

**INVITATION TO TENDER NO. ACER/NEG/ADMIN/10/2012**  
**FOR LANGUAGE TRAINING FOR STAFF MEMBERS OF THE AGENCY**  
**FOR THE COOPERATION OF ENERGY REGULATORS**

Negotiated tender procedure

**TENDER SPECIFICATIONS**

**1. Title of the invitation to tender**

Language training for staff members of the Agency for the Cooperation of Energy Regulators (the Agency), tender no. ACER/NEG/ADMIN/10/2012.

This tender is divided into twenty-three (23) lots. Tenderers may submit offers for one, several or all lots. Tenderers wishing to apply for more than one lot must submit a separate offer for each lot.

**2. Background information**

The Agency for the Cooperation of Energy Regulators (the "Agency") is a European Union body, established in 2010 by Regulation (EC) No 713/2009 and is central to the liberalisation of the EU's electricity and natural gas markets. The Agency is based in Ljubljana.

The Agency works towards a competitive, sustainable, secure and transparent Internal Energy Market for the benefit of all EU consumers. Its overall mission is to assist national energy regulatory authorities (NRAs) to perform their duties at the EU level and to coordinate their actions whenever necessary. The Agency thus cooperates closely with NRAs, but also with EU institutions, European associations of stakeholders and market participants, especially the European Networks of Transmission System Operators (ENTSOs), to deliver a series of instruments for the completion of a single EU energy market.

The main areas on which the Agency's activities focus are:

- supporting European market integration: this is mainly done through the development of common network and market rules as well as through the coordination of regional initiatives which are concrete efforts from market participants to work towards greater integration;
- advising the EU institutions on trans-European Energy infrastructure issues: the Agency issues opinions on ten-year network development plans with a view to making sure that these are in line with priorities set at EU level;
- energy market monitoring: the Agency has a general mission in terms of market monitoring at the EU level and has, since the end of 2011, a very specific responsibility when it comes to oversight of the wholesale energy trading.

**3. Subject of the contract**

The Agency intends to provide language training to its staff members foremost in the following languages: French, German, Italian, Slovenian and Spanish though it would also like to enable a broader selection of courses of the other official languages of the European Union.

The tender is divided in lots, namely:

- Lot 1: Slovene
- Lot 2: Bulgarian
- Lot 3: Czech
- Lot 4: Danish
- Lot 5: Dutch
- Lot 6: English
- Lot 7: Estonian
- Lot 8: Finnish
- Lot 9: French
- Lot 10: German
- Lot 11: Greek
- Lot 12: Hungarian
- Lot 13: Irish
- Lot 14: Italian
- Lot 15: Latvian
- Lot 16: Lithuanian
- Lot 17: Maltese
- Lot 18: Polish
- Lot 19: Portuguese
- Lot 20: Romanian
- Lot 21: Slovak
- Lot 22: Spanish
- Lot 23: Swedish

### **3.1. Description of the services**

For each lot, the language courses should:

- Be focused for adult audience with different skill levels from beginner to proficient user in accordance with the classification of the Council of the Europe's Common European Framework of Reference for Languages (Basic user - levels A1 and A2; Independent user - levels B1 and B2; Proficient user - levels C1 and C2), which are divided into six levels and based on the following four language skills: listening, reading, spoken interaction and production and writing. For further details please see Annex A to these tender specifications;
- Be face-to-face group training (i.e. no virtual or online courses);
- Have a minimum lesson unit of 45 minutes (academic hour) whereas one session should not exceed two or three lesson units at a time. In a case the tenderer proposes three lesson units at a time then only one session of three lesson units per week should take place;
- Include initial grading test and corresponding evaluation for each course participant, test at the end of a course and a certificate of attendance indicating the level achieved following the Europe's Common European Framework of Reference for languages;
- Include training material for staff members participating in a language course, i.e. books, workbooks, worksheets;
- Teachers should be preferably native speakers and should have at least two years of professional experience in providing language training for the relevant language.

**3.1.1. FOR LOT 1** the offer should include the following information for each proposed course:

- proposed starting date and ending date (these dates will be agreed and confirmed by the Agency with the selected contractor after the signature of the contract);
- proposed weekly schedule (the schedule will be agreed and confirmed by the Agency with the selected contractor after the signature of the contract);
- specify the duration of one lesson unit (i.e. 45 min or 60 min) and number of lesson units;
- indicate maximum number of participants (tenderers should take into account that courses would preferably be organised exclusively for the Agency staff at the Agency's premises for a group of minimum 3 and maximum 10);
- indicate the level achieved after a successful completion of a course (the level should correspond to the European Framework of Reference for Languages).

**3.1.2. FOR LOT 2 to 23, for each lot separately,** the offer should include the following information for each proposed course:

- starting date and ending date;
- weekly schedule;
- specify the duration of one lesson unit (i.e. 45 min or 60 min) and number of lesson units;
- indicate maximum number of participants (tenderers should take into account that for lots 2 to 23 the Agency staff will join courses organised by the tenderer);
- indicate the level achieved after a successful completion of a course (the level should correspond to the European Framework of Reference for Languages).

The selected contractor shall ensure that the Agency's staff members shall be able to enrol in the courses that are offered each semester. The tenderer shall indicate in his offer what the deadline to apply for each course is.

In addition, the selected contractor shall ensure that all the courses that are included in his offer are organised during the respective semester of the academic year.

Each course, for each lot, should be properly marked so there is no confusion with the price quotation as indicated in the financial offer (Annex II to the invitation to tender).

### **3.2. Timing of courses**

For all lots, the first courses should start at the end of September 2012/beginning of October 2012. The number of staff taking part in these courses for all lots combined is approximately 40.

For all lots, the second round of courses should start in February 2013. The number of staff taking part in these courses for all lots combined is approximately 60.

Each staff member is entitled only to one language course at a time.

### **3.3 Cancellation**

In the event of the cancellation and/or postponement of a training session, the Agency staff members must inform the language training provider/teacher by themselves.

Penalties regarding any cancellation and/or postponement of a training session are not the Agency's liability and will not involve any additional cost to the Agency unless cancellation is due to service requirements.

### **4. Place of performance of the services**

For Lot 1 language courses would be preferably organised in the premises of the Agency at Trg republike 3, 1000 Ljubljana or in the vicinity (maximum 1 km distance from the Agency's premises).

For Lots 2 to 23 language courses should be organised in the vicinity of the premises of the Agency (maximum 1 km distance from the Agency's premises) which is located at Trg republike 3, 1000 Ljubljana.

### **5. Language training provider**

For each lot, the contractor is required:

- To perform with high level of professionalism and good pedagogical approach.
- To be able to communicate in a timely manner. The contractor shall nominate a contact person. The contractor's response time shall not exceed two (2) working days.
- To possess good command of English language (C1 level). English shall be used throughout the implementation of the contract for all communication, reports and other documentation.
- To be in touch with the Agency on any language training issues.
- To give at least one month's notice to the Agency of any change in the contractor's team, i.e. contact person, responsible person for signature of the contracts etc.
- The contractor should ensure that the language teachers providing the language training are preferably native speakers of the language they teach, or have at least very good command of the language they teach both written and oral (minimum C1 level of the Common European Framework of Reference for Languages), have a very good knowledge of English, have the relevant professional qualifications and experience, are able to communicate effectively and provide high quality training.

Language teachers are required:

- to ensure that the training courses for which they are responsible are prepared properly and in good time;
- to check the logistical aspects of the training (including the room, documentation and teaching materials);
- to keep track of and sign the attendance lists;

- to inform the Agency about changes of the training sessions in terms of duration, size, participation;
- to evaluate the training sessions;
- to be in touch with the Human Resources team of the Agency on language training issues.

## **6. Contractual framework**

### **6.1. Type of contract**

The services described above will be a subject of a framework service contract(s). The contract(s) will lay down the legal, financial, administrative and technical conditions applicable throughout its period of validity. The draft framework contract is attached in Annex III to the invitation to tender.

Signature of the framework contract(s) does not commit the Agency to placing orders and does not give the contractor(s) any exclusive rights regarding the services covered by the framework contract(s). In any case, the Agency reserves the right, at any time during the validity of the framework contract(s), to cease placing orders, without the contractor(s) having the right to any compensation.

### **6.2. Subcontracting**

Special attention will be paid to the approach proposed by the contractor(s) for managing his subcontractors. Tenderers will be required to indicate the kind of work which they plan to subcontract and the name of any companies to which they are intending to subcontract part of the work.

Subcontracting during performance of the contract(s) is permitted only with the prior written consent of the Agency. The contractor(s) remains solely liable for proper performance of the contract(s). The same conditions for the delivery of the services apply for the subcontractor(s) as described in these tender specifications. Amongst other, the contractor(s) should arrange the teaching materials from the subcontractor(s) are distributed to the language course participants free of charge.

## **7. Participation in the Call for Tender**

Participation in this tender procedure is open on equal terms to all natural and legal persons.

## **8. Size of the contract**

The duration of the framework contract(s) will be one (1) year. The estimated date for the signature of the framework contract(s) is July 2012.

The maximum total value of the orders which may be placed for each calendar year is as follows:

- maximum ceiling in 2012: EUR 20.000,00
- maximum ceiling in 2013: EUR 28.000,00

The maximum total value of services for all lots combined for one (1) year is estimated at EUR 48.000,00, without VAT.

## 9. Contractors' obligations

### Employment law applicable to transfers of undertakings:

Tenderers are reminded that their bid must be established in conformity with the applicable national and European employment legislation regarding the transfer of undertakings, and specifically Directive 2001/23/EC<sup>1</sup> and its national implementing measures. In particular, tenderers should take note of the provisions on safeguarding employees' rights in the event of a change of employer as a result of a legal transfer.

## 10. Prices

- Prices must be quoted in Euros.
- Prices must be fixed and are not a subject to change during the whole duration of the contract(s).
- Prices must be quoted per participant per one course and must be all inclusive (the prices shall include registration fees, costs for teaching materials (i.e. books, workbooks, worksheets), initial grading test, evaluation for each course participant, test at the end of a course and a certificate of attendance).
- Under Article 3 and 4 of the Protocol on the privileges and immunities of the European Communities and Article 7 of the Seat Agreement between the Government of the Republic of Slovenia and the Agency for the Cooperation of Energy Regulators (Official Journal of the Republic of Slovenia no. 109/2010 dated 30.12.2010), the Agency is exempt from all duties, taxes and other charges, including VAT and as such will not be taken into account when calculating the reference price. Tenderers are requested to indicate separately in their tender the applicable VAT.

## 11. Payment methods

Except where the specific contracts provides for otherwise, provisions related to payment are laid down in the draft framework contract (Annex III to the invitation to tender). Payment will be made exclusive of VAT, as the Agency is exempt from all duties and taxes, including value added tax (VAT) under Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Communities and Article 7 of the Seat Agreement between the Government of the Republic of Slovenia and the Agency for the Cooperation of Energy Regulators (Official Journal of the Republic of Slovenia no. 109/2010 dated 30.12.2010). Invoices presented by the contractor(s) must be exclusive of VAT.

## 12. Submission of offers

### FOR EACH LOT SEPARATELY

The bid must be accompanied by a **dated cover letter signed by the tenderer and duly completed reference table** related to the exclusion and selection criteria (see Annex B of these tender specifications).

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<sup>1</sup> Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or part of undertakings or businesses, OJ L 82 of 22.03.2001, p. 16.

The tender must include:

- all the information and documents required by the contracting authority concerning the exclusion criteria as described under point 13 of tender specifications;
- all the information and documents required by the contracting authority concerning the selection criteria as described under point 14 of tender specifications;
- a technical tender which must include the following:
  - ❖ a detailed description of each proposed course (see point 3.1. of these tender specifications),
  - ❖ a description of the methodology used conducting training courses,
  - ❖ a description of the organisation, content and methodology used for assessing and assigning course entry levels,
  - ❖ a description of the organisation, content and methodology used for the end of course tests.
- a financial offer (see Annex II to the invitation to tender) containing a quotation per participant per course.

Tenders can be submitted in any of the official languages of the EU.

**The main working language of the Agency is English.**

### **13. Exclusion criteria**

Tenderers must prove that they are not in one of the situations giving rise to exclusion as described below, by providing the following information, evidence and documents with their bid.

#### **Exclusion from participation**

Candidates or tenderers will be excluded from participation in a procurement procedure if they:

- a) are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning these matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) have been convicted of an offence concerning their professional integrity by a judgment which has the force of res judicata;
- c) have been guilty of grave professional misconduct proven by any means which the awarding authority can justify;
- d) have not fulfilled their obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established, or with those of the country of the awarding authority, or with those of the country where the contract is to be performed;
- e) have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the EU's financial interests;
- f) have been declared to be in serious breach of contract for failure to comply with their contractual obligations, following another procurement procedure or grant award procedure financed by the EU budget. In the case of joint tenders (consortia), each member of the consortium must submit the documents required. The exclusion criteria will apply to each member of the group and to the group as a whole.

Evidence:

Tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations referred to above, using the form provided in Annex D to these tender specifications. The Agency reserves the right to check the information provided by tenderers.

#### Exclusion from award of contracts

Tenderers will also not be considered for contract award if, at the time of the procurement procedure, they:

a) are subject to a conflict of interests.

The Agency must ensure that on the date on which the tender is submitted, no tenderer is subject to a conflict of interests; such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.

Tenderers are also asked to declare:

- that they have not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract;
- that they have not granted, sought, attempted to obtain or accepted any advantage, financial or in kind, to or from any party whatsoever, constituting an illegal practice or involving corruption, either directly or indirectly, as an incentive or reward relating to the award of the contract;
- that they will inform the contracting authority without delay of any situation constituting a conflict of interests or which could give rise to a conflict of interests.

b) are guilty of misrepresentation in supplying the information required by the awarding authority as a condition of participation in the procurement procedure, or fail to supply this information.

Evidence:

Tenderers shall provide a declaration on their honour, duly signed and dated, stating that they are not in one of the situations referred to above, using the form provided in Annex D to these tender specifications. The Agency reserves the right to check the information provided by tenderers. The Agency reserves the right to check the information provided by tenderers.

#### **Tenders submitted by consortia or groups of service providers – tenders involving subcontracting:**

In the case of tenders submitted by consortia or groups of service providers, each of the economic operators involved in the tender must provide a dated and signed declaration on honour, based on the model provided in Annex D to these tender specifications, confirming that none of the exclusion criteria for participation in or award of the contract apply to them.

In the case of tenders involving subcontracting, the tenderer proposed for award of the contract must furnish, within the time-limit specified by the awarding authority and prior to the signature of the contract, the declaration on their honour and/or the evidence listed above regarding exclusion criteria for participation in or award of the contract, in respect of each of the subcontractors in respect of whom the Agency requests such evidence.

The Agency reserves the right to check the information provided by tenderers.

## 14. Selection criteria

Tenderers must demonstrate that they have the necessary economic, financial, technical and professional capacity to perform the tasks described at point 3 of these tender specifications in accordance with the payment schedule specified in the *draft framework contract* in Annex III to the invitation to tender.

Where the bid is submitted by a consortium or group of service-providers, the economic and financial capacity must be ascertained at the level of each economic operator forming part of the consortium or group. Technical and professional capacity may be ascertained at consortium or group level, or at the level of each member of the consortium or group.

Where the bid is submitted by a tenderer who intends to subcontract part of the tasks or entrust them to another economic operator, the subcontractors or economic operators involved must demonstrate that they have the requisite economic, financial, technical and professional capacity.

An economic operator may, if necessary and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links he has with them. He must in this case prove to the awarding authority that he will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.

Tenderers must provide proof of their professional, economic, financial, and technical capacity by enclosing with their tender the following information and documents, accompanied by the documentation reference tables shown in Annex B to these tender specifications:

### 14.1. Professional capacity

- Duly completed and signed identification form (see Annex C to these tender specifications);
- Duly completed and signed financial identification form (see Annex E to these tender specifications) – the form can be downloaded from:  
[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm)
- Certificate of enrolment on the professional or trade register in accordance with the legislation of the Member State in which the tenderer is established.
- Duly completed and signed legal entity form (see Annex F to these tender specifications) – the form can be downloaded from:  
[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)

### 14.2. Financial and economic capacity

Evidence of financial and economic capacity must be provided by means of one or more of the following documents:

- Balance sheets or extracts from balance sheets for at least the last two years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;

- A statement of overall turnover concerning the services covered by the contract during the last three financial years.

### **14.3. Technical capacity**

To prove their technical and professional capacity, tenderers shall provide in their tenders evidence of expertise in the field of language training, for each lot separately.

Tenderers are requested to:

- A list of principal services provided during the last two (2) years indicating the recipients. The tenderers should provide at least three (3) references of international and/or governmental institutions to which the tenderers are/have provided language courses;
- The educational and professional qualifications of the tenderer and the tenderer's managerial staff;
- Provide between two (2) to four (4) CVs, for indicative purposes, of language teachers who have a minimum of two (2) years of professional experience in language training and who should have minimum C1 level (according to the Common European Framework of Reference for Languages) of the language they teach. Preference shall be given to native speakers for the relevant language;
- Specify the location (exact address) where the courses shall be organised.

For those tenders including subcontracting, the tenderer must submit:

- A document stating clearly the identity, roles, activities and responsibilities of the subcontractor(s) and specifying the volume/proportion of the tasks of (each of) the subcontractor(s), as well as the description of the quality control measures he intends to apply on the tasks to be carried out by (each of) the subcontractor(s);
- A letter of intent by (each of) the subcontractor(s) stating its unambiguous undertaking to collaborate with the tenderer if he wins the contract and the extent of the resources that it will put at the tenderer's disposal for the performance of the contract.
- In the absence of this, a document stating that the tenderer does not intend to subcontract and that he/she will inform the Agency about any change in this situation. the Agency reserves the right to judge if such change would be acceptable.

For those tenders submitted by a consortium or grouping of service providers, the tender must contain:

- A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the contract;
- A letter signed by each member stating its commitment to execute the services in the tender clearly indicating its role, qualifications and experience.

Tenders which do not meet the exclusion/selection criteria will not be considered. Tenderers who do not provide the documents required in these tender specifications with regard to the exclusion and selection criteria might be excluded from further evaluation.

The Agency will decide whether the substantiating documents provided constitute compliance with the selection criteria.

## 15. Award criteria

The contract(s) will be awarded to the tender(s) offering the best value for money on the basis of the criteria specified below.

### 15.1. Technical quality, with 60% weighting:

FOR EACH LOT SEPARATELY

- A. Proposed method for conducting training courses; *with a maximum of 60 points.*
- B. Organisation, content and methodology used for assessing and assigning course entry levels; *with a maximum of 20 points.*
- C. Organisation, content and methodology used for the end of course tests, *with a maximum of 20 points.*

***Tenders scoring less than 60 in the overall points or less than 60% in the points awarded for each of the single criterion will be excluded from the further evaluation.***

### 15.2. Price, with 40% weighting:

FOR EACH LOT SEPARATELY

In order to evaluate the offers, the Agency will calculate an average reference price per participant per course per lesson unit, based on the financial offer submitted by the tenderer in Annex II to the invitation to tender. In order to be able to evaluate the financial offers a lesson unit in the duration of 45 minutes will be taken into account. The average reference price per participant per course per lesson unit has no contractual value and will be used solely for the purpose of this evaluation.

### 15.3. Final evaluation

The formulae to calculate economically the most advantageous offer is:

$$\text{Final score for tender X} = \frac{\text{cheapest total average reference price}}{\text{total average reference price of tender X}} * 40 + \frac{\text{total technical quality of tenderer X}}{100} * 60$$

The tenderer with the highest mark for the final score will be awarded the contract.