

Ref.: EDAC202107009

Brussels, 15/07/2021

Subject: Ex-ante publicity notice for the negotiated procedure 21.CSD.NP3.517 – Legal Support and provision of specialised advice on matters concerning intellectual property

To whom it may concern

The European Defence Agency (EDA) will shortly launch a call for tenders for the award of the above mentioned middle value contract.

Should you be interested in being invited in the above mentioned call for tenders, please follow the instructions below.

In order to help you assess whether the envisaged contract is of your interest, the following information is hereby communicated.

Outline description of the envisaged contract	
Type of contract	Framework Service Contract
Maximum estimated budget available for the contract	EUR 130 000 (<i>one hundred thirty thousand euro</i>)
Duration of the contract	48 months
Subject matter of the contract	<u>Background</u> The European Defence Agency (EDA) governed by Council Decision (CFSP) 2015/1835 ¹ was established to “support the Member States and the Council in their effort to improve European defence capabilities in the field

¹ Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency (Recast)

of crisis management and to sustain the European Security and Defence Policy as it stands now and develops in the future”.

The European Defence Agency, within the overall mission set out in the aforementioned Council Decision, has three main missions:

- supporting the development of European defence capabilities and military cooperation;
- stimulating defence Research and Technology (R&T) and strengthening the European defence industry;
- acting as a military interface to EU policies.

EDA acts as a catalyst, promotes collaborations, launches new initiatives and introduces solutions to improve defence capabilities. It is the place where Member States willing to develop capabilities in cooperation do so. It is also a key facilitator in developing the capabilities necessary to underpin the Common Security and Defence Policy of the Union.

Further information can be found on the Agency’s web site at <http://www.eda.europa.eu>.

Main objective of the procurement

EDA is launching a negotiated procedure for the provision of services concerning legal support and provision of specialised advice on matters concerning Intellectual Property (IP).

EDA wishes to conclude a framework service contract for the provision of IP legal advice with highly qualified external expertise, at short notice, and tailored to EDA requirements.

EDA is looking for a law firm with a solid experience in intellectual property law, to deliver tasks, on demand, such as (non-exhaustive list):

- 1) Provision of Legal Advice and analysis on IPR-related matters (contractual or not).
- 2) Provision of training on specific IPR issues.
- 3) Raising awareness of IPR about the importance of a good management of the IPR.
- 4) Providing an efficient support service and advice on IPR issues related to EDA’s activities such as its “Intergovernmental projects and programmes” (involving different public administrations and industries) and on more standard procurement activities.
- 5) Support EDA in the management and negotiations of IPR-related issues on project implementation, exploitation of project's results or cross-border IPR challenges.
- 6) IPR and legal advice and assistance to EDA on complex cases. The legal advice may involve interpretation and application of the EU legal acts, as well as national legal acts, applicable to IPR.
- 7) Provision of advice on IP under EU-law and different national and international laws.

	<p>8) Written analysis of any document related to IP matter involving EDA and provide legal advice thereon, including recommendations on lessons to be learnt and follow up actions.</p> <p>The service provider should thus offer practical advice on IPR issues especially in the specific context of EDA’s activities.</p> <p>Work modalities Modalities of interaction between the consultant and EDA will include: exchange of emails, telephone calls, videoconferencing, face-to-face meetings, including focus groups and coaching and training sessions at the EDA premises.</p>						
<p>Participation in the negotiated procedure</p>	<p>Participation in EDA’s public procurement procedures is open on equal terms to all natural and legal persons coming within the scope of the EU Treaties. When applying the rules of access to the market, it is the country where the tenderer is established which is to be considered. As regards a natural person, it is the State in which the person has his domicile.</p> <p>EDA procurement procedures are not covered by the WTO Multilateral Government Procurement Agreement (GPA). Tenderers established in third countries (non-EU countries) do not have the right to participate in procurement procedures unless international agreements in the field of public procurement grant them the right to do so. In case there is no such agreement, or the agreement does not apply to the kind of contracts put out to tender, tenderers of third countries are not entitled to participate.</p> <p>The relevant international agreements in the field of public procurement are the Stabilization and Association Agreements (SAA) and the European Economic Area Agreement (EEA). Currently, the following countries have signed and ratified the above Agreements and therefore economic operators established in Iceland, Liechtenstein, Norway, FYROM, Albania, Montenegro, Serbia, Kosovo, Bosnia and Herzegovina also have the right to participate in EDA’s public procurement procedures.</p>						
<p>Selection criteria: necessary capacity to implement the contract</p>	<p>Potentially interested economic operators are hereby informed that the following selection criteria will be assessed in the scope of the envisaged negotiated procedure:</p> <p style="text-align: center;">Economic and financial criteria</p> <table border="1" data-bbox="453 1789 1407 2069"> <thead> <tr> <th data-bbox="453 1789 767 1895">Criterion</th> <th data-bbox="767 1789 1094 1895">Minimum capacity</th> <th data-bbox="1094 1789 1407 1895">Evidence/supporting documents</th> </tr> </thead> <tbody> <tr> <td data-bbox="453 1895 767 2069">Economic and Financial capacity.</td> <td data-bbox="767 1895 1094 2069">The tender must have a minimum annual turnover of EUR 100 000 for each of the last three financial years for which</td> <td data-bbox="1094 1895 1407 2069">The duly completed and signed Financial and Economic Capacity Overview Form that</td> </tr> </tbody> </table>	Criterion	Minimum capacity	Evidence/supporting documents	Economic and Financial capacity.	The tender must have a minimum annual turnover of EUR 100 000 for each of the last three financial years for which	The duly completed and signed Financial and Economic Capacity Overview Form that
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Economic and Financial capacity.	The tender must have a minimum annual turnover of EUR 100 000 for each of the last three financial years for which	The duly completed and signed Financial and Economic Capacity Overview Form that					

		accounts have been closed.	will be annexed to the tender specifications.
Technical and professional criteria			
	Criterion	Minimum capacity	Evidence/supporting documents
	The tenderer shall demonstrate its capacity to provide a qualified team with experience in IPR.	At least two senior lawyers with a minimum of 10 years of experience in the field of IPR. At least one junior lawyer with a completed university studies of at least 3 years attested by a diploma/degree in Law and at least 3 full years of proven continuous experience in the field of IP.	At least, the CV of the senior and junior lawyer detailing the educational and professional experience and taking into account the minimum expertise requirements qualifications and experience.
	The tenderer shall demonstrate its experience in the field.	The tenderer shall demonstrate its extensive experience in the provision of legal support in the field of IP.	A list of at least 4 cases (legal support in the field of IP) carried out in the past 2 years.
	NB Whilst no documents need to be submitted at this stage to prove that the above criteria are met, potentially interested economic operators are strongly advised to verify that they fully comply with the announced criteria.		
Indicative date for launching the negotiated procedure	Invitation to submit tenders will be electronically sent to economic operators indicatively by 15/10/2021 .		
Indicative time schedule for signing the contract	The envisaged contract will be signed indicatively by end of Q4 2021/Q1 2022 .		

If you are interested in being invited in the above mentioned call for tenders, please reply to this ex-ante publicity notice by sending via email the filled-in **Reply Form**. Such Reply Form shall be sent to no later than **30/09/2021 – at 17h00** (Brussels time) to the following EDA functional mail box:

procurement@eda.europa.eu

No evaluation is performed at this stage. All the economic operators who have expressed their interest to participate in this procurement procedure within the above-mentioned deadline will be subsequently invited to submit a tender. The contracting authority reserves the right to also invite economic operators not included in the list of interested economic operators who responded to this ex-ante publicity.

Only the candidates invited by the contracting authority to participate in this procurement procedure will be admissible.

This publicity is in no way binding for the EDA. The EDA's contractual obligation commences only upon signature of the contract with the successful tenderer.

Submission of an expression of interest implies acceptance of receiving the invitation to tender by electronic means. **It is the tenderer's responsibility to provide a valid e-mail address together with their contact details in the Reply Form and to check their e-mail regularly.**

We look forward to receiving your expression of interest.

Annex: Reply Form (Expression of interest)

REPLY FORM (Expression of interest)

Please return the present page duly filled in to the following e-mail:

procurement@eda.europa.eu

Please indicate in the subject line of the e-mail the title and number of the procedure:

21.CSD.NP3.517 – Legal Support and provision of specialised advice on matters concerning intellectual property

Name of the Company	
Title, first name and last name of contact person, and Function within the Company	
Address of the Company (including post code, town, country)	
Telephone: (with international prefix)	
E-mail of the contact person ²	

Upon reception of your expression of interest, your personal data will be recorded and further processed by EDA for the sole purpose of drawing up list of interested economic operators that will be invited to take part in the present negotiated procedure. Such data will be processed by EDA in accordance with Regulation (EU) No 2018/1725³, pursuant to Article 31 of Council Decision (CSFP) 2015/1835.

Details concerning processing of your personal data are available in the privacy statement at the page:

<http://www.eda.europa.eu/docs/default-source/procurement/privacy-statement.pdf>

² Where the invitation to tender will be sent.

³ Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p.39)