

D. TENDER FORM FOR A WORK CONTRACT

Publication reference: AM-PRO001A-QAA

Title of contract: Water Treatment Project – Al Qaa

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Al Douwar, Matn**

Chadi Radi – Assi Mission

One signed form must be supplied (for each lot, if the tender procedure is divided into lots), together with the number of copies specified in the instructions to tenderers. The form must include a signed declaration using the annexed format from each legal entity making the application. Any additional documentation (brochure, letter, etc.) sent with the form will not be taken into consideration. Applications being submitted by a consortium (i.e. either a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure) must follow the instructions applicable to the consortium leader and its members. The attachments to this submission form (i.e. declarations, statements, proofs) may be in original or copy. If copies are submitted, the originals must be dispatched to the contracting authority upon request. For economical and ecological reasons, we strongly recommend that you submit your files on paper-based materials (no plastic folder or divider). We also suggest you use double-sided print-outs as much as possible.

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. 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 on the part of 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, as well as the relevant selection criteria. With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will supply the supplies or perform the works or 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.

1 SUBMITTED BY

	Name(s) of tenderer(s)	Nationality ¹
Leader²		
Member		
Etc ...		

¹ Country in which the legal entity is registered.

² Add/delete additional lines for members as appropriate. Note that a subcontractor is not considered to be a member for the purposes of this tender procedure. Subsequently, the data of the subcontractor must not appear in the data related to the economic, financial and professional capacity. If this tender is being submitted by an individual tenderer, the name of the tenderer should be entered as **'leader'** (and all other lines should be deleted).

2 CONTACT PERSON (for this tender)

Name	
Address	
Telephone	
Fax	
E-mail	

3 EXPERIENCE

Please complete a table using the format below to summarise the **major relevant supplies** carried out over the past **3** years³ by the legal entity or entities making this tender. The number of references to be provided must not exceed **15** for the entire tender.

Ref # (maximum 15)	Project title		...						
	Name of legal entity	Country	Overall supply value (EUR) ⁴	Proportion supplied by legal entity (%)	No of staff provided	Name of client	Origin of funding	Dates	Name of members if any
...
A detailed description of the supply							Related services provided		
...							...		

³ In the case of framework contracts (without contractual value), only specific contracts corresponding to assignments implemented under such framework contracts will be considered.

⁴ Amounts actually paid, without the effect of inflation.

4 TENDERER'S DECLARATION(S)

As part of their tender, each legal entity identified under point 1 of this form, including every consortium member, as well as each capacity-providing entity and each subcontractor, must submit a signed declaration using this format, together with the declaration of honour on exclusion and selection criteria (Annex 1) (insert Form a.14). The declaration may be in original or in copy. If copies are submitted the originals must be dispatched to the contracting authority upon request.

In response to your letter of invitation to tender for the above contract, we, the undersigned, hereby declare that:

- 1 We have examined and accept in full the content of the dossier for invitation to tender No <.....> of <date>. We hereby accept its provisions in their entirety, without reservation or restriction.
- 2 We offer to deliver, in accordance with the terms of the tender dossier and the conditions and time limits laid down, without reserve or restriction:
Lot 1: <description of supplies with indication of quantities and origin>
Lot 2: <description of supplies with indication of quantities and origin>
Etc.
- 3 The price of our tender **excluding** spare parts and consumables, if applicable (excluding the discounts described under point 4) is:
Lot 1: <insert price>
Lot 2: <insert price and currency>
Lot 3: <insert price>
- 4 We will grant a discount of [<...>%], or [<.....>] [in the event of our being awarded lot ... and lot].
- 5 This tender is valid for a period of 90 days from the final date for submission of tenders.
- 6 If our tender is accepted, we undertake to provide a performance guarantee as required by Article 11 of the special conditions.
- 7 Our firm/company [and our subcontractors] has/have the following nationality:
<.....>
- 8 We are making this tender in our own right [as member in the consortium led by < name of the leader >] [ourselves]*. We confirm that we are not tendering for the same contract in any other form. [We confirm, as a member in the consortium, that all members are jointly and severally liable by law for the execution of the contract, that the lead member is authorised to bind, and receive instructions for and on behalf of, each member, that the execution of the contract, including payments, is the responsibility of the lead member, and that all members in the joint venture/consortium are bound to remain in the joint venture/consortium for the entire period of the contract's execution]. [We confirm, as capacity-providing entity to be jointly and severally bound in respect of the obligations under the contract, including for any recoverable amount.]
- 9 In the event that our tender is successful, we undertake, if required, to provide the proof usual under the law of the country in which we are effectively established that we do not fall into any of the exclusion situations. The date on the evidence or documents provided will be no earlier than 1 year before the date of submission of the tender and, in addition, we will provide a statement that our situation has not altered in the period which has elapsed since the evidence in question was drawn up.

We also undertake, if required, to provide evidence of financial and economic standing and technical and professional capacity according to the selection criteria for this call for tender specified in the additional information about the contract notice. The documentary proofs required are listed in Section 2.6.11. of the practical guide.

We also understand that if we fail to provide the proof/evidence required, within 15 calendar days after receiving the notification of award, or if the information provided is proved false, the award may be considered null and void.

- 10** We agree to abide by the ethics clauses in Clause 24 of the instructions to tenderers and, in particular, have no conflict of interests or any equivalent relation which may distort competition with other tenderers or other parties in the tender procedure at the time of the submission of this application.

We confirm that we, including all consortium members, if any, and subcontractors are not in the lists of EU restrictive measures (www.sanctionsmap.eu) and we understand that our tender may be rejected, if proved the contrary.

- 11** We will inform the contracting authority immediately if there is any change in the above circumstances at any stage during the implementation of the tasks. We also fully recognise and accept that any inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts funded by the EU/EDF.

- 12** We note that the contracting authority is not bound to proceed with this invitation to tender and that it reserves the right to award only part of the contract. It will incur no liability towards us should it do so.

- 13** We fully recognise and accept that if the above-mentioned persons participate in spite of being in any of the situations listed in Section 2.6.10.1.1. of the practical guide or if the declarations or information provided prove to be false, they may be subject to rejection from this procedure and to administrative sanctions in the form of exclusion and financial penalties up to 10% of the total estimated value of the contract being awarded and that this information may be published on the Commission website in accordance with the Financial Regulation in force.

- 14** We are aware that, for the purposes of safeguarding the EU's financial interests, our personal data may be transferred to internal audit services, to the early detection and exclusion system, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office.

[* Delete as applicable]

Annex I Selection and Award Criteria

1. General Principles

Assi Mission must draw up clear and non-discriminatory selection criteria to assess whether the candidate/tenderer has sufficient financial, economic, technical, and professional capacity to implement the contract's tasks. The chosen criteria must be proportionate and may not go beyond the scope of the contract.

For contracts divided into lots, different minimum capacity levels can be set for each lot. Additional levels of capacity can be added if several lots are awarded to the same tenderer.

The criteria must not be drafted in a way that would excessively reduce competition. For example, an "in-country experience" criterion is too restricted and should be avoided.

The contract notice, additional information about the contract notice, or the instructions for tenderers' templates include examples of criteria for the procedure.

Below are examples of criteria not to be used:

- requesting disproportionate annual turnover, number of staff, number of previous projects, etc., as regards the amount of the contract;
- Avoid using imprecise terms such as 'sufficient,' 'major,' and 'relevant,' as they are too ambiguous.
- requesting a percentage of the staff working in specific fields as this may be discriminatory for large companies;
- requesting technical experience relating to EU projects only, as this may, in general, be regarded as discriminatory;
- requesting prior experience in the partner country, unless specific justification is provided, as this could, in general, be regarded as discriminatory;
- requesting technical experience in an overly prescriptive manner that effectively restricts the number of eligible candidates to one or a few firms.

Contracting authorities must consider whether compliance can be proved when deciding on the appropriate criteria. It should, for instance, consider what type of documentary evidence the tenderer may submit as proof.

The selection criteria must be specified in the contract notice/additional information about the contract notice/instructions to tenderers and applied by Assi Mission without modification unless a corrigendum has been published.

The contract notice must clarify how each selection criterion will be assessed in the case of an application submitted by a consortium. For instance, some criteria aiming at assessing the financial and economic capacity might not be checked based on aggregate values but must be met by each consortium member.

Candidates/tenderers are asked to provide a declaration of honor and indicate their economic, financial, professional, and technical capacity in the application form or tender submission form according to the selection criteria laid down in the tender documents. Previous experience that would have led to a breach of contract and termination by Assi Mission must not be used as a reference. This also applies to the previous experience of experts required under a fee-based service contract.

For service procedures, all the short-listed tenderers must submit the documents supporting the information provided in response to the selection criteria together with the tender.

For supply procedures, only successful tenderers have to supply proof documents to support the information submitted in the tender before the award of the contract.

For work procedures, however, the proofs have to be submitted using the tender dossier.

When in doubt about the documents' authenticity, Assi Mission should carry out additional checks and request additional documents.

Capacity-providing entities and subcontractors

A candidate/tenderer may, where appropriate and for a particular contract, rely on the capacity of other entities, regardless of the legal nature of its links with them.

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

Where an economic operator relies on the capacities of other entities regarding criteria relating to economic and financial capacity, the economic operator and those entities are jointly liable for the performance of the contract. Suppose the candidate/tenderer relies on other entities. In that case, it must prove to Assi Mission that it will have the necessary resources available to implement the contract, for example, by producing a commitment by those entities to place such 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, that apply to the economic operator relying on them.

Assi Mission must verify whether the entities on whose capacity the economic operator intends to rely and the envisaged subcontractors when subcontracting represents a significant part of the contract fulfill the relevant selection criteria. The data for these entities as concerns the relevant selection criterion should be included in the tender in a separate document. Proof of the capacity will also have to be furnished when requested by the contracting authority.

Assi Mission must require that the economic operator replaces an entity or subcontractor who does not meet a relevant selection criterion.

Assi Mission may request information from the tenderer on any part of the contract that the tenderer intends to subcontract and on the identity of any subcontractors.

In the case of works contracts, service contracts, and siting or installation operations in the context of a supply contract, Assi Mission may require that certain critical tasks be performed directly by the tenderer itself, where the tender is submitted by a group of economic operators, a participant in the group.

If the documentary evidence submitted is not written in French, English, or Spanish, a translation into the language of the procedure must be attached. However, it is strongly recommended that a translation into the language of the procedure be provided to facilitate the evaluation of the documents.

If the candidate/tenderer cannot provide the evidence requested for some exceptional reason that the contracting authority finds to be justified, it may prove its capacity by any other means that the contracting authority considers appropriate.

If the tenderer submits a self-declaration/statement as documentary proof, the contracting authority reserves the right to request further documentary evidence.

2. Economic and financial capacity

To ensure that economic operators possess the necessary economic and financial capacity to perform the contract, Assi Mission may require in particular, that:

- a. economic operators have a certain minimum yearly turnover, including a certain minimum turnover in the area covered by the contract;
- b. economic operators provide information on their annual accounts showing ratios between assets and liability;
- c. economic operators provide an appropriate level of professional risk indemnity insurance.

For point (a), the minimum yearly turnover must not exceed two times the estimated annual contract value, except in duly justified cases linked to the nature of the purchase, which Assi Mission must explain in the procurement documents.

For point (b), Assi Mission must explain the methods and criteria for such ratios in the procurement documents.

Assi Mission must define in the procurement documents the evidence to be provided by an economic operator to demonstrate its economic and financial capacity. It may request in particular one or more of the following documents:

- a. appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance;
- b. financial statements or their extracts for a period equal to or less than the last 3 years for which accounts have been closed;
- c. a statement of the economic operator's overall turnover and, where appropriate, turnover in the area covered by the contract for a maximum of the last 3 financial years available.

If, for any valid reason, the economic operator is unable to provide the references requested by Assi Mission, it may prove its economic and financial capacity by any other document that Assi Mission considers appropriate.

3. Technical and professional capacity

Assi Mission must define in the procurement documents the evidence to be provided by an economic operator to demonstrate its technical and professional capacity. It may request one or more of the following documents:

- a) for works, supplies requiring siting or installation operations or services, the educational and professional qualifications, skills, experience, and expertise of the persons responsible for performance;
- b) a list of the following, with a description providing sufficient details on their relevance to the selection criteria:

1. if the principal services provided and supplies delivered in the past 3 years, with the nature of the services, the sums, dates, and clients, public or private, accompanied upon request by statements issued by the clients, where necessary to ensure an adequate level of competition, Assi Mission may indicate that evidence of relevant supplies or services delivered or performed more than 3 years before will be taken into account;

2. of the works carried out in the last 5 years, accompanied by certificates of satisfactory execution for the most important works; where necessary to ensure an adequate level of competition, the contracting authority may indicate that evidence of relevant works delivered or performed more than 5 years before will be taken into account;

- c) a statement of the technical equipment, tools, or plant available to the economic operator for performing a service or works contract;
- d) a description of the technical facilities and means available to the economic operator to ensure quality and a description of available study and research facilities;
- e) a reference to the technicians or technical bodies available to the economic operator, whether or not belonging directly to it, especially those responsible for quality control;
- f) in respect of supplies: samples, descriptions or authentic photographs or certificates drawn up by official quality control institutes or agencies of recognized competence attesting the conformity of the products identified by references to technical specifications or standards;
- g) for works or services, a statement of the average annual manpower and the number of managerial staff of the economic operator for the last 3 years;
- h) an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract;
- i) an indication of the environmental management measures that the economic operator can apply when performing the contract.

Candidates/tenderers can 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 (although started earlier) will be taken into consideration. This portion will have to be supported by documentary evidence (statement or certificate from the entity that awarded the contract or proof of final payment) also detailing its value. If a candidate/tenderer has implemented the project in a consortium, the percentage that the candidate/tenderer has completed must be clear from the documentary evidence, together with a description of the nature of the services, supplies, or works provided if the selection criteria relating to the pertinence of the experience have been used.

Where the supplies or services are complex or, exceptionally, are required for a special purpose, evidence of technical and professional capacity may be secured using a check carried out by Assi Mission or on its behalf by a competent official body of the country in which the economic operator is established, subject to that body's agreement. Such checks must concern the supplier's technical capacity and production capacity and, if necessary, its study and research facilities and quality control measures. Where Assi Mission requires the provision of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain quality assurance standards, including on accessibility for disabled persons, it must refer to quality assurance systems based on the relevant European standards series certified by accredited bodies. Assi Mission must also accept other evidence of equivalent quality assurance measures from an economic operator that has demonstrably no access to such certificates or has no possibility of obtaining such certificates within the relevant time limits, for reasons that are not attributable to that economic operator and provided that the economic operator proves that the proposed quality assurance measures comply with the required quality assurance standards.

Where Assi Mission requires the provision of certificates drawn up by independent bodies attesting that the economic operator complies with certain environmental management systems or standards, it must refer to the European Union Eco-Management and Audit Scheme based on the relevant European Union or international standards by accredited bodies. Where an economic operator had demonstrably no access to such certificates or no possibility of obtaining them within the relevant time limits for reasons that are not attributable to that economic operator, Assi Mission must also accept other evidence of environmental management measures, provided that the economic operator proves that these measures are equivalent to those required under the applicable environmental management system or standard.

Assi Mission may conclude that an economic operator does not possess the required professional capacity to perform the contract to an appropriate quality standard where the contracting authority has established that the economic operator has conflicting interests that may negatively affect its performance.

4. Award criteria

Contracts are awarded based on the most economically advantageous tender established for the call for tender in one of the following two ways:

- under the best price-quality ratio, in which case Assi Mission takes into account the price and other quality criteria linked to the subject matter of the contract, and applies a weighting formula;

Quality criteria may include elements such as technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental, and innovative characteristics, production, provision and trading process, and any other specific process at any stage of their life cycle, organization of the staff assigned to performing the contract, after-sales service, technical assistance or delivery conditions such as delivery date, delivery process and delivery period or period of completion.

Assi Mission may lay down minimum levels of quality. Tenders below those levels of quality must be rejected:

- under the lowest price, provided the tender satisfies the minimum requirements laid down.

The criteria must be precise, non-discriminatory, and not prejudicial to fair competition.

5. Distinction between selection and award criteria

In the tender procedure, a firm distinction between selection and award criteria should be made, in particular when preparing the tender specifications and when tenders are evaluated to avoid any legal uncertainty concerning the conditions of the award of the contract.

Confusing selection and award criteria constitute a procedural defect that may result in the annulment of the procedure in case of a dispute. Indeed, as confirmed by case law⁹⁶, this confusion could favor certain economic operators at the detriment of others regardless of the quality of their technical offer.

At the stage of evaluation of award criteria, Assi Mission can no longer review the capacity or ability of the tenderers as already assessed during the selection phase. Only the technical and financial offers must be evaluated at this stage by reference to the award criteria which are to be directly related to

the tender specifications to assess the intrinsic quality of the offer and which may not relate to the capacity of the tenderer.

In this regard, particular attention should be paid when defining award criteria for key experts to avoid overlapping and double evaluation with the requirements related to staff (professional capacity) in the selection criteria.