



Additional information about the Contract Notice

Provision of air transport brokering services

The Hague, The Netherlands

The financing decisions of the Contracting Authority (the Kosovo Specialist Chambers (KSC)) are generally adopted on a bi-annual basis and run from 15 June through 14 June. The current financing decision of the Contracting Authority runs for two years, starting on 15 June 2023 and ending on 14 June 2025.

Please note that any contract(s) resulting from this tender procedure whereby continuation of such contract(s) is foreseen to continue beyond 14 June 2025, as well as beyond the same calendar day 14 June of the three years thereafter in case of any contract renewals, will be subject to the condition of the prior adoption of a financing decision and the prior conclusion of a financing agreement, which does not modify the elements of the procurement procedure under which the contract(s) was awarded (this will be the case, for instance, if the budget initially foreseen is different or if the timeframe, the nature or the condition of the implementation are altered). If the precedent condition is not met, the contract(s) shall be suspended with immediate effect and should the period of suspension exceed 90 days, the contract(s) will automatically terminate without the Contractor(s) being entitled to claim any compensation.

1. Nature of contract

Fee-based

2. Programme title

Kosovo Specialist Chambers: Support for re-located judicial proceedings within a Member State under the mandate of EULEX Kosovo

3. Financing

EU Grant Contract CFSP/2023/12 Kosovo Specialist Chambers

4. Legal basis, eligibility and rules of origin

The legal basis of this procedure is:

Council Decision (CFSP)2023/1095;

EU Grant Contract CFSP/2023/12 Kosovo Specialist Chambers;



Article 4 Kosovo Law No.05/L-053;

Article 6 Agreement between the Kingdom of The Netherlands and the Republic of Kosovo concerning the Hosting of the Kosovo Relocated Specialist Judicial Institution in The Netherlands (Art. 4 of the related Interim Agreement).

Participation to this procedure is open without limitations.

5. Candidature

All eligible natural and legal persons (as per item 4 above) or groupings of such persons (consortia) may participate or tender.

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

The participation or tender of an ineligible natural or legal person 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.

6. Number of requests to participate or tenders

No more than one request to participate or tender can be submitted by a natural or legal person whatever the form of participation (as an individual legal entity or as leader or partner of a consortium submitting a request to participate or tender). In the event that a natural or legal person submits more than one request to participate or tender, all requests to participate or tenders in which that person has participated will be excluded.

7. Grounds for exclusion

Candidates must submit a signed declaration, included in the request to participate form, to the effect that they are not in any of the situations listed in Section 2.6.10.1 of the **practical guide (PRAG)**. Where the candidate intends to rely on capacity providing entities or subcontractor(s), he/she must provide the same declaration signed by this/these entity(ies).

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.

8. Sub-contracting

Sub-contracting is allowed.

9. Number of candidates to be short-listed

On the basis of the request to participate 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. If the number of eligible candidates meeting the selection criteria is more than the maximum allowed, the contracting authority will rank them using the re-examination criteria stated below.

10. Short-list alliances prohibited



Any tenders received from tenderers having a different composition than the ones mentioned in the short-listed request to participate forms will be excluded from this restricted tender procedure, unless prior approval from the contracting authority has been obtained – see practical guide 2.6.3. Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

11. Provisional date of invitation to tender

27 September 2024

12. Provisional commencement date of the contract

The commencement date of the contract shall be the date of its signature by both parties

13. Period of implementation of tasks

Any contract resulting from this tender procedure will take the form of a multiple framework contract (FWC) with reopening of competition and its implementation will be done through Specific Contracts.

The period of implementation of each Specific Contract shall correspond to the timelines indicated in the statement of requirements.

Any contract resulting from this tender procedure will be concluded for an initial period of 12 months starting from the date of its signature by both the Contracting Authority and the Contractor.

Such contract shall then be renewed automatically up to 3 times – each time for a period of maximum 12 months each, bringing the total maximum duration to 4 years – under the same terms and conditions, unless written notification to the contrary is sent by one of the parties and received by the other 3 months prior to the expiry of the initial period or any subsequent renewal thereof.

The Contracting Authority will award the contract(s) for the maximum budget allocated to this procedure.

Tenderers' attention is drawn to the fact that a FWC does not constitute placement of an order but is merely designed to set the legal, financial, technical and administrative terms governing relations between the contracting parties during the contract term. Orders may be placed solely on the basis of specific contracts in accordance with the provisions of the draft FWC (copy of which will be sent to the shortlisted tenderers as part of the tender dossier).

Signature of a FWC does not commit the Contracting Authority to placing orders and does not give the contractor any exclusive rights regarding the services covered by the framework contract. In any case, the Contracting Authority reserves the right, at any time during the framework contract, to cease placing orders, without the contractor having the right to any compensation.

A multiple framework contract with reopening of competition is a procedure whereby identical contracts are concluded separately between the Contracting Authority and a number of contractors.

When the Contracting Authority wishes to procure services under this framework contract, it will act by reopening competition in order to establish a Specific Contract under the FWC.

14. Language of the procedure

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



15. Additional information

Financial data to be provided by the candidate in the request to participate form or in the tender submission 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 exchange rate applicable on the tender's release date, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.

SELECTION AND AWARD CRITERIA

16. Selection criteria

Capacity-providing entities

An economic operator (i.e. candidate or tenderer, natural or legal person) 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 economic operator relies on other entities, it must in that case 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 and notably that of nationality as the economic operator relying on them 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 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 tasks for which these capacities are required.

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

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

The candidate shall not use previous experience which caused breach of contract and termination by a contracting authority as a reference for selection criteria.

The selection criteria for each tenderer are as follows:

- 1) Economic and financial capacity** (based on item 3 of the request to participate 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 years for which accounts have been closed.
 - the average annual turnover of the tenderer must be equal to or exceed 100,000.00 Euro



2) Professional capacity (based on items 4 and 5 of the request to participate form for service contracts). The reference period which will be taken into account will be the last three years preceding the submission deadline.

The tenderer is duly registered, licensed or otherwise empowered by the relevant authorities to provide the services covered by this call for tenders. A copy of the tenderer's business registration certificate will be accepted as a satisfactory proof for the purposes of eligibility. For any document in a language different than English, a translation is to be submitted. If there is any doubt as to the meaning of the text, the English version has precedence.

At least 3 permanent staff members of the tenderer have core functions and expertise in brokering of private air charter transport. The three permanent staff must already have pre-existing and ongoing business relations with at least one expert (in-house or external) in each of the following fields who advise and facilitate the operation of the core business:

- Legal
- Compliance
- Logistics

3) Technical capacity (based on items 5 and 6 of the request to participate form for service contracts).

This means that the contract the candidate refers to could have been started at any time during the indicated period but it does not necessarily have to be completed during that period, nor implemented during the entire period. Candidates are allowed to refer either to projects completed within the reference period (although started earlier) or to projects not yet completed. Only the portion satisfactorily completed during the reference period will be taken into consideration. This portion will have to be supported by documentary evidence (statement or certificate from the entity which awarded the contract, proof of payment) 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, together with a description of the nature of the services provided/supplies delivered if the selection criteria relating to the pertinence of the experience have been used.

Criteria for legal persons:

- 3.1 The tenderer must have brokered during the 3 years immediately preceding the submission deadline at least 10 private chartered air transports where the budget for each chartered flight operation must have been at least 23,000 EUR
- 3.2 The tenderer must have brokered during the 10 years immediately preceding the submission deadline at least 1 chartered air transport for the international transfer of a detained person in which the person was arrested or detained under a warrant or other authority issued by a court or judicial body. The budget for such chartered flight operation must have been at least 23,000 EUR
- 3.3 The tenderer must have brokered during the 3 years immediately preceding the submission deadline at least 3 chartered air transports for repatriation of injured or ill passengers requiring medical or nursing personnel onboard the flight. The budget for each chartered flight operation must have been at least 23,000 EUR

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the request to participate of these candidates must be re-examined in order to rank them and identify the 8 best requests to participate for the tender procedure.



The only additional comparative criteria that which will be taken into consideration during this re-examination, in the order in which they appear below, are:

- the highest number of projects that meet criterion 3.2

N.B.: additional comparative criterion No 3.2 shall be applied to all the eligible candidates that meet the selection criteria. If, after applying additional comparative criterion No 3.2, it is not possible to identify the 8 best candidates because two or more candidates are tied for the 8th position, additional comparative criterion No 3.3 shall be applied only to these tied candidates.

17.a Award criteria for the FWC

Best price-quality ratio.

17. b Award criteria for Specific Contracts under the FWC

Price, provided that the terms of reference are respected.

PARTICIPATION

18. Requests to participate format and details to be provided

Requests to participate must be submitted using the request to participate form, the format and instructions of which must be strictly observed. The request to participate form is available from the following Internet address:

<https://www.scp-ks.org/en/procurement/calls-tender>

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

<https://www.scp-ks.org/en/procurement/calls-tender>

Any documentation (brochure, letter, etc.) sent with a request to participate in addition to what has been requested will not be taken into consideration.

19. How requests to participate may be submitted

Requests to participate must be submitted in English exclusively to the contracting authority in a sealed envelope.

Highly recommended, EITHER by courier service, in which case the evidence shall be constituted by the date of the deposit slip, to:

Kosovo Specialist Chambers
Procurement Unit
Attn: Anna Ceolon
Raamweg 47
2596 HN The Hague
The Netherlands

OR, also highly recommended, hand delivered by the participant 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:

Kosovo Specialist Chambers

Procurement Unit

Attn: Anna Ceolon

Raamweg 47

2596 HN The Hague

The Netherlands

OR, technically possible, but not recommended, by regular post/mail, either (i) unregistered without track & trace, in which case the evidence shall be constituted by the postmark, or (ii) registered with track & trace, or (iii) registered with track & trace AND requiring a signature for receipt, in which case the evidence shall be constituted by the date of the registration slip, to:

Kosovo Specialist Chambers

Procurement Unit

Attn: Anna Ceolon

P.O. Box 47

2501 CA The Hague

The Netherlands

IMPORTANT NOTE! Please note that the premises of the Kosovo Specialist Chambers and Specialist Prosecutor's Office, Raamweg 47, The Hague, does not have an external mailbox or readily accessible reception area. Any delivery is diverted by the Security staff to a designated expedition area. It is strongly recommended to submit tenders by courier service or by hand-delivery. Registered and unregistered mail through the normal post system should always be sent to the P.O. Box 47 address. Sending registered and unregistered mail to the physical address Raamweg 47, but also to the P.O. Box 47 address, which is mail that will ultimately be handled by the official postal system of The Netherlands, has proven to not be 100% reliable and runs the risk of non-delivery/receipt. In spite of a tenderer being able to provide proof of the date and time of sending a tender, the responsibility of actually delivery of the tender to the Kosovo Specialist Chambers lies fully with the tenderer. The use of unregistered mail is fully at the risk of the tenderer.

The contract title and publication reference (see contract notice) must be clearly marked on the envelope containing the request to participate and must always be mentioned in all subsequent correspondence with the contracting authority.

Requests to participate submitted by any other means will not be considered.

20. Deadline for submission of requests to participate

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

In the first case, the request to participate must be sent before the date and time-limit for submission,



as evidenced by the postmark or deposit slip¹, but in the second case it is the acknowledgment of receipt given at the time of the delivery of the request to participate that will serve as proof.

The deadline for submission of requests to participate can be found in the Contract Notice under IV.2.2. *Unless the Time Zone is specified in eTendering, the “Local Time” mentioned under IV.2.2 in the Contract Notice shall be understood as Central European Time (CET) which is the standard time in Brussels.*

Any request to participate sent to the contracting authority after this deadline will not be considered. The contracting authority may, for reasons of administrative efficiency, reject any request for participation submitted on time but received, for any reason beyond the contracting authority's control, after the effective date of approval of the short-list report, if accepting requests to participate that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

21. Clarifications on the contract notice

Any request for clarifications must be made in writing to the following email address anna.ceolon@scp-ks.org. This concerns request for clarifications about the contract notice and also request for clarifications about the content of the document called “Additional information to the contract notice.” Clarifications can be requested at the latest 21 days before the deadline for submission of requests to participate stated at section **IV.2.2) of the contract notice**.

Clarifications will be published on the KSC’s website at the latest 8 days before the deadline for the submission of requests to participate. The website will be updated regularly and it is the candidates responsibility to check for updates and modifications during the submission period.

22. Outcome of the evaluation

By submitting a request to participate 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 request to participate form.

23. Alteration or withdrawal of requests to participate

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

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

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