

# SERVICE PROCUREMENT NOTICE

The technical assistance to the Communications Regulatory Agency (CRA) in relations to telecommunications and telecommunications regulatory framework

EC/BiH/08/022

## 1. Publication reference

EuropeAid/126849/C/SER/BA

## 2. Procedure

Restricted

## 3. Programme

IPA 2007

## 4. Financing

BGUE-B2009-22.020200-C8-ELARG DELBIH

## 5. Contracting Authority

- European Community, represented by the European Commission on behalf of and for the account of the beneficiary country

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## CONTRACT SPECIFICATION

## 6. Nature of contract

Fee-based

## 7. Contract description

The overall objective of the project of which this contract will be part is as follows:

Achieving the harmonization of BiH regulations with EU requirements related to electronic communications and to assure the effective implementation of the *acquis communautaire* in the field of electronic communications.

The purposes of this project are strengthening the capacity of the CRA, so that it can more effectively apply the remedies<sup>1</sup> of the EU Regulatory Framework<sup>2</sup> for electronic communications networks and

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<sup>1</sup> "Remedies" are to be understood as regulatory obligations imposed in pursuance of Articles 8-13 of the Access Directive. Their effectiveness is reflected in the ability to prevent significant market power undertakings (within the definition of Article 14 of the Framework Directive) from creating barriers for other market participants.

<sup>2</sup> The EU Regulatory Framework for electronic communications networks and services of 2002 is a coherent package of the following legislative documents:

- Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) *OJ L 108, 24.4.2002, p. 33–50*

- Directive 2002/19/EC of the European Parliament and of the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities (Access Directive) *OJ L 108, 24.4.2002, p. 7–20*

services and

- (2) Support the process of harmonization of BiH law, and in particular of the Law on Communications of BiH with EU Regulatory Framework, lead to a competitive telecommunications market.

#### **8. Number and titles of lots**

n/a

#### **9. Maximum budget**

1,000,000 EURO

#### **10. Scope for additional services**

The Contracting Authority may, at its own discretion, extend the project in duration and/or scope subject to the availability of funding, up to a maximum not exceeding the length and value of the initial contract. Any extension of the contract would be subject to satisfactory performance by the Contractor.

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## **CONDITIONS OF PARTICIPATION**

#### **11. Eligibility**

Participation is open to all legal persons participating either individually or in a grouping (consortium) of candidates which are established in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed (see also item 30 below and [http://ec.europa.eu/europeaid/work/procedures/implementation/eligibility/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/implementation/eligibility/index_en.htm) ; next enter **GENERAL ANNEX A2** Eligibility programmes 2007-2013 and go to **Instrument for Pre-Accession Assistance (Council Regulation (EC) N° 1085/2006 - OJ L 210/82 of 31.7.2006)**.

Participation is also open to international organisations. The participation of natural persons is governed by the specific instruments applicable to the programme under which the contract is financed.

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- Directive 2002/20/EC of the European Parliament and of the Council of 7 March 2002 on the authorization of electronic communications networks and services (Authorization Directive) *OJ L 108, 24.4.2002, p. 21–32*
  - Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) *OJ L 108, 24.4.2002, p. 51–77*
  - Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) *OJ L 201, 31.7.2002, p. 37–47*
  - Commission Directive 2002/77/EC of 16 September 2002 on competition in the markets for electronic communications networks and services (Text with EEA relevance) *OJ L 249, 17.9.2002, p. 21–26*
  - Regulation (EC) No 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop (Text with EEA relevance) *OJ L 336, 30.12.2000, p. 4–8*
  - Decision No 676/2002/EC of the European Parliament and of the Council of 7 March 2002 on a regulatory framework for radio spectrum policy in the European Community (Radio Spectrum Decision) *OJ L 108, 24.4.2002, p. 1–6*

## **12. Candidature**

All eligible natural and legal persons (as per item 11 above) or groupings of such persons (consortia) may apply.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure. All members of a consortium (ie, the leader and all other members) are jointly and severally liable to the Contracting Authority.

The participation of an ineligible natural or legal person (as per item 11) will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

## **13. Number of applications**

No more than one application can be submitted by a natural or legal person whatever the form of participation (as an individual legal entity or as leader or member of a consortium submitting an application). In the event that a natural or legal person submits more than one application, all applications in which that person has participated will be excluded.

## **14. Shortlist alliances prohibited**

Any tenders received from tenderers comprising firms other than those mentioned in the short-listed application forms will be excluded from this restricted tender procedure. Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

## **15. Grounds for exclusion**

As part of the application form, candidates must submit a signed declaration, included in the standard application form, to the effect that they are not in any of the exclusion situations listed in Section 2.3.3 of the Practical Guide to contract procedures for EC external actions

## **16. Sub-contracting**

Subcontracting allowed up to 10% of the contract value.

## **17. Number of candidates to be short-listed**

On the basis of the applications received, between 4-8 candidates will be invited to submit detailed tenders for this contract. If the number of eligible candidates meeting the selection criteria is less than the minimum of 4, the Contracting Authority may invite the candidates who satisfy the criteria to submit a tender.

# **PROVISIONAL TIMETABLE**

## **18. Provisional date of invitation to tender**

May 2009

## **19. Provisional commencement date of the contract**

August 2009

## **20. Initial period of execution and possible extension of the contract**

18 months

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## SELECTION AND AWARD CRITERIA

### 21. Selection criteria

The following selection criteria will be applied to candidates. In the case of applications submitted by a consortium, these selection criteria will be applied to the consortium as a whole:

- 1) Economic and financial capacity of candidate (based on item 3 of the application form). In case of applicant being a public body, equivalent information should be provided.
  - (a) An annual turnover of candidate(s) must exceed 2 million Euro (for each of the two years) for the year before last and last year (2007, 2008).
- 2) Professional capacity of candidate (based on items 4 and 5 of the application form)
  - (a) at least 5 of all staff working for the candidate(s) currently work in fields related to this contract (institutional and capacity building in Telecom sector in EU Regulatory Framework)
- 3) Technical capacity of candidate (based on items 5 and 6 of the application form)
  - (a) candidate(s) have implemented at least one major project (minimum 1,000,000 Euro per project implemented by the candidate) in fields related to this contract (as defined under 2a) completed in the past thirty six months before the launch of this tender .

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 performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal. Such entities must respect the same rules of eligibility and notably that of nationality, as the economic operator.

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the applications of these candidates must be reexamined to identify the eight best applications for the tender procedure. The only factors which will be taken into consideration during this re-examination are:

- 1) The number of the completed relevant projects (minimum 1,000,000 Euro per project implemented by the candidate) in fields related to this contract (as defined under 2a) completed in the past thirty six months before the launch of this tender and
- 2) The total value of the completed relevant projects (minimum 1,000,000 Euro per project implemented by the candidate) in fields related to this contract (as defined under 2a) completed in the past thirty six months before the launch of this tender.

### 22. Award criteria

Best value for money.

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## APPLICATION

### 23. Deadline for receipt of applications

16:00 Central European Time on 14th April 2009.

Any application received after this deadline will not be considered.

## **24. Application format and details to be provided**

Applications must be submitted using the standard application form (available from the following Internet address: [http://ec.europa.eu/europeaid/work/procedures/index\\_en.htm](http://ec.europa.eu/europeaid/work/procedures/index_en.htm)), next enter IMPLEMENTATION, choose service contract and go to relevant annexes (Budget). The format and instructions of these forms must be strictly observed.

Any additional documentation (brochure, letter, etc) sent with an application will not be taken.

## **25. How applications may be submitted**

Applications must be submitted in English exclusively to the Contracting Authority:

- EITHER by recorded delivery (official postal service) to :

*EC Delegation to BiH, Attn: Procurement Team,  
Skenderija 3a, 71 000 Sarajevo, Bosnia and Herzegovina*

- OR hand delivered (including courier services) directly to the Contracting Authority in return for a signed and dated receipt to:

*EC Delegation to BiH, Attn: Procurement Team,  
Skenderija 3a, 71 000 Sarajevo, Bosnia and Herzegovina*

The Contract title and the Publication reference (see item 1 above) must be clearly marked on the envelope containing the application and must always be mentioned in all subsequent correspondence with the Contracting Authority.

Applications submitted by any other means will not be considered.

## **26. Alteration or withdrawal of applications**

Candidates may alter or withdraw their applications by written notification prior to the deadline for submission of tenders. No application may be altered after this deadline.

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with Clause 25. The outer envelope (and the relevant inner envelope) must be marked 'Alteration' or 'Withdrawal' as appropriate.

## **27. Operational language**

All written communications for this tender procedure and contract must be in English.

## **28. Additional information**

None.

## **29. Date of publication of contract forecast**

22nd March 2008

## **30. Legal basis**

Instrument for Pre-Accession Assistance (Council Regulation (EC) N° 1085/2006 - OJ L 210/82 of 31.7.2006);