

# Instructions to Tender for Open Invitation to Tender -

Procurement Procedure for the Supply of Training Services to the European Banking Authority (EBA) (Lots 1-4) with Reference No.

EBA/2011/007/OPS/SER/OP

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Instructions to Tender for Open Invitation to Tender Reference No. EBA/2011/007/OPS/SER/OP - Procurement Procedure for
the Supply of Training Services to the European Banking Authority (EBA) (Lots 1-4)

#### 1. Title of the Invitation to Tender

This document contains the Instructions to Tender and Annexes for the Open Invitation to Tender No.EBA/2011/007/OPS/SER/OP. The title of the Procurement Procedure is the Supply of Training Services to the European Banking Authority (EBA) (Lots 1-4). The Contract Notice for this Open Tender has been published in the Official Journal of the European Union (OJEU 2012/S 25-039703) on 7 February 2012.

# 2. Objectives and Context of the Invitation to Tender

The EBA was established by Regulation (EC) No. 1093/2010 of the European Parliament and the Council of 24 November 2010. The EBA came into being on 1 January 2011 and has taken over all existing and ongoing tasks and responsibilities of the Committee of European Banking Supervisors (CEBS). The EBA acts as a hub and spoke network of EU and national bodies safeguarding public values such as the stability of the financial system, the transparency of markets and financial products and the protection of depositors and investors. The EBA has a number of broad competences including preventing regulatory arbitrage, guaranteeing a level playing field, strengthening international supervisory coordination, promoting supervisory convergence and providing advice to the EU institutions in the areas of banking, payments and e-money regulation as well as on issues related to corporate governance, auditing and financial reporting. EBA plans to expand its activities and operations over the coming years. In this context an important activity of the EBA is the planning, organisation and delivery of a number of training seminars and workshops located in the EU with participants from supervisory authorities and central banks located in the Member States of the EU and sometimes located in other countries worldwide. The EBA would like to complement its current training programme with additional training events organised by other organisations expert in this field. The EBA is seeking to contract training providers in order to provide relevant and cutting edge training services. This has to be seen in the context of the needed enhancement of EBA's training offer in order to meet the various learning needs as adequately as possible.

# 3. Subject of the Tender

Please see **Annex V Terms of Reference** (Lots 1-4) for the detailed description of the subject of the tender.

# 4. Participation in the Tender

#### 4.1. Multilateral Agreement on Public Procurement

Participation in this tendering procedure shall be open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons in a third country which have a special agreement with the European Union in the field of public procurement under the conditions laid down in that agreement.

Where the Multilateral Agreement on Public Procurement concluded within the World Trade Organisation applies, the tendering procedure shall also be open to nationals of the countries which have ratified this agreement, under the conditions laid down in that Agreement. In that connection, it should be noted that the services under Annex II-B to Directive DIR/2004/18/EC and the R&D services listed in category 8 of Annex II-A to that Directive are not covered by the Agreement.

#### 4.2. Subcontracting

If the tenderer envisages subcontracting any part of this contract, the following documents must be provided with the tender submission:

- (i) A document signed by the tenderer stating clearly the identity, roles, activities and responsibilities of subcontractor(s) and specifying the volume/proportion for each subcontractor.
- (ii) A letter of intent by each subcontractor stating its unambiguous undertaking to collaborate with the tenderer if it wins the contract and the extent of the resources that it will put at the tenderer's disposal for the performance of the contract.
- (iii) If requested under points 12, 13 and 14 any documents regarding the exclusion and/or selection criteria for any subcontractors.

If such documents are not provided, the EBA shall assume that the tenderer does not intend subcontracting.

#### 5. Additional Documentation Available to Tenderers

Further information about the work of the EBA can be obtained from its website: <a href="http://www.eba.europa.eu">http://www.eba.europa.eu</a>.

# 6. Information and/or Site Visit

No information or site visit is deemed necessary.

#### 7. Variants

Not Applicable.

#### 8. Estimated Contract Volume and Value

For indicative purposes and without it being binding the EBA estimates that for each lot it expects to order between 2-4 training events each year.

It is expected that each training event will be attended by between 25-40 participants. It is expected that each training event will last 2 or 3 days.

EBA estimates therefore that over the four year period the overall value of the framework contract for each lot may range from **GBP £60,000** to **GBP £240,000** exclusive of VAT.

### 9. Price

#### 9.1. Currency of Tender

Prices should be submitted in GBP. Annex I Costing Sheet attached to these Instructions to Tender must be used to submit a financial offer. Please note that the Costing Sheet must be submitted in a separate binder or folder, which must be clearly labelled, and placed inside a separate sealed envelope.

#### 9.2. All-Inclusive Prices

Prices submitted in response to this tender must be inclusive of all costs involved in the performance of the framework contract.

#### 9.3. Price Revision

Prices submitted in response to this tender shall be fixed and not subject to revision for specific contracts concluded during the first year of performance of the framework contract.

From the beginning of the second year of performance of the framework contract, prices may be revised upwards or downwards each year, where such revision is requested by one of the contracting parties by notice served no later than three months before the anniversary of the date on which the framework contract became effective. Specific contracts shall be concluded on the basis of the prices in force on the date on which they are signed. Such prices shall not be subject to revision.

This revision shall be determined by the trend in the Retail Price Indices (RPI) covering the United Kingdom, where the services are to be performed. The RPI is published on a monthly basis by the National Statistics Office, 1 Drummond Gate, London SW1V 2QQ, <a href="www.statistics.gov.uk">www.statistics.gov.uk</a>.

Revision shall be calculated in accordance with the following formula:

where

Ar = revised total amount;

Ao = total amount in the original tender;

Io = index for the month in which the validity of the tender expires;

Ir = index for the month corresponding to the date of receipt of the letter requesting a revision of prices.

#### 9.4. Costs Involved in Preparing and Submitting a Tender

The EBA will not reimburse any costs incurred in the preparation and submission of a tender. Any such costs must be paid by the tenderer.

#### 9.5. Period of Validity of the Tender

Tenderers must enclose a confirmation that their tenders and prices given are valid for six months from the date of submission of the tender.

#### 9.6. Protocol on the Privileges and Immunities of the European Union

EBA is, as a rule, exempt from all taxes and duties, and in certain circumstances is entitled to a refund for indirect tax incurred such as Value Added Tax (VAT), pursuant to the provisions of Articles 3 and 4 of the Protocol on the Privileges and Immunities of the European Union. Tenderers must therefore give prices which are exclusive of any taxes and duties and must indicate the amount of VAT separately.

# 10. Payment Arrangements

Payments under the specific contracts shall be executed only if the Contractor has fulfilled all its contractual obligations by the date on which the invoice is submitted, including the specified deliverables.

# 11. Description of the Contract

EBA wishes to conclude framework contracts with qualified providers of training services to provide high quality training, as and when required, for an initial period of one year with the possibility of renewal for three further periods of one year each. The framework contracts will establish the terms governing the specific contracts or purchase orders to be awarded during a given period, in particular the scope and price of the training services.

Signature of the framework contract imposes no obligation on the EBA to order services. Only the implementation of the framework contract through specific contracts or purchase orders is binding for the EBA. Each specific contract or purchase order will contain details of the services to be provided. A copy of the framework contract is attached to these Instructions to Tender as Annex IV. Tenderers must confirm acceptance of the framework contract as well as the terms and conditions of the tender as part of their tender response.

#### 12. Exclusion Criteria

Tenderers shall be excluded from participation in this procurement procedure if:

- they are insolvent (or the subject of bankruptcy proceedings if an individual) 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 those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- they have been convicted of an offence (if an individual) or judgment has been made against them concerning their professional conduct by a judgment which has the force of res judicata;
- they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- they have not fulfilled 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 contracting authority or those of the country where
  the contract is to be performed;
- they 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 European Union's financial interests;
- following another procurement procedure or grant award procedure financed by the European Union budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.
- Contracts may not be awarded to candidates or tenderers who, during the procurement procedure:
- are subject to a conflict of interest;

 are guilty, either knowingly or negligently, of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the contract procedure or fail to supply this information.

Tenderers and subcontractors **must** complete, date and sign the declaration in Annex II in relation to Exclusion Criteria. Only the successful tenderer and subcontractors will be required to provide all the supporting documentation indicated in Annex II at a later stage prior to signature of the framework contract.

# 13. Selection Criteria: Financial and Economic Capacity

The following financial and economic selection criteria apply to each lot. The tenderer should be in a stable financial position and have the economic and financial capacity to perform the contract. **The minimum financial and economic capacity requirement for each lot is as follows:** the tenderer must have had an average annual turnover in the last three years (2009, 2010 and 2011) of at least GBP £500,000 $^{1}$ . Tenderers are requested to provide the following documentation to enable an assessment of their financial and economic capacity and if subcontracting is envisaged, documentation must be provided in relation to any subcontractors:

- 1. A copy of the most recent audited accounts that cover the last three years of trading or for the period that is available if trading for less than three years.
- 2. A statement of the company's turnover, profit and loss, and cash flow position for the most recent full year of trading (or part year if full year not applicable) and an end period balance sheet, where this information is not available in audited form at point 1 above.
- Where documents mentioned under point 2 cannot be provided, please provide a statement of the company's cash flow forecast for the current year and a bank letter outlining the current cash and credit facility position.
- 4. If the organisation is a member of a group of companies, documents under points 1, 2 and 3 are required for both the tenderer and its ultimate holding company. Where a consortium or association is proposed, the information is requested for each member company.
- 5. Please enclose a separate statement of the tenderer's turnover that relates directly to the requirements of the EBA for the past three years, or for the period the tenderer has been trading (if less than three years).
- 6. Evidence of relevant and appropriate insurance for the contract.

If the tenderer is not obliged to publish its accounts under the company law of the country in which it is established, please supply copies of such accounting information as the tenderer is willing to provide relating to the last three financial years or any period since the end of the last financial year.

# 14. Selection Criteria: Technical and Professional Capacity

The minimum professional and technical capacity requirements for each lot are as follows:

(a) The tenderer must have designed and delivered at least 5 training events (e.g. workshops, seminars, trainings) in the area of the lot during the last 3 years (2009, 2010 and 2011).

<sup>&</sup>lt;sup>1</sup> If a tenderer applies for more than one lot it must comply with the aggregate financial and economic capacity requirements of the lots for which it is applying.

**(b)** The tenderer currently employs at least 3 trainers or experts in the area of the lot on a full time basis.

Tenderers are requested to provide the following documentation to enable an assessment of their technical and professional capacity and if subcontracting is envisaged, documentation must be provided in relation to any subcontractors:

- Proof of authorisation to perform the contract under national law, as evidenced by inclusion in a trade or professional register, or a sworn declaration or certificate, membership of a specific organisation, express authorisation, or entry in the VAT register
- A description of the company profile, structure and information on its human resources
- A list of the principal services performed during the last 3 years (2009, 2010, and 2011) giving the
  dates, name and address of the client, and description of the services undertaken including name
  and role of any sub-contractors and/or consortium members. The EBA may elect to contact any of
  the aforementioned companies for a reference. Your permission to do so will be assumed unless
  you state any objections
- Details of any quality assurance accreditation the tenderer holds or if no accreditation is held an outline of any quality assurance policy
- A statement of the tenderer's policy on the use of sub-contractors, if relevant, and of the means of ensuring quality when sub-contractors are used

#### 15. Award Criteria

The award criterion which will apply to this tender is the most economically advantageous tender where technical merit is weighted against price on a 70/30 basis.

Tenderers complying with the **selection criteria** will have their tenders evaluated in terms of technical merit as described below. Tenderers meeting the minimum requirements in terms of technical merit will have their tender evaluated in terms of price.

#### **Technical Merit:**

The technical merit of each tender shall be assessed in terms of the following criteria:

Technical Award Criteria	Maximum Points
Understanding of the objectives of the framework	
contract and the work to be carried out	30
Experience and qualifications of the contract manager	30
proposed for the implementation and delivery of the	
framework contract	
Quality and relevance of the proposed training	30
methodology	
Degree of involvement of senior staff of the firm and	10
availability of qualified and experienced trainers	
Total:	100

Tenderers must achieve a minimum of **70 points** of the total available points for technical merit to be admitted to the financial evaluation. Tenderers must provide the following information to enable an assessment of the technical merit of their tender:

- A detailed description of the tenderer's understanding of the objectives of the framework contract and the work to be carried out
- > A detailed description of the tenderer's training methodology
- > A detailed description including CVs of the human resources the tenderer is proposing for the framework contract.

#### Price:

The financial evaluation will be made on the basis of the prices offered in Annex I, Costing Sheet and the table below. The cheapest price for each criterion (P1/P2/P3/P4) receives the maximum points available. The remaining prices receive lower points in proportion to the cheapest price:

Financial Award Criteria	<u>Maximum</u> <u>Points</u>
P1 Scenario 1	40
P2 Scenario 2	20
P3 Price per participant	20
P4 Price per trainer	20

Financial scores shall be calculated therefore according to the following formula: Financial score for Tender A = 40\*(P1 min/P1 A) + 20\*(P2 min/P2 A) + 20\*(P3 min/P3 A) + 20\*(P4 min/P4 A)

#### Where:

P (1/2/3/4) min = cheapest price among the tenders for P1, P2, P3, P4 P (1/2/3/4) A = price for P1, P2, P3, P4 from Tender A

#### **Final Evaluation**

The **most economically advantageous tender** will then be calculated by weighing technical merit against price on a 70/30 basis according to the following formula:

For Tender A = 70/100\* (technical score Tender A) + 30/100\* (financial score Tender A).

#### 16. Tender to be Submitted

In order to assess each tenderer according to the abovementioned criteria, **the following information must be submitted by the tenderer:** 

- A letter enclosing the tender on the official letter headed paper of the tenderer signed by an authorised representative of the tenderer.
- An information sheet on the tenderer indicating:
  - the name and registered business address including telephone and fax numbers, e-mail address and website address, and any other different, current or previous trading name;
  - the name and contact details of the person who may be contacted with any queries regarding this tender;

- the legal status of the tenderer;
- if the tenderer is a partnership the full details of the partners;
- if the tenderer is a company the company registration number, VAT registration number and date of incorporation;
- if the tenderer is a member of a group of companies the relationship between the tenderer and the ultimate holding company, the name and address of the holding company and its registration number, whether the ultimate holding company would be prepared to guarantee the liabilities in connection with this contract;
- details of organisational structure including organisation chart;
- number and locations of premises;
- number of employees;
- name of the person authorised to sign contracts on behalf of the tenderer.
- Completed declaration in Annex II relating to the Exclusion Criteria.
- Completed Legal Entity and Bank Account Files
- Documentation requested to enable assessment of the Selection Criteria (points 13 and 14 above).
- The technical information requested to enable assessment of the Award Criteria (point 15 above).
- A statement to confirm that information provided in response to this tender is accurate and
  complete as at the date of submission and acknowledgement that the provision of false
  information, either knowingly or negligently, in response to this tender could result in the tenderer
  being excluded from future tenders for contracts with the EBA.
- Confirmation of acceptance of the framework contract and terms and conditions of the tender.
- An undertaking to inform the EBA promptly following any matter which would alter or add to any of the information given in response to this tender.
- Documents as requested in relation to proposed subcontracting.
- Tenders submitted by consortia or by groups of service providers or suppliers must indicate the role, title and experience of each member or of the group.
- To be submitted in a separate, clearly labelled binder or folder, which must be placed inside a sealed envelope, a detailed financial tender using the Costing Sheet attached in Annex I, exclusive of VAT, and signed by an authorised representative of the tenderer.
- Tenderers are requested to make use of the checklist given in Annex III to ensure that no
  enclosure has been omitted in their tender.

#### **Annexes**

- I Costing Sheet to be used by Tenderers
- II Exclusion Criteria Statement and Details of Supporting Documentation Required
- III Summary Checklist of Documents Which Tenderers Must Submit
- IV Draft Framework Contract
- V Terms of Reference
- VI Legal Entity and Bank Account Files

# **Annex I: Costing Sheet**

Tenderers must use the following Costing Sheet to submit their financial offer. Tenderers must submit the Costing Sheet in a separate binder or folder which must be clearly labelled and placed inside a separate, sealed envelope. The prices offered must be "all-inclusive" except where specified otherwise. No other extra costs will be charged to the EBA. All prices must be submitted in GBP.

Item	Basis of Price	Tenderer's Price in GBP for Lot 1	Tenderer's Price in GBP for Lot 2	Tenderer's Price in GBP for Lot 3	Tenderer's Price in GBP for Lot 4
Scenario 1 <sup>2</sup> : To design, organise and deliver a 2 day seminar for an audience of 30 participants on an all inclusive basis as specified in the footnote below.	Fixed Fee				
Scenario 2 <sup>3</sup> : To design, organise and deliver a 2 day seminar including design and delivery of a computer based training session with case studies and exercises involving simulations for an audience of 30 participants on an all inclusive basis as specified in the footnote below.	Fixed Fee				
Price per participant per day on an all inclusive basis (i.e. including course design and delivery, costs of experts, catering, materials, venue, and all other costs to deliver the course).  Price per trainer per day <sup>4</sup> .	Fixed Fee				

Tenderers must give prices exclusive of any taxes and duties and give the amount of VAT separately.

Date:	Signature of Authorised Repres	sentative:
	(Print Name):	Position in Company:

<sup>&</sup>lt;sup>2</sup> The fee should cover all the costs for the design, organisation and delivery of a 2 day seminar for 30 participants in Central London e.g. course design and delivery including costs of experts, catering, venue, materials and printing costs, and all other related incidental costs.

<sup>&</sup>lt;sup>3</sup> The fee should cover all the costs for the design, organisation and delivery of a 2 day seminar for 30 participants in Central London e.g. course design and delivery including costs of experts, catering, venue, materials and printing costs, and all other related incidental costs.

<sup>&</sup>lt;sup>4</sup> Incidental expenses e.g. travel costs, which must be approved in advance by the EBA, will be reimbursed at cost.

#### **Annex II**

# **Exclusion Criteria Declaration upon Honour and Details of Supporting Documentation Required**

#### Tenderers must:

- Answer the following questions by indicating yes or no in each case. A "yes" response to questions 1-11 inclusive will result in the tenderer being eliminated from the procedure. A "no" response to questions 12-17 will result in the tenderer being eliminated from the procedure.
- Ensure that the declaration is signed and dated by the tenderer.
- Ensure that signature is by either a company director or any person with powers of representation or control in relation to the tenderer.
- Note that where subcontracting is envisaged the subcontractor must provide a signed declaration.
- Note that if the tenderer is a legal entity, it must provide, if requested by the EBA at a later stage
  in the procedure, any further information on the ownership or on the management, control and
  power of representation of the legal entity.

# **Declaration upon Honour**

The undersigned declares upon honour the following answers in relation to the company or organisation that he/she represents:

1.	Is the tenderer insolvent (or the subject of bankruptcy proceedings if an individual) or being wound up?	Yes/No
2.	Is the tenderer having its affairs administered by the courts?	Yes/No
3.	Has the tenderer entered into an arrangement with creditors?	Yes/No
4.	Has the tenderer suspended its business activities?	Yes/No
5.	Is the tenderer the subject of proceedings concerning any such matters referred to in 1, 2, 3 or 4 above or in any analogous situation arising from a similar procedure provided for in national legislation or regulations?	Yes/No
6.	Has the tenderer been convicted of any offence (if an individual) or judgment been made against it concerning its professional conduct by a judgment which has the force of res judicata?	Yes/No
7.	Has the tenderer been guilty of grave professional misconduct?	Yes/No
8.	Has the tenderer failed to fulfil its 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 contracting authority or those of the country where the contract is to be performed?	Yes/No

9.	Has the tenderer 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 European Union's financial interests?	Yes/No
10.	Following any other procurement procedure or grant award procedure financed by the European Union budget, has the tenderer been declared to be in serious breach of contract for failure to comply with their contractual obligation and is the tenderer subject to any administrative penalty as a result of this?	Yes/No
11.	Does the tenderer have conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinities, family or emotional ties, or any other relevant connection or shared interest?	Yes/No
12.	Will the tenderer inform the EBA, without delay, of any situation constituting a conflict of interest or which could give rise to a conflict of interest?	Yes/No
13.	Does the tenderer confirm that it has not made and will not make any offer of any type whatsoever from which an advantage can be derived under the contract?	Yes/No
14.	Does the tenderer confirm that it has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept, 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?	Yes/No
15.	Does the tenderer confirm that it is not guilty of any serious misrepresentation, either knowingly or negligently, in supplying any information required by the EBA?	Yes/No
16.	I note that the EBA reserves the right to check the responses to the above information.	Yes/No
17.	I agree to provide the supporting documentation listed below should the tenderer be awarded a contract by the EBA.	Yes/No
		l

I declare upon my honour that the above responses are correct.

Date:	Signature of authorised representative:	
	(Print name):	
	Position in Company:	
	Representing (name of tenderer):	

Signature should be by either a company director or any person with powers of representation or control in relation to the tenderer.

Tenderers must note that the following supporting documentation will have to be provided at a later stage prior to contract signature but only by the successful tenderer. No contract can be signed without receipt of such supporting documentation. For successful joint tenderers exclusion criteria declarations and supporting documents are required from each company individually.

In support of the above responses, the successful tenderer will provide the following documents:

The proof regarding the situations mentioned in points 1, 2, 3, 4, 5, 6 and 9 in the form of a recent extract from the judicial record, or failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that these requirements are satisfied. The extract(s) or equivalent documentation must be the most reasonably available.

The EBA will accept a recent certificate issued by the competent authority of the country concerned as satisfactory evidence that the tenderer is not in the situation mentioned in point 8 above. The certificate must be dated less than four months before the final date for submission of tenders.

Where no such certificate is issued in the country concerned, it may be replaced by a sworn or a solemn statement made by the tenderer before a judicial or administrative authority, a notary or a qualified professional body in the country of origin or provenance.

#### **Annex III**

# **Summary Checklist of Documents which Tenderers must submit**

- 1. Letter enclosing the tender on the official letter headed paper of the tenderer and signed by an authorised representative of the tenderer.
- 2. Tender in one paper original and two paper copies with one copy of all documents on CD-ROM, containing the following elements:
- Information sheet on the tenderer (as detailed in Section 16 above).
- Completed declaration in Annex II relating to the Exclusion Criteria.
- Documentation requested to enable assessment of the Selection Criteria (Sections 13 and 14 above).
- The information requested to enable assessment of the Award Criteria (Section 15 above).
- Completed Legal Entity and Bank Account Files
- A statement to confirm that information provided in response to this tender is accurate and
  complete as at the date of submission and acknowledgement that the provision of false
  information, either knowingly or negligently, in response to this tender could result in the tenderer
  being excluded from future tenders for contracts with the EBA.
- Confirmation of acceptance of the framework contract and terms and conditions of the tender.
- An undertaking to inform the EBA promptly following any matter which would alter or add to any of the information given in response to this tender.
- Documents as requested in relation to proposed subcontracting.
- Tenders submitted by consortia or by groups of service providers or suppliers must indicate the role, title and experience of each member or of the group.
- To be submitted in a separate binder or folder, which must be clearly labelled, a detailed financial tender using the Costing Sheet attached in Annex I, and exclusive of VAT, signed by an authorised representative of the tenderer.

END

# **Annex IV Framework Contract**



