



Questions and answers

1. Question no 1 (dated 21/11/2017):

I refer to the above EU notification in connection with the procurement of legal services by the Single Resolution Board. We are interested in participating, but could not retrieve the procurement documents from your website - <http://srb.europa.eu/> - as indicated in the notice. I kindly ask you to send us the documentation or direct us to the right internet location.

Answer to question no 1:

The tender documents are available on the SRB website: <https://srb.europa.eu/procurement>. Could you please confirm that you were able to access them?

2. Question no 2 (dated 30/11/2017)

Could you please send us a soft copy of the Annex section of Tender Specifications so that we can fill in the respective documents?

<https://srb.europa.eu/en/content/provision-legal-advice>

Answer to question no 2:

We regret to inform you that the documents will not be uploaded in word version on our website for technical reasons.

Thank you for your understanding.

3. Question no 3 (dated 04/12/2017):

We would require further clarity on the Pricing schedule, and it would be highly appreciated if you could confirm if we are expected to provide one set of rates covering all countries? If so, can you please confirm which countries are ranked highest in terms of fee volume?

Answer to question no 3:

We would like to clarify that the tenderers are required to submit one single hourly rate for each of the profiles (partner, senior associate, associate, junior and paralegal), irrespective of the country. These rates will be taken into account for the evaluation of the offers for the FWC in accordance with the scenario provided in Section 3 of Appendix A "Award criteria for the Multiple Framework Service Contract". These are the maximum rates that a successful tenderer will be able to charge under a Specific Contract. Following the award of the Framework Contract to a successful tenderer, the latter



may offer discounts on these maximum rates at the time of submitting an offer for a Specific Contract under the Framework Contract (e.g. to account for the lower rates applicable to a specific jurisdiction).

4. Question no 4 (dated 05/12/2017):

I'm concern about the technical capacity:

Point iii) We are organizing a joint tender, could you please specify if those maximum of 10 CVs are referred for any company or for the entire joint tender?

Point i) cross border experience in at least four Member States of the European Union that does it mean any component of the joint tender must have en experience in at least four Member States of the European Union or, for instance, 1 Member States of the European Union of each company of the joint tender?

Point ii) Please, could you please confirm we should demonstrate the ability to provide legal advice in all Eurozone State of European Union (all 28 State even small country as Cyprus, Malta, etc.) in United Kingdom and United States? Could you please confirm we can demonstrate this requirement with a simple list of offices of tenderers and subcontractors?

Answer to question no 4

Your question regards points i, ii and iii) of the sub-section "2.3.3. Technical and professional capacity criteria and evidence". In that respect, please be advised that:

According to sub-section 1.7.1 and section 2.3. Selection Criteria of the tender specifications, the selection criteria for the economic, financial, technical and professional capacity will be assessed in relation to the tendering group as a whole (joint tenderers and subcontractors, if any).

For that matter:

- 1) The tendering group as a whole (any/some joint tenderers and/or any/some subcontractors, if any) must provide the maximum 10 CVs required to prove the technical and professional criteria
- 2) The tendering group as a whole (any/some joint tenderers and/or any/some subcontractors, if any) must demonstrate to have cross border experience in at least 4 Member States of the EU
- 3) The tendering group as a whole (any/some joint tenderers and/or any/some subcontractors, if any) will have to demonstrate the ability to provide legal advice in the Eurozone Member States (which currently includes 19 Member States - Austria, Belgium, Cyprus, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Slovakia, Slovenia, Spain) as well as in United Kingdom and USA.
We confirm that a tenderer we can demonstrate this requirement by providing a list of offices of joint tenderers and subcontractors or any other evidence it deems relevant.

5. Question no 5 (dated 06/12/2017):

We would appreciate if you could answer the following questions to ensure we complete all required documentation correctly:

1. Should Sections 1-3 be included as part of the Technical Offer or as a separate document? If a separate document, how many copies do you require and should Sections 1-3 have their own envelope?
2. Should the "Subcontractors" section include all letters of intent? Should the supporting 'subcontracting document' be part of the Technical Offer envelope package?
3. For the 'electronic copy' can you confirm if two CDs or USB sticks should be provided - one for the Technical Offer and another for the Financial Offer in the separate envelopes?

4. For Section 2.33 under Evidence for v) Certificates proving that the proposed team is composed of lawyers currently registered with a European Union bar association: will an alternative form of certification proving that they are allowed to practice be acceptable, such as a Solicitors Regulation Authority (SRA) Practising Certificate in the UK?
5. Should the completed 'Tenderer's Checklist' be included loosely in the envelope containing the sealed Technical Offer and Financial Offer envelopes or be part of the Technical offer submission?
6. Referring to Annex 3 – Declaration of honour with regard to exclusion criteria and selection criteria, we understand that documents evidencing the declarations made thereunder would need to be submitted upon request of the SRB. Therefore, we understand that, for sub-contractors, no evidencing documents additional to those which are to be attached to the form "Legal Entity" would be required at this stage, namely the Register of companies, the Official Gazette and the VAT Registration form. Should any additional evidencing documents be required when submitting the offer, could you please kindly let us know as soon as possible.

Answer to question no 5

1. Sections 1-3 should be included as part of the Technical offer which needs to be submitted in 3 copies, one marked "original" and the two other copies marked "copy 1" and "copy 2".
2. For each subcontractor you intend to involve as part of the tendering group you must submit Annex 6 "Model of letter of intent for subcontractor". The documents related to subcontracting are part of the technical content of the offer.
3. We confirm that the tenderers have to submit 1 USB stick containing the technical offer and 1 USB stick containing the financial offer. Although not mentioned that they must be placed in separate envelopes, it is advisable to place each USB in the envelope with the offer which content it refers to.
4. Alternative forms of certification proving that the members of the team are allowed to practice law in the relevant jurisdiction, such as a Solicitors Regulation Authority (SRA) Practising Certificate in the UK, are also acceptable.
5. The duly completed 'Tenderer's Checklist' should be part of the Technical offer.
6. At the submission of the tender, you are required to provide only the duly filled in, dated and signed by an authorised representative Annex 3 "Declaration of honour with regard to exclusion criteria and selection criteria".

Therefore, for the subcontractors, at this stage (submission of the offer) you have to provide the Annex 6 "Model of letter of intent for subcontractor".

As regards the exclusion criteria, only the successful tenderer(s), before signature of the FWC, will be requested to provide the documents mentioned as supporting evidence in Annex 3 "Declaration of honour with regard to exclusion criteria and selection criteria" of the Tender Specifications .

As regards the selection criteria, the SRB reserves the right to require evidence of the legal and regulatory, financial and economic and technical and professional capacity of the tenderers at any time during the procurement procedure and performance of the FWC. Also, after the award of the FWC, the successful tenderers will be required to provide the evidence mentioned below before signature of the FWC.

6. Question no 6 (dated 07/12/2017):

Could you please confirm which countries are ranked highest in terms of fee volume? Is it possible to have access to historical spend/projects volumes per country? If so, are you anticipating any changes in the trend, with a future focus on other countries that we should keep into consideration when building our pricing model?

Answer to question no 6

It is not possible to provide the information you have required. Given that this framework contract aims to cover, inter alia, the needs of the SRB for legal advice in the context of its preparation in potential future resolution cases, we cannot foresee which national laws will be more relevant.

7. Question no 7 (dated 15/12/2017):

- a) Would the SRB consider using a contract more tailored to legal services as used with other international and EU institutions and organisations?
- b) We understand that the proposed legal terms & conditions apply to your contracts generally and are not adapted to the provision legal services. We are bound by legal and professional/bar rules which conflict with some of the proposed terms and conditions. Please confirm that any obligations under the contract will be subject to the professional rules and legislation: In this respect, please confirm that the following conflicting clauses 1.5.3., 1.9., 1.10., 11.1., 11.6., 11.7., 11.8.4., 11.10.1., 11.3., 11.15., 11.18., 11.22.4. and 11.24., will not apply and/or be amended, given the nature of the services.
- c) We understand that international travel and accommodation is included in your estimate, but that we do not need to include this in our rates as this is difficult to predict given the nature of the services.
- d) Please clarify how SRB calculates the "Price of Tender" in the criteria calculation. For example, is it based on the average price of the five hourly-rates submitted in Annex 4, or are the rates weighted at different fee earner levels?

Answer to question no 7:

- a) In accordance to point 5 of the invitation to tender, the submission of the tender implies acceptance to all the terms and conditions set out in the procurement documents, and where appropriate, waiver of the tenderer's own general or specific terms and conditions. The SRB will sign with each of the successful bidders the template Framework Contract that has been published on the SRB website: https://srb.europa.eu/sites/srbsite/files/draft_framework_contract.pdf
This template Framework Contract has proved to be adequately tailored to the provision of legal services and to the needs of law firms.

b) Contractual clauses are agreed on by the parties to the agreement and are binding on them to the extent they are not in contradiction with the applicable mandatory law [the Framework Contract will be governed by Union law, complemented, where necessary, by the law of Belgium]. Therefore in case of conflict between any applicable mandatory law provisions and contractual clauses the former shall prevail over the latter.

c) The hourly rates shall be a fixed amount and shall include all expenses (direct and indirect, including fees and administrative, overheads, travel, accommodation and daily subsistence expenses). The hourly rates will be used as a basis for the calculation of prices of the specific contracts and maximum rates that the successful bidders can charge under the specific contracts (discounts can be offered though).

d) In Appendix A “*Award criteria for the multiple Framework Service Contract*”, we have provided, for evaluation purposes only, a scenario for the price of the team which will be used to compare the tenders.

The percentages reflect the estimated involvement of the various profiles in the execution of the contract.

The scenario is as follows: Total hourly rate price = ((price for a Partner * 20%) + (price for a Senior Associate * 30%) + (price for an Associate * 25%) + (price for a Junior * 20%) + (price for a Paralegal * 5%)).

Updated on: 19/12/2017

Requests for additional information regarding this tender should be sent by e-mail to the following address: SRB-PROCUREMENT@ec.europa.eu. The Contracting Authority is not bound to reply to requests for additional information received less than **six days** before the final date for submission of tenders.

The **deadline for submission of the bids of this tender is 22/12/2017**.

Responsibility for monitoring the SRB's website for replies to queries and/or further information remains with potential applicants.