



Doing business with the European Commission

Tips for potential contractors

EUROPEAN COMMISSION



A business opportunity for you

C O N T E N T S

Doing business with the European Commission

Tips for potential contractors

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The European Commission is the executive arm of the European Union: it administrates the EU budget and supervises the implementation of common policies.

To carry out its tasks, the European Commission needs a wide array of goods and services, ranging from consultancy on policies and legislation, to courier services, office equipment and maintenance of premises. Some 9 000 contracts are awarded each year through public procurement procedures. This may be a business opportunity for your company!

Interested? This guide will help you get your bearings and tell you where to look for details.

In 2007, the value of services and goods contracted by the Commission was EUR 2.86 billion.



Finding information on contract opportunities

Tenders Electronic Daily (TED)

Tenders Electronic Daily (TED) is the primary source of information about big public procurement procedures organised by the European Commission and other public authorities across the EU: <http://ted.europa.eu/>

Extended search on TED

Through TED, you can easily find what you are looking for: use the extended search option to search by country, common procurement vocabulary code (see Glossary), type of contracting authority, etc.



The image shows a search form with the following fields: Country, Contract, Document, CPV code, Publication date, Documentation date, Type of authority, and Heading. The 'Country', 'CPV code', and 'Type of authority' fields are circled in red. Each field has a small green icon with a plus sign to its right, indicating an extended search option. The 'Publication date' and 'Documentation date' fields have a small calendar icon to their right. The 'Publication date' and 'Documentation date' fields have a placeholder text 'date e.g. 20050715'.

Commission's website

Low-value contracts:

services, goods and works worth less than EUR 60 000.

Low-value contracts are not usually advertised in TED. Those with a value between EUR 25 000 and 60 000 may be found on the web pages of Commission departments intending to organise a procurement procedure.

A directory of these pages can be found at:

http://ec.europa.eu/public_contracts/index_en.htm

Other opportunities

Contracts smaller than EUR 25 000 are awarded through a negotiated procedure without a previous publication. These opportunities are not advertised but, if you make yourself visible on the market, you may receive an invitation to submit an offer for such a contract.

If you are interested in more information on public procurement, go to http://europa.eu/publicprocurement/info/index_en.htm where you will find links to national public procurement databases, specific legislation, etc.

The ABC of procurement procedures



Open procedure

Restricted procedure

Negotiated procedure

Here is a brief overview of the main procurement procedures.

Open procedure

Any economic operator interested can submit a tender. This is a one-step procedure. See pp. 6–7 for more details.

abc

The open procedure is by far the most commonly used and represents more than half of the contracts signed.

Restricted procedure

This is organised in two steps: the first step analyses the capacity of participants against the exclusion and selection criteria (see Conditions, p. 8): any interested economic operator can take part in this step; in the second step those who passed the first step are invited to submit offers.

Certain restricted procedures follow a call for expressions of interest (CEI). If you respond to such a call, you will have to prove your capacity against the exclusion and selection criteria announced (see Conditions, p. 8). If you pass, you will be put on a shortlist valid for up to three years, which may be used many times for

different medium-value procurement procedures (generally service contracts up to EUR 133 000). Whenever a contract is to be awarded, the Commission invites short-listed candidates to submit a tender.

abc
Being short-listed after a call for expressions of interest means you may be invited to bid in restricted procedures for medium-value contracts.

Negotiated procedure

Used for example when the value of the purchase is below EUR 60 000. The Commission invites economic operators directly to submit offers. If the Commission considers that the offers can be improved, negotiations can be carried out on equal terms for all tenderers.

abc
The negotiated procedure for low-value contracts is usually simpler and faster than other procedures: you may be asked for fewer documents; the requirements for candidates are less restrictive; the tender documents, and in some cases the offers, may be sent by e-mail.

Even for contracts above EUR 60 000, but only in exceptional circumstances, the European Commission may negotiate the conditions of the contract, with one or several economic operators. The Commission may publish a contract notice in advance or simply consult economic operators of its choice.

Examples of exceptional circumstances

- lack of an acceptable offer in a previously advertised open or restricted procedure;
- monopoly;
- extreme urgency, e.g. in case of natural disasters, etc.



The open procedure in detail

Optional step

Pre-information notice



1 Contract notice and tender documents

This notice gives all the basic information you may need to decide whether you are interested in the contract, as well as the link where you can download the tender documents.

Tender documents generally consist of the invitation to tender, the specifications and the draft contract.



Clarifications, answers to questions



Official Journal 'S'

This notice announces plans for the year ahead. It can be published in the Official Journal 'S' series (OJ S) or on the procurement website of the European Commission.



<http://ted.europa.eu>

All published contract notices are available in the TED (Tenders Electronic Daily) database at <http://ted.europa.eu>



Documents

In some cases, the tender documents are not available on the Internet and they are sent by mail to all the economic operators who requested them at least five working days before the deadline for submission.



Corrigenda, changes to the tender conditions



On-the-spot visit, information session



2 Receipt of tenders

Tenders submitted after the deadline will not be accepted!



3 Public opening

The tenders are opened by the opening committee in public.



Submission of missing documents or clarifications by tenderers



4 Award of contract



Even after you have downloaded the documents, do check regularly the page on which the tender documents were published for questions and answers and possible changes, such as an extension of the deadline.

You have the right to participate in the opening session and learn on the spot how many tenders were submitted and by whom.

You may be asked for clarifications, confirmation of the corrections made in your offer or for missing documents. The Commission can only ask you to correct formal mistakes. For example, if you forget to send your balance sheet, we can ask for it later, but if you forget to include the price in your tender, you will be excluded.

If your tender is finally selected, you will receive a letter with the contract to be signed and sent back to the Commission. The Commission may not sign the contract earlier than 14 days after the dispatch of the letters addressed to your competitors.

If your tender is not successful, you will receive a letter informing you who won and why your tender was not chosen. You will have 14 calendar days to react if you think the rejection of your tender was not well justified.

Conditions for taking part in a procurement procedure



Legal form and registration

Participation is open to all economic operators registered in the EU and to all EU citizens. Participation is also open to any economic operator from a non-EU country which has an agreement with the EU about opening of public procurement markets.

Exclusion criteria

To qualify to tender, economic operators must:

- not be bankrupt;
- not have been convicted of an offence concerning their professional conduct;
- not have been guilty of grave professional misconduct;
- have fulfilled their obligations for payment of taxes and social security contributions;
- not have been convicted for fraud, corruption, involvement in a criminal organisation or any other illegal activity against the European Union's financial interests;
- not have been excluded from tendering due to a breach in a previous tender or contract.

Selection criteria

As a potential contractor, you must have the financial, economic, technical and professional capacity necessary to carry out the contract. You have to prove that you are financially sound, for instance by providing a statement of your enterprise's overall turnover or liquidity. Your technical capability may be verified, for example on the basis of previous projects or studies carried out in the relevant field.

Language

Tenderers are entitled to bid in any official language of the EU. Sometimes you may be additionally requested to submit a tender in a particular language (for example, in high technology tenders in which a certain language is predominantly used worldwide or when implementation of the contract depends on the knowledge of a certain language). When implementing the contract, you will be obliged to work in the language required by the Commission.

Partnerships

- *Consortia of economic operators*: A joint tender may be submitted by a group of economic operators acting together. However, your consortium may be required to adopt a given legal form if your tender is selected.
- *Subcontracting*: Tenderers may be requested to state the value of the contract that they propose to subcontract and the identity of the subcontractor(s).



Your tender

There is no standard content of a tender. Precise information is given in the tender documents. The content depends for example on the nature of the purchase, its value and the type of procedure. Here is a list of common requirements.

Cover letter

You may be asked to include a statement expressing acceptance of the technical specifications and the model contract.

Declaration of honour

The tenderers must declare that they are not guilty of doing any of the listed unprofessional or illegal behaviours that may exclude them from the procurement procedure. The declaration must cover all consortium members and is often also required for the subcontractors.

Documents proving compliance with the selection criteria

The criteria for assessing your financial capacity may refer to your turnover, liquidity or credibility, and may need to be documented, for example by your balance sheet, bank statement or insurance policy. Your professional capacity can be measured for example by asking



Cover letter

Financial offer

Legal entity

Documents

Technical offer

Declaration of honour



you to list your experience in similar projects or your equipment or for CVs of your staff.

Technical Proposal

In the case of service contracts, your technical proposal will describe how you intend to implement the contract, in terms, for example, of method and time schedule. In the case of supply contracts, it will contain a specification of the goods to be delivered, though a description of the organisation of delivery is usually also needed.

Price

Depending on tender requirements, it may consist of a single global price or of a breakdown of prices. As a rule, prices have to be given in euro, excluding VAT or indicating VAT separately.

Legal entity and bank account forms

(see: http://ec.europa.eu/budget/execution/legal_entities_en.htm)

These forms provide detailed information to identify your company and are necessary before a contract can be signed with you for the first time.

Documents requested for consortia or subcontractors

The consortium leader may need to provide a power of attorney from the consortium members or a consortium agreement. You will be asked to present documents proving that the group will have at its disposal the necessary resources.

Other information or documents may be required

The Commission may require additional documents, for example related to the goods you are going to deliver (e.g. technical information, warranty, certificates), documents proving that you are legally allowed to provide the services you are going to perform (e.g. documents proving necessary education of the staff, such as engineering diplomas, licences and ownership of certain intellectual rights).



Do not let minor mistakes derail your tender!



Timing

Do not wait until the last moment to prepare your tender and take time to check it! A slip-up may exclude you from the selection.

If you have to submit the tender on the last day, remember that the European Commission mail office is open only during office hours. You can also send your tender by courier or registered mail, in which case it is *the postmark that counts, not the date of receipt of the tender!*

Specifications

If you do not understand the tender specifications, instead of guessing, ask the Commission for clarifications.

Attention to detail

Do not assume that small discrepancies may be accepted. They will not. In particular, if your tender does not fulfil the technical requirements of tender documents, it will not be accepted.

Partnerships

Build a partnership if this is the way to fulfil the tender requirements.

Price

The award criteria will specify the relative importance of price and quality. It is usually better to tender the best possible quality, even if at a high price.

Be realistic about staff

Experts can be replaced only in exceptional circumstances and with experts having fully equivalent qualifications. If the experts you proposed in your tender decide not to work for you, you may encounter problems during implementation of the contract such as interruption of work, delays or financial penalties.

Be realistic about deadlines

If, after you sign the contract, you are unable to meet the time schedule you promised in your tender, you will have to pay liquidated damages for every day of delay.

After signing the contract

Delivery

- You have to deliver goods/services/works according to the technical specifications and to your own tender.
- If your tender contains more than required by the technical specifications, you have to deliver what you offered. But if your tender contradicts the specifications, the latter will apply.
- Similarly, the contract prevails over the technical specifications and the tender.



Remember that the contract concluded following a public procurement procedure **cannot be subsequently modified**. Changes are limited to administrative issues such as modification of the bank account, or to circumstances caused by external uncontrollable and unforeseen factors like natural disasters.

Reporting

Depending on the scale and subject of your contract, you may be required to present a report listing everything you have done including arrangements, timing, logistics and feedback you received.

Payment

The payment schedule is usually detailed in your contract. You will receive the payment under certain conditions: usually the submission of the report and the invoice. The Commission, depending on the contract, will have 20, 45 or 60 days to evaluate your report and another 30 days to make the payment. You may be asked for corrections or additional documents. In this case, the counting of days stops at the time of the request and restarts at the time you submit an answer. If an entirely new report has to be submitted, the counting restarts from zero.

If the Commission does not pay you on time, you will be paid interest.

A **framework contract** is a particular type of contract that establishes only the general outline of the services or goods to be delivered. An additional step is required to make the actual purchase: the Commission will place an order and, after receiving a satisfactory response, a specific contract will be signed. Therefore, a framework contract does not imply a purchase in itself but is implemented through smaller specific contracts — every specific contract being signed, implemented, invoiced and paid separately.

Appeals, complaints

If you believe your tender has not been treated properly, or the tender conditions are discriminatory, you may **complain to the responsible department within the Commission**.

If you are not satisfied with the answer received, you can write to the **European Ombudsman** (<http://www.ombudsman.europa.eu>).

The European Ombudsman examines complaints of maladministration against EU institutions and bodies. A complaint must be made within two years of the date when you got to know the facts on which your complaint is based and you must already have contacted the institution or body concerned, for example by letter.

You can also bring your complaint before the **Court of Justice of the European Communities** (<http://curia.europa.eu>). You must do this within two months of the decision which you are contesting.

The Court of First Instance has jurisdiction to hear cases based on procurement procedures launched by the Commission.



Glossary

Award criteria: The criteria used by the Commission in awarding public contracts that may be either price only (the lowest price) or, where the contract is awarded to the most economically advantageous tender, price and quality. Specific quality criteria are defined for each tender procedure. The relative weightings given to each of the criteria are given in the technical specifications.

Common procurement vocabulary (CPV): The CPV establishes a single classification system for public procurement aimed at standardising the references used by contracting authorities to describe the subject of public contracts.

Contract notice: Advertisement launching the procurement procedure published in the OJ S (to be found in TED).

Economic operator: Any company or individual, natural or legal person, public entity or grouping that offers products, services or works on the market.

Exclusion criteria: The criteria used by the Commission to determine whether an operator should be excluded from the tendering procedure (see p. 10).

Framework contract: A contract which sets the rules for a series of specific contracts (see p. 13).

Pre-information notice: Advertisement in the OJ S announcing the intention of launching the procure-

ment procedure in the near future (to be found in TED).

OJ S: The supplement for public procurement of the *Official Journal of the European Union* (OJ).

Selection criteria: The criteria used by the Commission to determine whether an operator has the financial, economic, technical and professional capacity necessary to carry out the work (see p. 10).

Specific contract: Contract specifying details of a particular task based on the previously signed framework contract (see p. 13).

Technical specifications: Document describing the subject of the procurement — what the Commission wants to buy (part of the tender specifications).

TED: Tenders Electronic Daily — online version of the OJ S.

Tenderer: An economic operator who has submitted a tender (offer).

Tender specifications: Document or set of documents giving full details of the conditions, organisation and subject of the procurement procedure (includes technical specifications).

For more information on the EU budget and financial programming

EU budget:

<http://ec.europa.eu/budget/index.htm>

(available in English, French and German)

European Commission Directorate-General for Budget:

http://ec.europa.eu/dgs/budget/index_en.htm

For feedback on the brochure:

budget@ec.europa.eu

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Europe Direct is a service to help you find answers to your questions about the European Union.

Freephone number (*):

00 800 6 7 8 9 10 11

(*): Certain mobile telephone operators do not allow access to 00 800 numbers or these calls may be billed.

A great deal of additional information on the European Union is available on the Internet. It can be accessed through the Europa server (<http://europa.eu>).

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