



EUROPEAN COMMISSION
DIRECTORATE-GENERAL INFORMATICS

Directorate A - Strategy & Resources
DIGIT A3 - ICT Procurement & Contracts

28. 07. 2017

Brussels,
DIGIT/A3/MB/MG 4322626(2017)

Microsoft Belgium NV

Corporate Village
Da Vincilaan 3
1935 Zaventem

Subject: Invitation to negotiate

Reference: Framework Contracts DI-07280 (Microsoft licences) and DI-07300 (Microsoft high-level services) signed between the European Commission and Microsoft for the acquisition of Microsoft software licences and associated Services – Negotiated Procedures DIGIT/A3/PN/2017/041 (Microsoft licences) and DIGIT/A3/PN/2017/040 (high-level services)

Dear Mr [REDACTED],

1. The Commission has decided to launch two negotiated procedures, based on Articles 134.1.b. (ii), (iii) of the *Rules of Application*¹ (RAP) of the *Financial Regulation*² (FR), aiming at possibly concluding new framework contracts for the acquisition of:

- a. **Microsoft licences**

Framework contract DI-07280 (Microsoft licences) was signed on 21 May 2014, with an effective date of 1st June 2014, as result of a negotiated procedure undertaken by the Commission and it will end on 31 May 2018. The contract nevertheless will continue to be applicable to Specific Contracts signed before its expiry, for a maximum duration of 6 months. Therefore the maximum end date of Specific Contracts is 30 November 2018.

In order to replace framework contract DI-07280, the Commission has decided to launch a negotiated procedure with Microsoft Ireland Operations Ltd. for the acquisition of Microsoft licences.

¹ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union

² Regulation (EU, Euratom) No 966/2012 of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002

b. Microsoft high-level services

Framework contract DI-07300 (Microsoft high-level services) entered into force on 16 June 2014, as result of a negotiated procedure undertaken by the Commission and it will end on 15 June 2018. The contract nevertheless will continue to be applicable to Specific Contracts signed before its expiry, for a maximum duration of 6 months. Therefore the maximum end date of Specific Contracts is 15 December 2018.

In order to replace framework contract DI-07300, the Commission has decided to launch a negotiated procedure with Microsoft Belgium for the acquisition of Microsoft high-level services.

2. The Commission invites

- a. Microsoft Ireland Operations Ltd. to submit its best commercial offer for the acquisition of Microsoft licences (Negotiated Procedure DIGIT/A3/PN/2017/041) and
- b. Microsoft Belgium NV to submit its best commercial offer for the acquisition of Microsoft high-level services (Negotiated Procedure DIGIT/A3/PN/2017/040),

in one of the official languages of the European Union.

3. The procurement documents consist of the Specifications (attached as **Annex I** to this invitation letter), together with a cover letter to be signed by the company's authorised representative(s) (**Annex 1b** to the Specifications).

To this purpose, each tenderer updates the current

- Annex I - *List of Hardware or Software products, maintenance and Documentation covered by the Contract and schedule of prices* and
- Annex II - *List of Services covered by the Contract and schedule of prices*

4. The offers for each respective procedure must be submitted separately (no combined offer).

You must submit your offer in **one original paper version** along with an **electronic copy** on hard support. It must include a **covering letter** signed by the person(s) empowered to represent the tenderer and entitled to sign the contract if your offer is successful. Your offer must be submitted in a sealed envelope inside a second sealed envelope. The inner envelope must read exactly as follows:

For the offer regarding DIGIT/A3/PN/2017/041 (licenses):

"OFFER – Negotiated procedure No. DIGIT/A3/PN/2017/041 – Attn: Unit DIGIT/A3 – Not to be opened by the internal mail service".

For the offer regarding DIGIT/A3/PN/2017/040 (services):

"OFFER – Negotiated procedure No. DIGIT/A3/PN/2017/040 – Attn: Unit DIGIT/A3 – Not to be opened by the internal mail service".

The time limit for receipt of the offer is **20th September 2017, at the latest.**

You must use one of the means of submission listed below.

Means of submission	Time limit	Evidence	Address for delivery
Post	20 September 2017 24:00 CET	Postmark	NEGOTIATED PROCEDURE DIGIT/A3/PN/2017/041 <u>OR</u> DIGIT/A3/PN/2017/040 European Commission Directorate-General for Informatics, Unit DIGIT.A3, Office MO15 07/P001 For the attention of [REDACTED] B-1049 Brussels
Courier	20 September 2017 24:00 CET	Deposit slip of courier service	NEGOTIATED PROCEDURE DIGIT/A3/PN/2017/041 <u>OR</u> DIGIT/A3/PN/2017/040 European Commission Directorate-General for Informatics, Unit DIGIT.A3, Office MO15 07/P001 For the attention of [REDACTED]
In person (hand delivery)	20 September 2017 during service hours CET	Proof of receipt, signed and dated by the official in the central mail department who takes delivery	Avenue du Bourget 1 B-1140 Brussels (Evere)

Services hours:

Mail can be received from 07.30 to 17.30 Monday to Fridays. The service is closed on Saturdays, Sundays and official holidays of the contracting authority.

5. Tenders must be:

- perfectly legible so that there can be no doubt as to words and figures;
- drawn up using the model reply forms in the tender specifications.

6. The offer indicates its period of validity, during which tenderers may not modify the terms of their offers in any respect (not less than 9 months from the date indicated in section 4).

7. The offer contains the confirmation that the tenderer will put in place the necessary resources to cope with the contractual volume, in order to ensure the continuity of services.

8. The offer must be accompanied by a declaration on honour (from the tenderer and each permanently approved subcontractor), signed by the person(s) empowered to represent the tenderer or subcontractor. Please use the attached template

9. Submission of a tender implies acceptance of all the terms and conditions set out in the procurement documents and, where appropriate, waiver of the tenderer's own general or specific terms and conditions. The submitted tender is binding on the tenderer to whom the contract is awarded for the duration of the contract.

10. All costs incurred for the preparation and submission of tenders are to be borne by the tenderers and will not be reimbursed.

11. This invitation to negotiate is in no way binding on the contracting authority. The contracting authority's contractual obligation commences only upon signature of the contract with the successful tenderer.
12. Up to the point of signature, the contracting authority may cancel the procurement procedure without the candidates or tenderers being entitled to claim any compensation. This decision must be substantiated and the candidates or tenderers notified.
13. Once the contracting authority has opened the tender, it becomes its property and it shall be treated confidentially.
14. If processing the reply to the invitation to negotiate involves the recording and processing of personal data (such as name, address and CV), such data will be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data. Unless indicated otherwise, the replies to the questions and any personal data requested are required to evaluate the tenders in accordance with the specifications of the invitation to negotiate and will be processed solely for that purpose by DIGIT. Details concerning the processing of personal data are available on the privacy statement at:
http://ec.europa.eu/dataprotectionofficer/privacystatement_publicprocurement_en.pdf.
15. The tenderer's personal data may be registered in the Early Detection and Exclusion System (EDES) if the tender is in one of the situations mentioned in Article 106 of the Financial Regulation³. For more information, see the Privacy Statement:
http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm.

The Commission would like to kindly invite you to a kick-off meeting which is to be held as soon as possible, at the best convenience, at the Commission's premises in Rue Montoyer 15, B-1049 Brussels, allowing discussion of the further course of negotiations and possible questions.

Any information, questions or observations, of whatever kind, contained in this correspondence can in no way be regarded as a commitment on the part of the Commission. No binding commitment will be entered into force until after completion of the negotiated procedure once, and if, the new contract is signed.

Any question concerning this negotiated procedure should be addressed exclusively to DIGIT.A.3's Contracts Information Centre, by email to DIGIT-CONTRACTS-INFO-CENTRE@ec.europa.eu or fax (+32-(0)2-295.77.02).

³ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298 of 26.10.2012, p. 1) as amended.

Finally, please note that up to the point of signature, the contracting authority may either abandon the procurement or cancel the award procedure, without the candidate being entitled to claim any compensation.

Yours sincerely,



Enclosure (by e-mail only):

Annex I: Tendering Specifications
Annex II: Draft Framework Contract