



Invitation

5/23/2022












Procuring organization

Ríkiskaup
Sigrún Svava Valdimarsdóttir

Procurement

DPS - Cloud service, hosting and other related services
21447
Published 3/18/2022 10:28 AM
Final request date: 3/18/2033 11:59 PM

Legend

- | | |
|---|---|
|  The text is included in the advert |  The text is included in the qualification |
|  The text will be part of the contract |  The text will be published in the contract catalogue |
|  The text/question contains requirements to be met |  The text/question contains ESPD requirements |
|  The question is weighted and included in the evaluation |  The question is weighted and included in the evaluation |
|  The question is asked for information only |  The question is answered by the buyer |
|  The question is marked for special follow-up | |

6. Contract Terms and Conditions

6.1 Contract Terms and Conditions

6.1.1 Information and advertisement

This ITP will be advertised on TED, TendSign, utbodsvefur.is and rikiskaup.is for as long as the DPS is active.

All qualified suppliers will be named as suppliers in the DPS on Rikiskaup website.

6.1.2 DPS time frame

After the initial tendering period (30 days), tenderer may submit a notice of participation at any time during the DPS (see DPS end date).

6.1.3 Purchase within the DPS system

All participants within this DPS are required to issue a ITT for there procurements of ser

Ríkiskaup on behalf of a buyer will invite all qualified suppliers with in this DPS to bid for a specific service by issuing an Invitation to Tender (ITT) within the tendering system (TendSign). Two or more buyers are allowed to combine their purchases. To achieve the most cost-effective purchase buyers are allowed to combine their purchases within one or more lots/parts. All qualified suppliers will then be invited to

participate in the tender.

In individual ITT's tenders will be evaluated according to the award criteria stated in the ITT, which will be more specially refined and detailed in the ITT, and contract awarded to the winning supplier. The buyer reserves the right to set a different award criteria for the selection of tenders in ITT's within the contract, in accordance with Article 79. Act on Public Procurement no. 120/2016.

The Buyer may at any time during the period of validity of the system require that a qualified supplier submits a renewed and updated documents on qualification criteria (ESPD) cf. Paragraph 1 Article 73, Act on Public Procurement no. 120/2016, within five working days from the date on which the request was made.

See appendix XX Draft ITT DPS - Cloud service, hosting and other related services

6.1.3.1 Invitation to Tender (ITT)

All contract terms and conditions shall be set out in ITT documents. All qualified suppliers in the DPS will be sent the announcement through a special tender portal (TendSign or equivalent). In a DPS all purchases shall be made through a specific ITT in a restricted procedure. All ITT's will be advertised publicly at least but not exclusively on www.utbodsvefur.is. Tender period is at least 10 calendar days.

6.1.4 Contractual information for buyers

The DPS is presented on the Ríkiskaup website, by sending out a newsletter and / or press releases. Also directly in visits / presentations to subscribers to Ríkiskaup buyers.

6.1.5 Information about turnover figures



The supplier shall provide Ríkiskaup with quarterly information on the quantity and value of services it has sold in accordance with this agreement bid items and buyers.

Ríkiskaup reserves the right to select suppliers at random or specifically request a statement from a certified public accountant / inspector of a specific supplier to verify previous submission of turnover information. If they prove to be incorrect, Ríkiskaup will demand that the supplier in question correctly submits turnover figures from the beginning of the DPS.

The supplier shall send a statement of turnover due to the agreement through the Ríkiskaup's portal, <https://innskraning.island.is/?id=gatt.rikiskaup.is>, which contains a breakdown of the period's transactions, no later than 15 days after the end of each quarter.

The statement of turnover shall include the following information:

- 1) the buyer's ID number, and
- 2) total transactions excluding VAT. of each buyer.

Information on turnover in the DPS shall be submitted to Ríkiskaup no later than 15 April for the 1st quarter, 15 July for the 2nd quarter, 15 October for the 3rd quarter and 15 January for the 4th quarter.

The supplier's attention is drawn to the fact that turnover figures must be submitted for all

transactions, regardless of whether the supplier acquired the transactions them self or acquired them on the buyers' initiative. Parties to a DPS cannot decide whether their transactions are within or outside the DPS. Ríkiskaup has a power of attorney according to Paragraph 3 Article 99 Act on Public Procurement to conclude agreements on behalf of government agencies and other public bodies. By submitting a application in this DPS, the supplier agrees to provide information on turnover and other matters, as provided for in this contract. Furthermore, it is emphasized that buyers are not permitted by law to trade services that fall within the DPS agreement with suppliers outside the DPS.

Contact information for turnover figures, name, email address and telephone number

Text field

21447 DPS - ...



6.1.6 Ownership of data

All data that will be created in the system will always be owned by the buyer.

The supplier acknowledges that all data provided by the Contracting Authority to the supplier or generated through the use by the Contracting Authority of the Services shall remain the ownership of the Contracting Authority. The supplier shall acquire no right in such data other than the right to use such data for the purpose of and in compliance with this Contract. Personal data may only be processed for the purpose of the fulfilment of the Contract.

6.1.7 Contractual reservation

It is not clear what quantity will be purchased on the basis of this tender, as DPS are made for specific product or service categories for a specific period of time, without quantity figures being known. Individual purchases take place after a DPS has been reached. The scope of the purchase depends on how the buyer group is composed at any given time.

The principle is that buyers are not permitted by law to trade services that fall within the DPS with suppliers outside the DPS, unless otherwise stated.

It is possible to terminate a contract in part, e.g. for individual buyers who choose to no longer be included in the DPS in accordance with the termination provisions of the DPS. The DPS can also be extended in part, ie. only for those buyers who want to continue buying under the DPS. Ríkiskaup decides on extensions and the validity period for Part A institutions, but buyers other than Part A institutions can contact Ríkiskaup during the contract period and request termination for their part of the DPS or refuse an extension in respect of their share. Buyers must contact Ríkiskaup no later than two weeks before the end of the contract if they do not wish to be parties to the extension of the contract.

6.1.8 Default and termination

The supplier shall in all matters observe their contractual obligations in accordance with the accepted tender and the terms and conditions of the invitation to tender/contract. If the purchaser suffers loss or damage on account of default by the supplier, the supplier is fully liable to pay compensation.

Default by supplier give the purchaser the right to suspend payments, demand a discount or apply other remedial action provided for in commercial law.

In the event of repeated or gross default by the supplier the purchaser can rescind the contract without notice.

If the supplier seeks composition or moratorium on payments, if he is declared bankrupt or in financial distress, the purchaser may without notice terminate the contract.

The purchaser will without any compensation rescind the contract in whole or in part:

- a. If a significant change of the contract calls for a new procurement procedure, cf Article 90 of the PPA. This applies e.g. if the changes are subject to a complaint and the findings of the Complaints Commission are that these changes were not authorized without a new invitation to tender.
- b. If an economic operator, who originally was selected, should have been excluded from procurement procedures, cf paragraphs 1 and 2 of Article 68 of the PPA.
- c. If some of the exclusion grounds according to Article 68 of the PPA apply to the economic operator during the contract period.
- d. If a contract should not have been awarded to an economic operator in view of a serious violation of this Act, or of regulations issued according to the Act. This applies e.g. if it emerges after the awarding of a contract that the reasons for exclusion listed in paragraphs 1 and 2 of Article 68 of the PPA apply to the supplier.

6.1.8.7 Failure to submit information

If the supplier repeatedly neglects a contractual obligation to provide information on turnover and other matters provided for in this agreement, it is regarded as a breach of contract that allows Ríkiskaup to terminate the contract. Ríkiskaup reserves the right to, according to h. paragraph 6 Article 68 OIL, to exclude companies from a public contract if there have been significant or persistent deficiencies in the company's implementation of material claims under previous public contracts that have led to the termination of the contract, a claim for damages or other similar sanctions. Ríkiskaup also reserves the right to exclude companies according to Art. other sanction's in Article 68 OIL.

Ríkiskaup reserves the right not to negotiate with companies that have neglected to submit information on turnover for 2 quarters (two 3-month periods) in the last 24 months.

6.1.9 Terms of employment

The supplier shall ensure and be responsible for all his employees, subcontractors/temporary agencies that are involved in the performance of the contract receive wages, the terms of employment, health insurance and accident insurance, and other rights, in accordance with the contract, current applicable collective agreements and acts of law at any given time. All of the abovementioned shall apply irrespective of the length of service of the relevant employee. The supplier shall fulfill his obligations as a user company according to the Temporary Agency Act, if the services of such companies is being used, and he warrants towards the purchaser that staff from temporary agencies are subject to rights under Icelandic law and collective agreements.

If work is performed outside Iceland the wages shall be in compliance with collective agreements and statutory terms and conditions of the relevant country, or in accordance with the requirements of the ILO.

At any time during the period of the contract the supplier shall be able to demonstrate that all rights and obligations according to the above mentioned are fulfilled. The supplier shall produce documentation that prove to the Trade Union concerned or/and the Administration of Occupational Safety and Health that the above mentioned rights and obligations are fulfilled within 5 business days from the day when the documentation was requested.

If documentation is not submitted within that timeframe, or if the supplier is unable to demonstrate that the abovementioned rights or obligations have been fulfilled in the estimation of the purchaser, the purchaser may collect per diem fines amounting up to ISK 150,000 ex VAT per of

the value of the contract, for each staff member whose rights are not fulfilled, or for each day when documentation is not delivered within the specified time limit. Per diem fines shall be paid until remedial action has been taken. If the total amount of per diem fines reaches 10% of the contract amount the purchaser can rescind the contract

The purchaser at the same time reserves the right to retain contractual payments for the payment of unpaid wages or contractual payments directly to the staff of the subcontractor/temporary agency at supplier's cost, if there is default against them. The purchaser may during the period of the contract visit supplier's/subcontractor's place of business in consultation with the relevant trade union and the Administration of Occupational Safety and Health and gather information about the staff and wage payments to them. The supplier shall explain this contractual obligation to the subcontractor.

The purchaser may retain payments or collect a performance bond and he reserves the right to allocate payments to the victim/staff member in consultation with the relevant trade union as the case may be.

The application of these remedial efforts on account of default does not affect the validity of any liability insurance /performance bond if that applies.

6.1.10 Environmental protection and social rights

Goods, services and works which the supplier delivers shall meet the requirements of Icelandic law and of European Union directives in the fields of environmental protection and social rights.

6.1.10.1 Ecological conditions - Environmental standards for products / services

If it becomes apparent during the contract period that the production of the offered product or the execution of the offered service causes environmental damage, the buyer reserves the right to terminate the contract without notice.

6.1.11 Review clause – revisions during the period of the contract

The purchaser reserves the right to make changes to the contract during the extent permitted according to Article 90 of the PPA. Changes can be both according to an agreement with the supplier or with other parties if the supplier is in default and it becomes necessary to negotiate with another party in order to fulfill his contract obligations. See also chapter on terms of employment, prices and price adjustments and the assignment of rights and obligations. The purchaser reserves the right to make changes to the contract if the supplier is declared bankrupt, without entering a new ITT.

If legislative amendments or technological innovations call for changes to be made to the contracted goods, services or project, the contract can then be revised during the period of the contract within the provisions of Article 90 of the PPA. The same applies if unforeseen technical difficulties have appeared during operation or maintenance.

6.1.12 Liability and guarantees

The supplier is liable for the work, service and supplies and its execution, including the work, service and supplies of subcontractors, where relevant, as well as any loss or damage that the purchaser or third party may suffer during the execution of the contract supplies. The supplier shall buy all compulsory insurance stipulated in laws and regulations.

The supplier shall furthermore buy or have a liability insurance with respect to loss or damage that the client or third party may suffer due to the operations of the supplier and the work of their employees.

An irrevocable and irredeemable bank issued performance bond to guarantee the satisfactory performance of supplier's obligations under the contract. The amount of the bond should correspond to three months of contract payments. The principal amount of the bond is to be index linked in accordance with the indexation of the contract. The surety bond shall use such wording that the purchaser will be able to demand payment of the security in total or in part and without prior court order.

The surety bond shall be issued by a banking institution which the purchaser accepts (see tender sheet in the tender response forms). The purchaser can demand payment of the amount of security in part or in total without presenting proof of his financial loss.

The supplier shall buy all insurance for all staff in accordance with the provisions of collective agreements as applicable. Furthermore, the supplier is advised to buy suspension of operations insurance and insurance of personal property which will insure him against loss by burglary etc. If the supplier decides not to buy such insurance, he shall ensure operational security in the same way that the insurance policies require. The supplier must explain how he intends to arrange these matters.

The supplier shall make sure that any subcontractors buy insurance in the same way if they undertake the same project segments.

The supplier shall provide the purchaser a copy of all insurance policies and premium payment receipts, if requested to do so.

6.1.13 Assignment of rights and obligations

The supplier may not assign or hypothecate any rights under this contract without the written approval of the purchaser.

The supplier may not without the written approval of the purchaser assign to another the undertaking of the supplier's obligations in part or in whole. If the supplier obtains such authority, the obligations of the supplier towards the purchaser will not change in any way.

The purchaser reserves the right, in accordance with Article 90 of the PPA to authorize another economic operator to enter into and take over the position of the original contractual party in the execution of this contract in whole or in part by which a new contractual party shall meet all the qualitative requirements of the ITT.

The purchaser reserves the right under Article 90 of the PPA, where this applies, to undertake the obligations of the principal contractor towards the subcontractor, if the principal contractor is unable to fulfil his obligations.

6.1.14 Force Majeure

Neither the supplier nor the purchaser will be required to pay compensation if force majeure applies which neither party can be blamed for such as war, fire, natural disaster, strike, work stoppage or other such events preventing the performance of this contract.

6.1.15 Disputes

Cases that may arise because of the transactions covered by this invitation to tender shall be referred to the District Court of Reykjavik.