before the date of submission of the tender. In addition, a statement shall be furnished stating that the situations described in these documents have not changed since then. The above mentioned documents must be submitted for the tenderer, every member of a joint venture/consortium.

Furthermore evidence of the financial and economic capacity as well as the technical and professional capacity according to the selection criteria specified in subsection 17 above will be requested unless satisfactory documents are already included in the tender⁴.

⁴ A) Verification of the financial and economic capacities of the tenderer

Proof of economic and financial capacity may in particular be furnished by one or more of the following documents:

The presentation of balance sheets or extracts from balance sheets for at least the last three years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;

B) Verification of the Professional capacity of the tenderer

(a) Degree certificates of the experts

(b) Certificates proving the professional experience declared in the CVs or self-certifications (only in duly justified cases)

If the successful tenderer fails to provide this documentary proofs or statements within 30 calendar days following the notification of award or if the successful tenderer is found to have provided false information, the award will be considered null and void. In such a case, the Contracting Authority may award the tender to the next lowest tenderer or cancel the tender procedure.

After the contract has been signed and the performance guarantee has been provided by the successful tenderer, the Contracting Authority will promptly notify the other tenderers that their tenders have not been successful.

26. Contract signing and performance guarantee

Within 30 days of receipt of the contract already signed by the Contracting Authority, the selected tenderer must sign and date the contract and return it, with the performance guarantee (if applicable – see contract template) to the Contracting Authority. On signing the contract, the successful tenderer will become the Contractor and the contract will enter into force.

If it fails to sign and return the contract and any financial guarantee required within 30 days after receipt of notification, the Contracting Authority may consider the acceptance of the tender to be cancelled, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.

The performance guarantee is set at 10 % of the amount of the contract and must be presented in the form specified in the annex to the tender dossier. It will be released in accordance with the contract.

27. Cancellation of the tender procedure

In the event of a tender procedure's cancellation, tenderers will be notified by the Contracting Authority. If the tender procedure is cancelled before the tender opening session the sealed envelopes will be returned, unopened, to the tenderers.

Cancellation may occur where:

- the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no response at all;
- the economic or technical parameters of the project have been fundamentally altered;
- exceptional circumstances or force majeure render normal execution of the project impossible;
- all technically compliant tenders exceed the financial resources available;
- there have been irregularities in the procedure, in particular where these have prevented fair competition;
- the award is not in compliance with sound financial management.

In no event will the Contracting Authority be liable for damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if the Contracting Authority has been informed of the possibility of damage. The publication of a procurement notice does not commit the Contracting Authority to implement the programme or project announced.

28. Ethics clauses

- 28.1. Any attempt by a candidate or tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the committee or the Contracting

C) Verification of the Technical capacity of the tenderer

- (a) Copies of invoices;
(b) Certificates issued by the Contracting Authority(ies) in charge of the projects described in the references included in the technical proposal.

Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its candidacy or tender and may result in administrative penalties.

- 28.2. Without the Contracting Authority's prior written authorization, the Contractor and its staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for the project. This prohibition also applies to any other programmes or projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractor.
- 28.3. When putting forward a candidacy or tender, the candidate or tenderer must declare that it is affected by no conflict of interest, and that it has no equivalent relation in that respect with other tenderers or parties involved in the project. Should such a situation arise during execution of the contract, the Contractor must immediately inform the Contracting Authority.
- 28.4. The Contractor must at all time act impartially and as a faithful adviser in accordance with the code of conduct of its profession. It must refrain from making public statements about the project or services without the Contracting Authority's prior approval. It may not commit the Contracting Authority in any way without its prior written consent.
- 28.5. For the duration of the contract, the Contractor and its staff must respect human rights and undertake not to offend the political, cultural and religious mores of the beneficiary state.
- 28.6. The Contractor may accept no payment connected with the contract other than that provided for therein. The Contractor and its staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.
- 28.7. The Contractor and its staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor are confidential.
- 28.8. The contract governs the Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.
- 28.9. The Contractor shall refrain from any relationship likely to compromise its independence or that of its staff. If the Contractor ceases to be independent, the Contracting Authority may, regardless of injury, terminate the contract without further notice and without the Contractor having any claim to compensation.
- 28.10. The Commission reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process and if the Contracting Authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, "corrupt practices" are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Contracting Authority.
- 28.11. All tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

- 28.12. The Contractor undertakes to supply the Commission on request with all supporting documents relating to the conditions of the contract's execution. The Commission may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in cases of suspected unusual commercial expenses.
- 28.13. Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds.
- 28.14. The Contracting Authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to substantial errors, irregularities or fraud. Where such substantial errors, irregularities or fraud are discovered after the award of the Contract, the Contracting Authority may refrain from concluding the Contract.

29. Appeals

Tenderers believing that they have been harmed by an error or irregularity during the award process may petition the Contracting Authority directly within 30 days.. The Contracting Authority must reply within 90 days of receipt of the complaint. If the European Commission is informed of such a complaint, it will communicate its opinion to the Contracting Authority and do all it can to facilitate an amicable solution between the complainant (tenderer) and the Contracting Authority. Should a Contracting Authority fail to adhere to the procurement procedures agreed with the European Commission in the grant contract, the European Commission reserves the right to refuse to finance the contract or to suspend, withhold or recover funding for the contracts concerned.

30. Language of the procedure

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

31. Legal basis

EuropeAid/133-339/L/ACT/ME financed under COUNCIL REGULATION (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA)) and under the Conditional grants of the Government of Montenegro.

Yours faithfully,

Sladana Lazarević
Project manager