

## **SERVICE CONTRACT NOTICE**

### **Market Surveillance Capacity Development**

Location – northern part of Cyprus

**1. Publication reference**

EuropeAid/140609/DH/SER/CY

**2. Procedure**

Restricted

**3. Programme title**

Instrument of financial support for encouraging the economic development of the Turkish Cypriot community

**4. Financing**

Budget line

**5. Contracting Authority**

European Union, represented by the European Commission, in order to support the economic development of the Turkish Cypriot community in accordance with Council Regulation (EC) No 389/2006 (OJ (2006) L 65/5)

Clarifications may be sought from the contracting authority at the following email address [REFORM-CYPRUS-SETTLEMENT-SUPPORT-TENDERS@ec.europa.eu](mailto:REFORM-CYPRUS-SETTLEMENT-SUPPORT-TENDERS@ec.europa.eu) at the latest 21 days before the deadline for submission of applications stated at the point 23 below.

Clarifications will be published on the website of DG International Cooperation and Development at the latest 5 days before the deadline.

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## **CONTRACT SPECIFICATION**

**6. Nature of contract**

Fee-based

**7. Contract description**

The purpose of this contract is to support the implementation of the legal texts related to product safety, particularly the establishment of a market surveillance system in accordance with the EU acquis. It aims at supporting the transition from a system fully based on pre-import permits to market surveillance, based on a market surveillance plan.

The service will specifically focus on the following:

- Preparation of a **need's analysis document** for the development of a functioning market surveillance system.
- Preparation of a consistent **market surveillance plan**, including a detailed administrative framework and the drafting of the corresponding procedures.
- **Capacity development** of the body (Economy/Trade Department) and supporting bodies coordinating market surveillance activities across the TCc, including clearly defined personnel and administrative needs with regard to conducting market surveillance, controlling, monitoring, reporting and coordination with "customs".
- Development and implementation of a **communication and awareness raising strategy** towards consumers and economic operators on market surveillance.
- Identification and preparation of a **supply contract for IT infrastructure** and specific needs to support the market surveillance system.
- Mapping of available and necessary facilities for the **appropriate quality infrastructure** (metrology, standardization, accreditation).

#### **8. Number and titles of lots**

One lot only

#### **9. Maximum budget**

EUR 1,000,000

#### **10. Scope for additional services**

The contracting authority may, at its own discretion and in conformity with the conditions stated in the Financial Regulation, extend the project in duration and/or scope subject to the availability of funding up to the estimated amount of approximately EUR 2,000,000 (two million euro). Any extension of the contract would be subject to satisfactory performance by the contractor.

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## **CONDITIONS OF PARTICIPATION**

#### **11. Eligibility**

Participation is open to all legal persons (participating either individually or in a grouping – consortium – of tenderers) who are established in a Member State of the European Union or in a country or territory of the regions authorised by Council Regulation (EC) No 389/2006 of 27.2.2006.

Please note that:

- *This includes those residing or established in the areas' of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control; and*
- *This does not imply recognition of any public authority in the areas other than the Government of the Republic of Cyprus*

Participation is also open to international organisations.

Please be aware that following the entry into force of the EU-UK Withdrawal Agreement\* on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union are to be understood as including natural or legal persons residing or established in the United Kingdom. UK residents and entities are therefore eligible to participate under this call.

\* Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

## **12. Candidature**

All eligible natural and legal persons (as per item 11 above) or groupings of such persons (consortia) may apply.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure. All members of a consortium (i.e., the leader and all other members) are jointly and severally liable to the contracting authority.

The participation of an ineligible natural or legal person (as per item 11) will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

## **13. 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.

## **14. Shortlist alliances prohibited**

Any tenders received from tenderers comprising firms other than those mentioned in the short-listed application forms will be excluded from this restricted tender procedure unless prior approval from the contracting authority has been obtained (see practical guide – PRAG – 2.6.3.). Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

## **15. Grounds for exclusion**

As part of the application form, candidates must submit a signed declaration, included in the standard application form, to the effect that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the PRAG.

Candidates included in the lists of EU restrictive measures (see Section 2.4. of the PRAG) at the moment of the award decision cannot be awarded the contract.

## **16. Sub-contracting**

Subcontracting is allowed.

## **17. Number of candidates to be short-listed**

On the basis of the applications received, between 4 and 8 candidates will be invited to submit

detailed tenders for this contract. If the number of eligible candidates meeting the selection criteria is less than the minimum of 4, the contracting authority may invite the candidates who satisfy the criteria to submit a tender.

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## PROVISIONAL TIMETABLE

### 18. Provisional date of invitation to tender

June 2020

### 19. Provisional commencement date of the contract

November 2020

### 20. Initial period of implementation of tasks

24 months

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## SELECTION AND AWARD CRITERIA

### 21. Selection criteria

The following selection criteria will be applied to candidates. In the case of applications submitted by a consortium, these selection criteria will be applied to the consortium as a whole unless specified otherwise. The selection criteria will not be applied to natural persons and single-member companies when they are sub-contractors.

1) **Economic and financial capacity of candidate** (based on item 3 of the application form). In case of candidate being a public body, equivalent information should be provided. The reference period which will be taken into account will be the last three financial years for which accounts have been closed.

- The average annual turnover of the candidate of each of the last closed financial years (2017, 2018, and 2019) must exceed the annualised budget of this contract, i.e. EUR 500,000 and
- Current ratio (current assets/current liabilities) in the last year for which accounts have been closed must be at least 1. In case of a consortium this criterion must be fulfilled by each member.

2) **Professional capacity of candidate** (based on items 4 and 5 of the application form). The reference period which will be taken into account will be the last three years preceding the submission deadline.

The candidate must have at least 7 permanent staff currently working for the candidate in the fields related to this contract, namely:

- a. Development of market surveillance plans;
- b. Capacity development in product safety, market surveillance and quality infrastructure

3) **Technical capacity of candidate** (based on items 5 and 6 of the application form). The

reference period which will be taken into account will be the last three years preceding the submission deadline.

The candidate must demonstrate having provided services in at least 3 projects that cumulatively cover all fields related to this contract as listed below:

- a. Product safety;
- b. Market surveillance;
- c. Quality infrastructure.

A reference will be considered relevant if the budget of the service/contract (or the part performed by the candidate as a member of a consortium) amounts to at least EUR 500,000.

Candidates are allowed to refer either to projects completed within the reference period (although started earlier) or to projects not yet completed. In the first case the project will be considered in its whole if proper evidence of performance is provided (statement or certificate from the entity which awarded the contract, proof of final payment). In case of projects still on-going only the portion satisfactorily completed during the reference period will be taken into consideration. This portion will have to be supported by documentary evidence (similarly to projects completed) also detailing its value. If a candidate has implemented the project in a consortium, the percentage that the candidate has successfully completed must be clear from the documentary evidence.

Previous experience which caused breach of contract and termination by a contracting authority shall not be used as reference.

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. If the tenderer relies on other entities it must prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment by 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 - notably that of nationality – and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the data for this third entity for the relevant selection criterion should be included in the tender in a separate document. Proof of the capacity will also have to be provided when requested by the contracting authority.

With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the services for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies become jointly and severally liable for the performance of the contract.

If more than 8 eligible candidates meet the above selection criteria, their relative strengths and weaknesses must be re-examined in order to rank their applications and identify the 8 best candidates in accordance with point 17 of this contract notice. The only additional comparative criteria that will be taken into consideration during this re-examination, in the order in which they appear below, are:

- 1) the highest number of service contracts that meet criterion 21.3
- 2) the highest cumulated value of all the service contracts that meet criterion 21.3

**N.B.:** additional comparative criterion 2) will be applied only if the number of eligible candidates remain higher than 8 after applying additional comparative criterion 1)

## **22. Award criteria**

Best price-quality ratio.

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# **APPLICATION**

## **23. Deadline for submission of applications**

The candidate attention is drawn to the fact that there are two different systems for sending applications: one is by post or private mail service, the other is by hand delivery.

In the first case, the application must be sent before the date and time limit for submission, as evidenced by the postmark or deposit slip<sup>1</sup>, but in the second case it is the acknowledgment of receipt given at the time of the delivery of the application that will serve as proof.

**Monday, 25 May 2020 before 16:00 Central European Time**

Any application sent to the contracting authority after this deadline will not be considered.

The contracting authority may, for reasons of administrative efficiency, reject any application submitted on time to the postal service but received, for any reason beyond the contracting authority's control, after the effective date of approval of the short-list report, if accepting applications that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

## **24. Application format and details to be provided**

Applications must be submitted using the standard application form, the format and instructions of which must be strictly observed. The application form is available from the following Internet address:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=B>

The application must be accompanied by a declaration on honour on exclusion and selection criteria using the template available from the following Internet address:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>

Any additional documentation (brochure, letter, etc.) sent with an application will not be taken into consideration.

## **25. How applications may be submitted**

Applications must be submitted in English exclusively to the contracting authority in a sealed envelope:

- EITHER by post or by courier service, in which case the evidence shall be constituted by the postmark or the date of the deposit slip, to :

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<sup>1</sup> It is recommended to use registered mail in case the postmark would not be readable.

European Commission  
DG REFORM.A.3 Cyprus Settlement Support  
Head of Unit: Kjartan Bjornsson  
Central mail service, 1, Avenue du Bourget / Bourgetlaan  
B-1140 Evere  
Belgium  
Opening hours: Monday to Friday from 7:30 to 17:00

- OR hand delivered by the candidate in person or by an agent directly to the premises of the contracting authority in return for a signed and dated receipt, in which case the evidence shall be constituted by this acknowledgement of receipt, to:

European Commission  
DG REFORM.A.3 Cyprus Settlement Support  
Head of Unit: Kjartan Bjornsson  
Central mail service, 1, Avenue du Bourget / Bourgetlaan  
B-1140 Evere  
Belgium  
Opening hours: Monday to Friday from 7:30 to 17:00

The contract title and the Publication reference (see item 1 above) must be clearly marked on the envelope containing the application and must always be mentioned in all subsequent correspondence with the contracting authority.

Applications submitted by any other means will not be considered.

By submitting an application candidates accept to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the application.

## **26. Alteration or withdrawal of applications**

Candidates may alter or withdraw their applications by written notification prior to the deadline for submission of applications. No application may be altered after this deadline.

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with Item 25. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

## **27. Operational language**

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

## **28. Date of publication of prior information notice**

23 December 2019

## 29. Legal basis<sup>2</sup>

Council Regulation (EC) No 389/2006 (OJ [2006] L 65/5) establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction.

## 30. Additional information

Financial data to be provided by the candidate in the standard application form must be expressed in EUR. If applicable, where a candidate refers to amounts originally expressed in a different currency, the conversion to EUR shall be made in accordance with the InforEuro exchange rate of February 2020, which can be found at the following address:

<http://ec.europa.eu/budget/graphs/inforeuro.html>.

Candidates are advised to make sure that the email provided in the standard application form is checked regularly as email will be the main means of communication between the contracting authority and the applicant.

### 1) Filling in the standard Application Form

When filling in the standard application form, in particular items 3, 4, 5 and 6 therein, candidates must provide all information necessary to allow the Short-list Panel to assess their compliance with the selection criteria under points 21.1), 21.2) and 21.3) above.

Candidates are strongly recommended to provide full project details (references) in item 6 of the standard Application Form:

- In the section “Detailed description of project”, candidates are instructed to provide a clear description of the overall project.
- In the section “Type and scope of services provided”, candidates are instructed to list only those activities, which have been carried out by the candidates themselves, excluding activities carried out e.g. by other members of a previously formed consortium who are not part of the application for this tender procedure.
- Completion dates of projects must be clearly stated. If the project is still under implementation, only the contract value (proportion carried out by the candidate/consortium member presenting the projects) for which documentary evidence of completion can be provided must be indicated.

### 2) Contract procedures and specific conditions

In accordance with Article 5 of Council Regulation (EC) No 389/2006, the contracting procedure is governed by Title IV of part 2 of the Financial Regulation. Detailed information on the applicable rules can be found in the "Practical Guide to contract procedures for EC external actions"

<http://ec.europa.eu/europeaid/prag/document.do?locale=en>

However, the Tenderer should note the following: the Practical Guide refers to Financing Agreements that the Commission normally signs with a beneficiary third country. These financing

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<sup>2</sup> Please state any specificity that might have an impact on rules on participation (such as geographic or thematic or long/short term).



agreements are often completed by framework agreements between the Commission and the beneficiary third country. Both agreements govern the basic rules, following which the financial assistance of the EU is implemented in the beneficiary third country, including, amongst others, rules on the establishment and right of residence, privileges and immunities, tax and customs arrangements and import and export of equipment and other supplies.

There is no such agreement that would cover the northern part of Cyprus, which is referred to in Protocol 10 of the Act of Accession 2003 as the "areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control" and hereafter referred to as "the areas".

However, the Contracting Authority understands that the prevailing situation in the areas is the following: the Tenderer will not be requested to pay custom duties, import taxes, fees and VAT or any other similar taxes on goods entering the areas for the contract financed by the EU ("the Contract") and will receive the necessary documents to that effect. All imported goods, which are not incorporated in or expended in connection with the Contract, should be exported on completion of the Contract. The Contracting Authority understands that the Tenderer will not be requested to pay VAT for the contract value and will receive the necessary documents to that effect.

The Contracting Authority will not be involved in the preparation or presentation of any documentation that the Tenderer may need in order to bring the goods to the place where they are supposed to be installed or used. The Tenderer shall be deemed to have checked the locally applying technical and administrative conditions before submitting the Tender.

The Tenderer should take note that shipments to and from the areas via the areas of the Republic of Cyprus under effective control of the Government of the Republic of Cyprus are subject to the Green-Line Regulation (Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession) which includes specific rules inter alia on VAT.

[http://eur-lex.europa.eu/smartapi/cgi/sga\\_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=304R0866R\(01\)](http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=304R0866R(01))

The Contracting Authority understands that the prevailing situation in the areas is the following:

The Tenderer's expatriate key staff will not be requested to pay personal income taxes in the areas in respect of that part of their salaries and wages related to the contract. This exemption will not apply to local staff.

The Tenderer's expatriate key staff (and members of their immediate families) will not be requested to pay customs duties, income duties, taxes and other fiscal charges having equivalent effect on personal and household effects imported for personal use, provided that the personal and household effects are either re-exported or disposed of in the areas after the completion of the Contract.

### **3) Supporting documents**

The Contracting Authority reserves the right to request the following:

— profit and loss accounts/income statements, for each of the years for which the annual turnovers have to be presented. The profit and loss accounts/income statements, drawn up in line with international accounting standards, must be provided with an English translation and conversion of amounts into euro. The candidate should be ready to present profit and loss accounts/income statements in the required form within 24 hours, upon request from the Contracting Authority during the examination of the application form. The Contracting Authority reserves the right to ask for surplus information which certifies the data presented in the forms:

— proof of the actual number of relevant staff permanently hired for the time period for which the information shall be provided;

— proof and/or additional information concerning scope, value, duration, etc. of projects listed in Table 6 of the application form (e.g. copy of relevant contracts, client's references/final reports, etc.).

Candidates are reminded that the successful tenderer will in any case be requested to provide evidence of the financial and economic standing and of the technical and professional capacity according to the selection criteria specified at point 21 of this procurement notice. If the successful tenderer fails to provide the evidence of the financial and economic standing and/or of the technical and professional capacity within 15 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.

Candidates are also reminded that participation in spite of being in any of the situations listed in Section 2.3.3 of the 'Practical Guide to contract procedures for EU external actions' will make them subject to exclusion from tender procedures and contracts in accordance with Section 2.3.4 of the said Practical Guide.

#### **4) Special Requirements**

The tenderer/contractor should be aware of the political, diplomatic and legal context prevailing in Cyprus and abstain from contacts of a political nature with either community. Should issues relating to the specific political, legal and diplomatic context arise in the preparation and implementation of this contract, the tenderer/contractor should inform the Project Manager. The tenderer/contractor should ensure confidentiality with no disclosure of the issue to third parties.

The tenderer/contractor shall ensure that, in the preparation and implementation of the action subject of this tender, the rights of natural and legal persons, including the rights to possessions and property shall be respected.

No action undertaken by the tenderer/contractor in the course of preparation and implementation of this contract should be intended to imply recognition of any public authority other than the Government of the Republic of Cyprus.

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