



Valletta Harbour,

31-05-2018

SUBJECT: ADVERTISEMENT FOR CONTRACTS FOR THE PROVISION OF LEGAL SERVICES (ART. 134.1.h of the Rules of Application)

I. Details of the contracting authority

European Asylum Support Office (EASO)
MTC Block A, Winemakers Wharf,
Grand Harbour Valletta, MRS 1917, Malta
E-mail: contracts@easo.europa.eu
Website: <http://easo.europa.eu>

II. Description of the contract

The contract(s) for the provision of legal services may vary in view of their particular subject, duration and value.

III. Description of services

The provision of legal services may cover any of the following area(s):

- Advice on admissibility of appeals lodged against EASO's decisions (e.g. admissibility on the form, respect of deadlines, admissibility on the substance, standing of the appellant);
- Advice on the subject matter of proceedings before the European and national courts (e.g. actions for annulment, failure to act, damages claims), including litigation and pre-litigation advice;
- Litigation and pre-litigation advice to EASO in its contracts with third parties under Maltese/or different applicable law;
- Legal representation by a lawyer within the meaning of Article 1 of Council Directive 77/249/EEC in arbitration or conciliation or judicial proceedings;
- Arbitration and conciliation services;
- Document certification and authentication services which must be provided by notaries;

IV. Description of the procedure

In response to this advertisement, an economic operator who is potentially interested in providing the type of legal services described in section III, must submit to the functional mailbox indicated above the following duly completed and signed documents:

- A Legal Entity Form¹
- A Financial Identification Form²
- A Declaration of honour with respect to the exclusion criteria and selection criteria³
- A declaration regarding their capacity to provide legal services in the above-mentioned areas where they have expertise and to practice law in the indicated EU Member State.

The possibility to submit an expression of interest in response to this advertisement will remain open for as long as the notice is available in the section for procurement of EASO Website.

On the basis of the responses to this advertisement, a list of potential service providers will be drawn up. Potential service providers will be notified of inclusion in the list on the basis of the completeness of the documentation submitted. Inclusion on the list of potential service providers does not guarantee in any way that EASO will invite a potential service provider to present an offer in response to a request for services.

Contracts for legal services may be awarded by EASO following a negotiated procurement procedure⁴.

When receiving a request for services from EASO the invited service provider will be required to submit to the functional mailbox contracts@easo.europa.eu the following duly completed and signed documents:

- A financial proposal
- The CVs of the proposed legal advisors

An invitation to present an offer in response to a request for services does not create an obligation on EASO to award a contract.

V. Access to the market

Participation in this procurement procedure is open on equal terms to all natural and legal persons coming within the scope of the Treaties⁵, as well as to international organisations.

¹ Available at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

² Available at: http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm

³ See Annex I

⁴ Articles 128 (2) (b) 134 (1) (h) of the Rules of Application of the General Financial Regulation

⁵ Since the United Kingdom notified on 29 March 2017 its intention to leave the Union, pursuant to Article 50 of the Treaty on European Union, the Treaties will cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, two years after the notification, unless the European Council, in agreement with the United Kingdom, decides to extend that period. As a consequence, and without prejudice to any provisions of the withdrawal agreement, this only applies until the United Kingdom ceases to be a Member State”.

It is also open to all natural and legal persons established in a third country which has a special agreement with the European Union in the field of public procurement under the conditions laid down in that agreement⁶.

Being launched by an EU Agency, this procurement procedure is not open to the countries parties to the Agreement on Government Procurement⁷.

The rules of access to the market apply to all joint tenderers but do not apply to subcontractors.



Polydoros Frantzeskakis
Head of Department of Administration

⁶ Namely, under the Stabilisation and Association Agreements (SAA) economic operators established in **FYROM, Albania, Montenegro, Serbia and Bosnia and Herzegovina** have been granted access to procurement procedures of EASO regardless of the value of the purchase.

Moreover, under the European Economic Agreement, economic operators established in **Iceland, Norway and Liechtenstein** have full access to procurement procedures of EASO

⁷ Except for Iceland, Norway and Liechtenstein.

Annex I Exclusion Criteria Form

Declaration of honour on exclusion criteria and selection criteria

The undersigned [*insert name of the signatory of this form*], representing:

(<i>only for natural persons</i>) himself or herself	(<i>only for legal persons</i>) the following legal person:
ID or passport number: ('the person')	Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number: ('the person')

I – SITUATION OF EXCLUSION CONCERNING THE PERSON

	YES	NO
➤ declares that the above-mentioned person is in one of the following situations:		
a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the contracting authority is located or those of the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		
(i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract;	<input type="checkbox"/>	<input type="checkbox"/>

(ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) violating intellectual property rights;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) attempting to influence the decision-making process of the contracting authority during the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
(v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;	<input type="checkbox"/>	<input type="checkbox"/>
d) it has been established by a final judgement that the person is guilty of the following:		
(i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;	<input type="checkbox"/>	<input type="checkbox"/>
(ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of EU Member States, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the legal provisions of the country where the contracting authority is located, the country in which the person is established or the country of the performance of the contract;	<input type="checkbox"/>	<input type="checkbox"/>
(iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;	<input type="checkbox"/>	<input type="checkbox"/>
(iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
(v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;	<input type="checkbox"/>	<input type="checkbox"/>
(vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
e) the person has shown significant deficiencies in complying with the main obligations in the performance of a contract financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an Authorising Officer, OLAF or the Court of Auditors;	<input type="checkbox"/>	<input type="checkbox"/>
f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95;	<input type="checkbox"/>	<input type="checkbox"/>
g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to: i. facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;	<input type="checkbox"/>	<input type="checkbox"/>

ii.non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics; iii.decisions of the ECB, the EIB, the European Investment Fund or international organisations; iv.decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law; or v.decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.		
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II – SITUATIONS OF EXCLUSION CONCERNING NATURAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON

Not applicable to natural persons, Member States and local authorities

➤ declares that a natural person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers company directors, members of management or supervisory bodies, and cases where one natural person holds a majority of shares) is in one of the following situations:	YES	NO	N/A
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

III – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON

➤ declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations:	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV – GROUNDS FOR REJECTION FROM THIS PROCEDURE

➤ declares that the above-mentioned person:	YES	NO
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h) has distorted competition by being previously involved in the preparation of procurement documents for this procurement procedure.	<input type="checkbox"/>	<input type="checkbox"/>
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V – REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

VI – EVIDENCE UPON REQUEST

Upon request and within the time limit set by the contracting authority the person must provide information on the persons that are members of the administrative, management or supervisory body. It must also provide the following evidence concerning the person itself and concerning the natural or legal persons which assume unlimited liability for the debt of the person:

For situations described in (a), (c), (d) or (f), production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point (a) or (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

VII – SELECTION CRITERIA

➤ declares that the above-mentioned person complies with the selection criteria applicable to it individually as indicated below:	YES	NO	N/A
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(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract: registered with a Bar Association in an EU Member State or be otherwise qualified to practice law in this Member State	<input type="checkbox"/> EU Member State(s):.....	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable technical and professional criteria: 3 years of professional experience	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

➤ if the above-mentioned person is the sole tenderer or the leader in case of joint tender , declares that:	YES	NO	N/A
(c) the tenderer, including all members of the group in case of joint tender and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VII – EVIDENCE FOR SELECTION

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

Full name

Date

Signature