



**Ministry of Environment
and Food of Denmark**
Environmental
Protection Agency

Tender specifications for advertising

of

evaluation of efficacy studies of wood protection products
under the Biocidal Products Regulation

24 November 2017

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1 TENDER SPECIFICATIONS

1.1 Introduction

These procurement documents elaborate on the advertisement at www.udbud.dk of 24.11.2017.

The procurement procedure concerns a public contract for a project of a total contract value during the course of the contract of less than DKK 1,006,628, exclusive of VAT, which is of cross-border interest. The project is advertised at udbud.dk pursuant to sections 191-192 of the Danish Public Procurement Act¹ and section 10 of Executive Order No. 1572 of 30 November 2016.

The contract is advertised as an open procedure.

All interested parties are hereby invited to submit tenders for execution of the project in accordance with the specifications in these procurement documents.

1.2 The contracting authority

The contracting authority under this procurement procedure is:

The Ministry of Environment and Food of Denmark

Miljøstyrelsen
Haraldsgade 53
2100 København Ø

In these tender specifications the contracting authority will henceforth be referred to as “the Contracting Authority”.

Contact: Charlotta Wallensten
E-mail address: chawa@mst.dk

All communications must be sent by e-mail and be written in Danish or English.

In case of discrepancies between the Contracting Authority's written statements and oral declarations, the written statements shall prevail in all respects.

1.3 Description of the project

This procurement procedure comprises:

A framework agreement regarding evaluation of efficacy studies regarding wood protection products (product type 8) under the Biocidal Products Regulation, as well as contributions to comparative assessments of biocidal products and contributions to the development of guidance or consultations.

¹ Act No. 1564 of 15 December 2015

The actual description and the requirements of the tendered project appear from the enclosed specification of requirements, cf. Appendix 2.

1.3.1 Lots

The contract is not divided into lots.

1.3.2 Options

The contract is a framework agreement where all services under the agreement can be considered as options. See sub criteria 1.4.3.2.1 "Price" for the description needed of pricing structure.

1.3.3 Contract period

The contract period is 2 years, with the possibility to extend the contract an additional 2 years.

1.4 Procedure, suitability criteria and tender evaluation

1.4.1 Procurement procedure

In open procedures, all interested suppliers may submit tenders. The tenders received will be evaluated in two stages: the evaluation of suitability stage and the award stage.

The purpose of the evaluation of suitability is to ensure competition between tenderers that are suitable to pursue the tendered project. The evaluation of suitability will be based on the information requested in item 1.4.2, "Suitability criteria".

In the award stage, a specific evaluation is made of the tenders received, and, based on this, it is decided which tenderer is to be awarded the contract. The contract will be awarded on the basis of the award criterion stipulated in item 1.4.3.1, "Award criterion".

1.4.2 Suitability criteria

1.4.2.1 The legal person

The tenderer shall state clearly and unequivocally the legal person that is the tenderer and thus liable to the Contracting Authority.

1.4.2.2 Tender submitted by a consortium

If a tender is submitted by a consortium comprising several liable tenderers, the individual legal persons shall be stated clearly and unequivocally, in addition to a joint agent with whom the Contracting Authority may enter into a contract that is binding on the consortium. The participants have joint and several liability. If a consortium is awarded the contract, each member of the consortium shall issue a written statement on joint and several liability for the performance of the contract.

Participating in a consortium means that several businesses combine to jointly complete the tendered project, which might e.g. have been too large for them to complete individually. The use of sub-contractors to complete the project does not constitute a consortium.

To the extent that the tenderer is a consortium, the statements and information given below under item 1.4.2.4, "Conditions of participation", item 1.4.2.5, "The tenderer's technical and/or professional suitability" shall be submitted for all members of the consortium. If the Contracting Authority demands references under item 1.4.2.5, and the Contracting Authority has determined a maximum number, the Consortium may, however, submit only the maximum number in total.

Overall, the Consortium shall be required to fulfil the minimum requirements only if such requirements have been stipulated. By way of exception, however, the consortium members' sums insured cannot be added up with a view to fulfilling the minimum requirement, if a minimum requirement for insurance cover has been stipulated. In such cases, at least one of the members or the actual consortium must be able to document their fulfilment of the minimum requirement.

1.4.2.3 Use of sub-contractors

If the tenderer intends to use sub-contractors to carry out the tendered project or elements thereof, the tenderer must state clearly and unequivocally in its tender the names of the sub-contractors as well as the elements of the project which the tenderer intends to sub-contract.

The statements and information given below shall not be submitted for sub-contractors, since the supplier is responsible and liable for the work of any sub-contractors.

1.4.2.4 Conditions of participation, the tenderer's own situation

The Contracting Authority will evaluate the tenderer's suitability to perform the tendered contract. The suitability evaluation may comprise the tenderer's own situation, financial and economic suitability and technical suitability.

1.4.2.5 The tenderer's technical and professional suitability

The tenderer shall enclose the following as means of proof of its technical and professional suitability:

1. The business's references. A maximum of five references shall be enclosed for projects similar to the tendered contract, which the tenderer has completed within the tendered area in the last three years as from the date of publication of the advertisement. The reference list shall include the following information:

- A brief description of the project and its relevance with respect to the tendered project;
2. Description of the tenderer's organisation, number of employees, professional qualifications of the employees (not CVs).
3. Description of the measures taken by the tenderer to ensure quality.

If the tenderer is unable to present the required documentation of references for a valid reason, e.g. that the business is a new operator in the area concerned, the tenderer shall seek to otherwise prove its technical capacity by submitting appropriate documents. In such case, the tenderer shall also refer to the circumstance relied on by the tenderer as valid grounds for not presenting the required documents.

The Contracting Authority reserves the right to contact the references stated to check the content of the references stated.

1.4.3 Tender evaluation

1.4.3.1 Award criterion

The supplier is selected on the basis of the award criterion: best price-quality ratio (the financially most advantageous tender).

1.4.3.2 Sub-criteria

The evaluation of the financially most advantageous tender will be based on the criteria below with the weighting stated:

1. Total price 40 %

The tender price will be converted to points following a non-linear model, where the tender with the lowest price will be given 9 points, and the other tender prices will be converted to points using the following formula: the tenders' point = $9 * \text{lowest price} / \text{the tenders' price}$.

Price shall be given as an hourly rate, combined with an estimate for the number of hours expected to evaluate the most common application types (see sub-criteria 4). The tender should contain how other ad hoc consultations and contributions should be priced within the frame of the contract.

3. Staff-related qualifications 50 %

-
- Professional competencies and relevant experience of the employees who will be responsible for completing the specific project, with particular emphasis on experience with the Biocidal Products Regulation and wood protection studies.
- CVs for the relevant employees must be enclosed as documentation.

4. Time of delivery 10 %

- State the number of days from receipt of the a request for:
 - Efficacy evaluation of a national application og union application (product or product family)
 - Efficacy evaluation of an application for mutual recognition (product or product family)until delivery has been made to the Contracting Authority.

1.4.3.3 Point model

On evaluation, it is estimated how many points each tender should have for each of the quality sub-criteria, using the following absolute point scale of 1 to 9:

- 9 Best possible compliance with the criterion
- 8 Excellent/superior compliance with the criterion
- 7 Good/highly satisfactory compliance with the criterion
- 6 Above average compliance with the criterion
- 5 Average /satisfactory compliance with the criterion
- 4 Below average compliance with the criterion
- 3 Less satisfactory compliance with the criterion
- 2 Inadequate compliance with the criterion
- 1 No compliance with the criterion or minimum requirements

When the tenders have been received, a specific evaluation will be made of the tenders received, and on this basis it is decided which tenderer has submitted the economically most advantageous tender.

1.5 Tender conditions

The tenderer shall submit its tender based on these procurement documents. The final contract shall be awarded on the basis of the enclosed draft contract, cf. Appendix 1.

1.5.1 Tender deadline etc.

Tenders must be received by the contracting authority by **8 December 2017 at 12:00 (Danish time)**.

Tenders received after that time will not be considered.

Tenders must be sent by e-mail to:

Miljøstyrelsen

chawa@mst.dk

Attn.: Charlotta Wallensten

The following must be entered in the subject line of the e-mail:

"Procurement procedure for: Evaluation of efficacy studies of wood protection products under the Biocidal Products Regulation – not to be opened before the expiry of the tender deadline."

In particular, it should be noted that tenders may be submitted solely to the e-mail address stated, and that any tenders received by ordinary mail and/or delivered to the Agency's address will be rejected.

Tenders that are received in due time will be opened immediately after the tender deadline. The tenderer is not admitted to attend the opening of tenders.

The tenderer is assumed to maintain its tender for a period of three months as from the tender deadline.

The Contracting Authority shall not consider the procurement procedure completed until the contract, cf. Appendix 1, has been signed by both parties. Regardless of whether the contract is awarded to another tenderer, the tenderer shall be bound by its tender until the Contracting Authority has concluded the contract, but no longer than for the maintenance period stated above.

1.5.2 Minimum requirements for content, presentation etc. of the tender

The tender must contain the following:

1. A letter of tender clearly stating the legal person or organisation submitting the tender and any use of sub-contractors etc., cf. item 1.4.2.1, "The legal person", item 1.4.2.2, "Tender submitted by a consortium" and item 1.4.2.3, "Use of sub-contractors".
2. Documentation of the requested information concerning the tenderer's technical and professional suitability, cf. item 1.4.2.5. "The tenderer's technical and professional suitability".
3. Descriptions and documentation of the stated sub-criteria in the specified form, cf. item 1.4.3.2, "Sub-criteria".

The Contracting Authority reserves the right to correct or remedy formal errors and omissions in the tenders received in compliance with section 159(5) and (6) of the Public Procurement Act.

If the tender received contains more references than the stipulated maximum, the Contracting Authority reserves the right to contact the tenderer to request submission of a correct reference list within a short period of time determined by the Contracting Authority.

Tender prices must be stated in DKK, including duties and fees, but exclusive of VAT, cf. further information on terms of payment etc. in the draft contract, cf. Appendix 1.

1.5.3 Language

The tender and related appendices and any written questions asked during the procurement period shall be in Danish or English.

1.5.4 Contractual basis

The contract shall be concluded on the basis of the enclosed draft contract, cf. Appendix 1.

The contract establishes the obligations and rights that will be applicable between the contracting parties in relation to provision of the services comprised by this procurement procedure. It should be noted that the basic terms of the draft contract cannot be changed.

The tenderer's standard terms will not be part of the contract basis. This applies even though the tenderer encloses its own terms on submission of the tender, delivery, order confirmation or invoicing, etc. See also item 1.5.8 on reservations.

1.5.5 Cancellation

Until completion of the procurement procedure by conclusion of the final contract, the Contracting Authority reserves the right to cancel the procurement procedure and subsequently possibly carrying out a new procurement procedure, provided the reason for cancelling is not unjustified. Any cancellation will be accompanied by a letter to all tenderers stating the reason for the cancellation.

1.5.6 Costs of participation

Tenderers participate in the procurement procedure for their own account and risk, and any costs or losses incurred by tenderers are of no concern to the Contracting Authority, including if the Contracting Authority should decide to cancel the procurement procedure without awarding a contract.

1.5.7 Variants

The tenderer is not entitled to submit variants.

1.5.8 Reservations

The tenderer is not entitled to make reservations with respect to basic elements of the overall procurement documents. If the tenderer encloses standard terms, the Contracting Authority will assess whether they contain reservations regarding the procurement documents.

Reservations with respect to basic elements such as the price quoted, deadlines fixed and the draft contract will result in the tender being considered non-compliant.

If possible, any reservations not concerning basic elements of the overall procurement documents will be priced by the Contracting Authority, and such price will be added to the tenderer's tender price. The Contracting Authority is also entitled to refrain from considering these tenders, however.

Any reservations must be clearly stated.

1.6 Questions and corrections

If the tenderer deems elements of the documents and the procurement procedure to be unclear or inappropriate, the tenderer is encouraged to ask written questions.

Questions received no later than six working days before expiry of the tender deadline can be expected to be answered. The Contracting Authority will, however, endeavour to answer all questions no later than two working days before the tender deadline.

Questions will be answered in writing. Questions, answers and any corrections will be published in an anonymous form at <http://mst.dk/service/om-miljoestyrelsen/udbud-og-e-fakturering/aktuelle-udbud/>

It is the tenderer's responsibility to keep current with any published questions and answers as well as corrigenda before expiry of the tender deadline, since non-conforming tenders are the tenderer's responsibility.

1.7 Confidentiality

When preparing its tender, the tenderer should be aware that documents related to the Contracting Authority's procurement procedure, including tenders received, may be comprised by rules of law on right of access to documents within public administration authorities. This means that competitors etc. may request access to documents in connection with tenders submitted. According to the practice of the Complaints Board for Public Procurement, requests for access to documents from other businesses also participating in the procurement procedure must be granted after the circumstances. However, the evaluation of such request shall take into account whether the business submitting the tender has requested that parts of the tender be kept confidential and has to that effect indicated the information/elements of the tender to be kept confidential.

If the tender contains information or elements that the tenderer wants to be excluded from right of access, the tenderer is therefore encouraged to state this in its tender. Notwithstanding the tenderer's statements about confidentiality, however, the Contracting Authority will be entitled and under an obligation to allow access to the documents to the extent this is stipulated by law. The Contracting Authority shall decide whether to allow access to documents after hearing the business for the information of which access is requested.

1.8 Schedule

The procurement procedure shall be carried out in accordance with the following schedule:

24 November 2017	Advertising at www.udbud.dk .
1 December 2017	Deadline for receiving questions, cf. item 1.6.
8 December 2017 at 12:00	Tender deadline
14 December 2017	Expected announcement of award decision.
18 December 2017	Expected signing of contract.
1 January 2018	Expected entry into force of the contract.

1.9 Procurement documents

The total procurement documents consist of these procurement conditions and the following appendices:

Appendix 1: Draft contract

Appendix 2: Specification of Requirements (= Appendix 1 to the contract)