
ECB - consultancy services for legal advice for the new ECB premises (D-Frankfurt-on-Main)

2006/S 134-143203

Tender 049 Legal consultancy

Contract notice

Final status 6.7.2006

Services

Is this contract covered by the Government Procurement Agreement (GPA)? Yes.

Section I: Contracting authority

- I.1) **Official name and address of the contracting authority:**
European Central Bank, attn: Mr Alberto Molon, Kaiserstraße 29, D-60311 Frankfurt-on-Main. Fax (49-69) 13 44 68 80. E-mail: new_ecb_premises-procurement@ecb.int. URL: www.ecb.int.
- I.2) **Address from which further information can be obtained:**
European Central Bank, attn: Mr Alberto Molon, Kaiserstraße 29, D-60311 Frankfurt-on-Main. URL: www.new-ecb-premises.com.
Further information (question and answer) is provided in a forum at the above-mentioned Internet address.
- I.3) **Address from which documentation may be obtained:**
European Central Bank, attn: Mr Alberto Molon, Kaiserstraße 29, D-60311 Frankfurt-on-Main. URL: www.new-ecb-premises.com.
The application form can be downloaded from a forum at the above-mentioned Internet address.
All applications must be submitted using the application form prepared by the ECB in accordance with the instructions.
- I.4) **Address to which tenders/requests to participate must be sent:**
As in I.1.
- I.5) **Type of contracting authority:**
EU institution.
The contracting authority is purchasing on behalf of other contracting authorities: no.

Section II: Object of the contract

- II.1) **Description**
- II.1.1) **Type of works contract**
- II.1.2) **Type of supplies contract**
- II.1.3) **Type of service contract:**

Service category 21.

II.1.4) **Is it a framework agreement?**

Yes.

The establishment of a framework agreement.

II.1.5) **Title attributed to the contract by the contracting authority:**

Consultancy services for legal advice for the New ECB Premises. (Rechtsberatung)

II.1.6) **Description/object of the contract:**

The European Central Bank (ECB) is planning to construct its new premises on a site of approximately 120 000 m² in Frankfurt am Main, Germany. The ECB has already commissioned an architect to provide the architectural planning, the structural engineering and an energy design concept, and a planning team consisting of special planners for specific areas. Further to the planners already commissioned, the ECB intends to award a contract on legal advice for the new ECB premises project in a negotiated tender procedure.

II.1.7) **Site or location of works, place of delivery or performance:**

At the contractor's office and/or in Frankfurt am Main.

The building works will be executed on the Großmarkthalle site in the eastern part of Frankfurt.

NUTS code: DE712.

II.1.8) **Nomenclature**

II.1.8.1) **Common Procurement Vocabulary (CPV):**

74111100, 74114000.

II.1.9) **Division into lots:**

Yes.

Tenders may be submitted for 1 lot or all lots.

II.1.10) **Will variants be accepted:**

Yes.

Alternative offers will only be accepted in addition to a main offer which meets all the requirements requested in the tender. They will only be considered in the evaluation if the alternative solution is of equal or higher merit than the main offer. The burden of proof regarding the merit of the alternative offer shall be on the tenderer.

II.2) **Quantity or scope of the contract**

II.2.1) **Total quantity or scope:**

The selected applicants will compete for a contract to provide consultancy services regarding all legal aspects of the project, including, but not limited to building contracts (Bauvertragsrecht), execution of building works (baubegleitende Rechtsberatung), public building and zoning law (öffentliches Baurecht) and public procurement law (Vergaberecht).

The legal advice services to be awarded are divided into 2 lots:

lot 1 comprises legal advice with regard to private law, including contracts with planners and building companies, real estate law, ongoing legal advice during the execution of building works (baubegleitende Rechtsberatung) and lawsuits regarding private law;

lot 2 comprises legal advice with regard to administrative law, including public building law, zoning law, planning law, monument protection law, environmental law and lawsuits regarding administrative law.

Legal advice with regard to tender procedures and procurement issues is included in both lots and will be

allocated to the selected tenderers on a case-by-case basis.

The contract will comprise services for the planning, construction phase and follow-up.

II.2.2) Options. Description and time when they may be exercised

II.3) Duration of the contract or time-limit for completion:

The completion of the project is estimated to be in 2011.

Section III: Legal, economic, financial and technical information

III.1) Conditions relating to the contract:

III.1.1) Deposits and guarantees required:

Details may be provided in the invitation to tender (ITT), which will be sent to the shortlisted candidates.

III.1.2) Main terms of financing and payment and/or reference to the relevant provisions:

Details may be provided in the invitation to tender (ITT), which will be sent to the shortlisted candidates.

III.1.3) Legal form to be taken by the grouping of suppliers, contractors or service providers to whom the contract is awarded:

Temporary groupings of companies with a view to obtaining a contract to perform services may be established under the conditions set out in the application form.

III.2) Conditions for participation

III.2.1) Information concerning the personal situation of the contractor, supplier or service provider and information and formalities necessary for the evaluation of the minimum economic, financial and technical capacity required:

All applications must be submitted using the application form prepared by the ECB in accordance with the instructions. The application form can be obtained from the address indicated above (I.3). This application and its tender clauses shall be considered as part of the tender documentation.

To be admitted to participate in the tender procedure companies or organisations have to fulfil the qualifying criteria listed below:

(1.1) Our business has adequate technical resources to manage a project of this type.

(1.2) We have adequate human resources incl. the qualifications, knowledge and language skills required to perform the requested services.

(1.3) Our company/member(s) of a temporary grouping was/were responsible during the last 10 years for at least 5 projects, thereof at least 2 projects conducted in the last 5 years, which are comparable with the new ECB premises project in terms of size, complexity, type of use and building costs (over EUR 100 000 000). In these projects we have provided legal consultancy services comparable to those requested for each lot respectively (i.e. private law as regards lot 1 and administrative law for lot 2). Identical projects may be submitted for the 2 lots.

This includes 2 projects where we acted on behalf of the building owner ('auf Bauherrenseite'). With regard to lot 1 our reference projects include both, projects executed by a general building contractor and projects executed by several building contractors.

In case the application is submitted with a subcontractor, references may be provided from the subcontractor for the relevant services.

(1.4) Our accumulated fee income over the past 3 years if applying for lot 1 was at least EUR 10 000 000, excl. VAT. For temporary groupings the same threshold applies and in addition, at least 1 member of the grouping

must have had an accumulated fee income of EUR 5 000 000, excl. VAT over the past 3 years. If applying for lot 2 our accumulated fee income over the past 3 years was at least EUR 2 500 000, excl. VAT. For temporary groupings the same threshold applies and in addition, at least one member of the grouping must have had an accumulated fee income of EUR 1 250 000, excl. VAT over the past 3 years.

(1.5) We are neither bankrupt nor subject to insolvency proceedings, nor are such proceedings against us due to be commenced.

(1.6) We comply with all obligations in relation to the payment of:

1. social security contributions; and
2. taxes, pursuant to the laws of the country in which we are established.

(1.7) If awarded the contract for lot 1 we will comply with the requirement to maintain a continuous office presence on site during the construction phase (office provided by the ECB), if and to the extent the ECB considers this necessary.

(1.8) We are aware of the fact that if we are awarded the contract, companies belonging to our group of companies or companies held by our shareholders may be excluded from subsequent tenders for construction works. All such companies whose main business purpose is construction works are to be indicated.

(1.9) We are qualified to practise as attorneys-at-law in Germany.

(1.10) We comply with applicable anti-corruption regulations.

(1.11) We have not been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata.

Applicants must provide all documents necessary to prove full compliance with the requirements stated in (1.1)–(1.11) by submitting them as attachments to the application form.

Any failure to comply with 1 of the qualifying criteria will entail the applicant's exclusion from the tender procedure.

III.3) **Conditions specific to services contracts**

III.3.1) **Is provision of the service reserved to a specific profession?**

Yes.

Lawyers who are qualified to practise in Germany.

III.3.2) **Will legal entities be required to state the names and professional qualifications of the personnel responsible for execution of the contract?**

Yes.

Section IV: Procedure

IV.1) **Type of procedure:**

Negotiated.

IV.1.1) **Have candidates already been selected?**

No.

IV.1.2) **Justification for the choice of accelerated procedure:**

Not applicable.

IV.1.3) **Previous publication concerning the same contract:**

Not applicable.

IV.1.3.1) **Prior information notice concerning the same contract:**

Not applicable.

IV.1.3.2) Other previous publications

IV.1.4) Envisaged number of suppliers which will be invited to tender:

Minimum 3.

The selection criteria are as follows:

(a) the applicant's general capacity to carry out a project of this size in terms of technical resources (IT infrastructure and applications) and human resources (composition of staff and qualifications of staff members); and

(b) the applicant's general experience and expertise, assessed on the basis of the reference projects which are comparable in terms of size, complexity, type of use and building costs in which the applicant has provided services comparable to those requested by the ECB.

IV.1.5) Reduction of the number of operators during the negotiation or dialogue:

Recourse to staged procedure to gradually reduce the number of solutions to be discussed or tenders to be negotiated: yes.

IV.2.1) Award criteria:

The most economically advantageous tender in terms of criteria as stated below:

1. quality of the services provided (50 %);
2. financial terms (45 %);
3. compliance with the contractual terms and conditions offered by the ECB (5 %).

IV.2.2) An electronic auction will be used:

No.

IV.3) Administrative information

IV.3.1) Reference number attributed to the file by the contracting authority:

Tender 049

IV.3.2) Conditions for obtaining contract document and additional documents:

Obtainable until: 10.8.2006.

IV.3.3) Time-limit for receipt of requests to participate:

15.8.2006 (12:00), CET.

IV.3.4) Dispatch of invitations to tender to selected candidates:

Estimated date: 6.9.2006.

IV.3.5) Language or languages in which tenders or requests to participate shall be drawn up:

English.

IV.3.6) Minimum time frame during which the tenderer must maintain its tender

IV.3.7) Conditions for opening tenders

IV.3.7.1) Persons authorised to be present at the opening of tenders:

Not applicable.

IV.3.7.2) Date, time and place:

Place: at ECB premises.

Section VI: Other information

- VI.1) **Is this notice a non-mandatory one?**
No.
- VI.2) **If applicable, indicate whether this procurement is a recurrent one and the estimated timing for further notices to be published:**
Not applicable.
- VI.3) **Does the contract relate to a project/programme financed by EU funds?**
No.
- VI.4) **Additional information:**
Shortlisted applicants will be invited to submit a detailed offer.
After the dispatch of the offer they may be invited to present their proposals and designated team to the ECB.
All presentations and negotiations with the ECB will be conducted in English and German as the project will be managed in English and German.
- VI.5) **Date of dispatch of this notice:**
6.7.2006.
- VI.6.1) **Body responsible for appeal procedures:**
European Central Bank, Kaiserstraße 29, D-60311 Frankfurt-on-Main. Fax (49-69) 13 44 75 03. E-mail: procurement@ecb.int. URL: www.ecb.int.
- VI.6.2) **Lodging of appeals:**
Precise information on deadline(s) for lodging appeals:
2 weeks after receipt of rejection letters to non-selected candidates.
- VI.6.3) **Service from which information about the lodging of appeals may be obtained:**
European Central Bank, Kaiserstraße 29, D-60311 Frankfurt-on-Main. Fax (49-69) 13 44 75 03. E-mail: procurement@ecb.int. URL: www.ecb.int.

Annex B: information about lots

Lot No 1

- 1) **Nomenclature**
- 1.1) **Common Procurement Vocabulary:**
74111100, 74114000.
- 2) **Short description:**
Consultancy services regarding all private law aspects of the NEP project, including, but not limited to building contracts (Bauvertragsrecht), execution of building works (baubegleitende Rechtsberatung) and public procurement law (Vergaberecht).
- 3) **Scope or quantity:**
Legal advice with regard to private law, including contracts with planners and building companies, real estate law, ongoing legal advice during the execution of building works (baubegleitende Rechtsberatung) and lawsuits regarding private law.
Legal advice with regard to tender procedures and procurement issues is included in each of the lots and will be allocated to the selected tenderers on a case-by-case basis.

Lot No 2

1) **Nomenclature**

1.1) **Common Procurement Vocabulary:**

74111100, 74114000.

2) **Short description:**

Consultancy services regarding all administrative law aspects of the NEP project, including, but not limited to public building and zoning law (öffentliches Baurecht) and public procurement law (Vergaberecht).

3) **Scope or quantity:**

Legal advice with regard to administrative law, including public building law, zoning law, planning law, monument protection law, environmental law and lawsuits regarding administrative law.

Legal advice with regard to tender procedures and procurement issues is included in each of the lots and will be allocated to the selected tenderers on a case-by-case basis.