

TENDER RULES

OBJECT OF THE PROPOSED CONTRACT:

Civil Works and Electrical Works- Dessie Comprehensive Tertiary Hospital

LEGAL REPRESENTATIVE OF THE CONTRACTING AUTHORITY:

Jérémie PELLET, Chief Executive Officer of EXPERTISE FRANCE

DATE AND TIME OF OFFER SUBMISSION DEADLINE:

10/02/2023 at 12:00

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ARTICLE 1: OBJECT AND SCOPE OF THE TENDER

Object of the tender

The tender covers the award of a works contract covering

“Civil Works and Electrical Works for the rehabilitation of Dessie referral hospital at Amhara region Dessie, Ethiopia”.

The scope of the needs to be satisfied is set out in the Specifications of the works.

The contract begins with notification or the first service order and will end with the final acceptance of the work. The various guarantees can then be put in place

Scope of the tender

This contract is subject to the French Public Procurement Code (CPP) in its applicable version under Ordinance no. 2018-1074 of 26 November 2018, establishing the legislative elements of Decree no. 2018-1075 of 3 December 2018, establishing the regulatory elements of the Public Procurement.

It is awarded by means of:

Adapted procedure (MAPA) in application of Articles L. L2123-1, R2123-1 à R2123-8 of CPP.

Provisional schedule of the tender

Estimated date	Stage
14/04/2023	Bid submission deadline
17/04/2023	Interviews/Negotiations and requests for optimized bids
20/04/2023	Optimized bid submission deadline
24/04/2023	Rejection letters sent to non-selected candidates
28/04/2023	Contract award

Tender language – currency

All the tender documents must be written in English.

The Contracting Authority will conclude contracts in the following currency: euro (€).

Composition of the tender documents

The tender documents are composed of the following:

- These tender rules (the “Rules”);
- The draft contract (general conditions and special conditions) and any annexes;
- The Specifications of the works and any annexes;
- The third-party sheet;
- The application form;
- The candidate GDPR compliance verification form.

Supplementary tender documents:

- The technical and/or financial offer schedule.
- Annex to the contract covering the processing of personal data in the event of GDPR data processing (collection of personal data on behalf of Expertise France);

Modification of the tender documents

Modifications may be made to the tender documents up to 5 days prior to the bid submission deadline.

Modifications are only forwarded to the economic operators duly identified during the tender document consultation phase.

Candidates/bidders must respond on the basis of the latest modified documents. Should any candidate/bidder have submitted any bid or offer prior to modification, they may resubmit based on the latest modified documents prior to the bid reception deadline.

ARTICLE 2: GENERAL CHARACTERISTICS OF THE PROPOSED CONTRACT

Form of the contract

The contract is of mixed form: it incorporates both an order-based and fixed-price element. It is entered into with a single operator.

Estimated amount of the need

The amount of the contract depends on the prices offered by the selected candidate.

Term of the contract

The provisional term of the contract is depending on the submission of a proposed implementation time schedule. The anticipated award date is 28/04/2023 at latest.

Allotment

This tender is not divided into lots.

Options

Similar services

Not Applicable

Renewal

Not Applicable

Optional tranches

The contract does not contain any optional tranches.

ARTICLE 3: CANDIDATE PARTICIPATION CONDITIONS

Candidate presentation conditions

A single entity may not represent more than one candidate for any given tender (Article R. 2142-4 of the French Public Procurement Code). In the context of this tender, however, the contracting authority does not authorize the candidate to present multiple offers when acting at the same time as:

- an individual candidate

Grounds and conditions of exclusion

Notably under:

- The French Law no. 2016-1691 of 9 December 2016 on transparency, anti-corruption and modernization of the economy, the so-called "Sapin 2" law;
- Chapter II of the French Monetary and Financial Code setting out provisions for the freezing of

assets and the prohibition of making funds available (notably Article L. 562-4 and Article L. 562-5);

- Relevant requirements emanating from accreditation for managing delegated EU funds (Pillar 7 relating to exclusion from accessing financing);

Candidates or their representative in any of the situations set out in Articles L.2141-1 to L.2141-10 of the French Public Procurement Code, or which are on any official exclusion list, shall be excluded from the procedure, whether their situation is established by means of their own declarations or through the application of vigilance measures by the contracting authority.

However, where the exclusion decision is at the discretion of the contracting authority, it shall invite the candidate(s) liable to exclusion to present their observations in order to establish, via all means and within a reasonable period not exceeding 10 days, that the measures required to rectify the failings laying behind exclusion have been taken and, as applicable, that their participation in the tender will not undermine equality of treatment among the bidders.

Where an operator finds itself to be in a position of exclusion during the procedure, it shall notify the contracting authority without delay, which shall apply exclusion on these grounds.

Minimum prerequisites in terms of economic, technical and professional capacity

The contracting authority imposes the following minimum capacity levels on candidates:

ECONOMIC AND FINANCIAL CAPACITY

- Bidder shall provide at least three (3) certificates of satisfactory execution of contracts provided by contracting parties to the contracts successfully completed, both in time and quality in the course of the past three (3) years.

TECHNICAL AND PROFESSIONAL CAPACITY

- Bidder must provide in the Bidder Certification of Compliance Form information related to its professional qualification and capability for the current and the previous three (3) years in order to proof its professional capacity.

Specific requirements for consortia of economic operators

Not Applicable, no consortia can apply.

Subcontracting

Grounds for exclusion in the case of subcontracting

Entities subject to grounds for exclusion cannot be accepted as subcontractors.

Where the subcontractor subject to grounds for exclusion is presented at the application phase, the contracting authority shall demand its replacement by an entity not subject to the grounds for exclusion, to take place within 10 days of the candidate receiving said demand. Failing this, the candidate shall be excluded from the procedure.

Presentation of a subcontractor

Subcontractors are to be presented using form DC 4 (Subcontracting Declaration)¹ duly completed by the subcontractor and the candidate, incorporating a statement of the subcontractor's professional, technical and financial capacity, in addition to a sworn declaration that the subcontractor is not subject to any prohibition on participating in public procurement.

ARTICLE 4: PRESENTATION OF BIDS AND SUBMISSION PROCESS

Bidders must submit a complete bid incorporating the documents specified below. The requested documents must be signed by the bidder.

Application documents

Candidates must submit the following application documents:

- Proof of Construction licence category GC/BC, Grade 5 and above with license valid for the year 2023 and who can present registration certificate for construction work service from concerned organization.
- The attached application form;
- The attached GDPR compliance verification form, used to verify that the bidder has implemented appropriate technical and organizational measures such that data processing complies with relevant data protection laws and regulations (GDPR and French data protection legislation), thereby guaranteeing the rights of data subjects;
- A description of the human resources that meet the participation conditions set out below:
 - o A declaration stating the company's current headcount and the number of supervisory personnel;
- A description of the technical resources that meet the participation conditions set out below:
 - o List of references relevant to the object of the contract for projects of similar size, stating the names and phone numbers of the competent contact persons;
 - o Declaration stating the technical tools and equipment available to the candidate for delivery of the services specified in the contract;
 - o Professional qualification certificates (to be tailored to the object of the contract): from Ministry of Construction, ISO or equivalent certification. Should the candidate fail to provide professional certificates, it must provide evidence of its professional capacity via other means.
- A description of the economic and financial resources that meet the participation conditions set out below:
 - o Revenue declarations for the last five available financial years; Audited accounts.
 - o Currently valid insurance certificates for civil and/or professional liability;
 - o Candidate declaration form (as provided).

Bid documents

Candidates must submit a complete bid file containing the following documents:

- The draft contract, duly completed signed and dated, and in annex:
 - o the duly completed financial annexes;
 - o the annex covering the definition and conditions for processing personal data on behalf of the contracting authority, duly completed;

¹ Form DC4 is available at: <https://www.economie.gouv.fr/daj/formulaires-mise-a-jour-formulaire-declaration-sous-traitance-dans-marches-publics>

- 2022 renewed Trade License;
 - 2022 renewed Registration Certificate from Ministry of Construction or any regional government body.
 - Tax clearance certificate from Revenues & Customs Authority all valid for 2022/2023 fiscal year;
 - VAT registration certificate;
 - Taxpayer registration certificate;
 - Registration at the Ethiopian Public Procurement Agency;
- A technical addendum containing the following information:
- Description of the proposed equipment or services
 - Site Organization
 - Method Statement
 - Mobilization Schedule
 - Construction Schedule
 - ESHS Management Strategies and Implementation Plans
(The Bidder shall submit comprehensive and concise Environmental, Social, Health and Safety Management Strategies and Implementation Plans (ESHS-MSIP) as required by international standards. These strategies and plans shall describe in detail the actions, materials, equipment, management processes etc. that will be implemented by the Contractor.
 - Code of Conduct (ESHS)
 - Key Personnel Schedule

Bid validity period

The validity of bids submitted shall be at least 120 days from the submission deadline.

Bid submission process

- 1/ technical proposal
- 2/ financial proposal

Electronic submission

In order to access the tender consultation space or to submit their bid, bidders must connect to the French government procurement platform at:

<https://www.marches-publics.gouv.fr/?page=Entreprise.EntrepriseAdvancedSearch&AllCons&id=2164410&orgAcronyme=s2d>

Tender documents can also be consulted, but not submitted through, the following platform:

<https://tender.2merkato.com/tenders>

Electronic submission is mandatory. Any submission via other means will be rejected.

The bid submission procedure is detailed on the website www.marches-publics.gouv.fr.

On this site, bidders will notably find a user guide available for download which specifies the platform's conditions of use, notably the technical prerequisites and electronic certificates.

Should they so wish, bidders may make contact by phone on 01 76 64 74 07 on all business days between 9am and 7pm in order to obtain technical assistance with how to complete all the necessary tasks.

In the event of allotment, all lots must be covered by an electronic submission. However, it is possible to make a single electronic submission for multiple lots provided that the lots covered by a bid can be identified without ambiguity.

The costs of accessing the network and of electronic signature shall be borne by the candidate.

Bidders are invited to test the configuration of their work device and to perform a test tender to ensure that their technical environment is functioning as required.

Bidders' attention is drawn to the fact that they must at least have internet browser software. It is not mandatory to have an electronic signature system.

In order to make an offer, bidders must forward files in the following computer formats: PDF, RTF, ZIP, suite Microsoft Office, LibreOffice or Open Office. Any computer file in a different format will be declared null and void.

NOTE:

All bid files must be free of computer viruses and must have been previously treated to this end by the bidder, using the latest version of an antivirus software. The same applies to all other files exchanged during this public procurement procedure.

The contracting authority may place any file containing a virus in a security archive. It will therefore be deemed never to have been received.

NB: Bidders' attention is drawn to the time required to deliver large volume electronic files. The average downloading time may vary according to various parameters, such as the technical capacity of the device, the type of internet connection, traffic on the network, etc.

To the extent that the date and time of completed upload constitutes the legal reference for submission of electronic bids, bidders are invited to allow sufficient time for all electronic submissions.

Even though its bid for this public procurement procedure will have been submitted electronically, the bidder undertakes, notably if its bid has been accepted, to provide contractually valid paper documents. In this regard, it also undertakes that the natural person providing the electronic signature also provides their handwritten signature without making any modifications to the documents, to be forwarded to the contracting authority in this format. Lastly, the bidder undertakes to accept notification in paper format, in accordance with standard practices.

ARTICLE 5: ANALYSIS OF APPLICATIONS

Applications are selected by the Evaluation Committee of Expertise France in accordance with the following procedure.

Under Article R.2161-4 of the French Public Procurement Code, the Evaluation Committee may decide to examine offers before applications.

In such cases, the supporting documentation for aptitude and capacity and the evidence relating to grounds for exclusion are only requested by the contracting authority from bidders preselected for award of the tender.

Application supplementary information requests

Before examining applications, should the contracting authority note that requested documents or information are missing or incomplete, it may ask the bidders concerned to complete their application pack within a deadline applicable to all such bidders. The deadline will be specified in the request for supplementary information.

Applications that are incomplete or which remain incomplete following a request for additional information will be eliminated.

Rejection of late applications - Opening bids

The Bid Opening Committee (meeting in non-public session) lists the bids received, the identity of applicants and the composition of the bids submitted.

Bids received after the deadline will be immediately rejected.

Admissibility of applications

In accordance with Article 3 of this document covering the conditions for participation, the Evaluation Committee of Expertise France analyses the admissibility of applications based on the following criteria:

- Candidate's registration at the trade and companies registry (or equivalent)
- Candidate's compliance with its social security obligations
- Candidate's compliance with its tax obligations
- The applicant must not be in any of the situations set out in Articles L. 2141-1 to L. 2141-6 and L. 2141-7 to L. 2141-11 of the French Public Procurement Code, nor be on any official exclusion list, whether their situation is established by means of their own declarations or through the application of vigilance measures by the contracting authority
- The candidate or its representative must not be in a situation of conflict of interest vis-à-vis the contracting authority and/or any beneficiary of the procurement contract
- The candidate must be able to demonstrate adequate implementation of appropriate technical and organisational measures such that data processing conforms with relevant data protection laws and regulations (GDPR and French data protection legislation), thereby guaranteeing the rights of data subjects
- [Applications not demonstrating professional aptitude and/or which manifestly do not have the professional, technical or financial capacity required for this tender will be eliminated.

Application selection

The Evaluation Committee of Expertise France analyses the admissibility of applications based on the following criteria:

- Technical capacity in the area of civil construction.
- Human resources in the area of civil construction.
- Past references five years for project implementation of similar projects.
- Financial capacity

ARTICLE 6: BID EVALUATION, NEGOTIATIONS AND AWARD

The bid selection procedure is conducted by the Evaluation Committee of Expertise France in accordance with the following procedure:

Rejection of late bids - Opening bids

The Bid Opening Committee (meeting in non-public session) lists the bids received, the identity of applicants and the composition of the bids submitted.

Bids received after the deadline will be immediately rejected.

Bid analysis

After having verified that the bids received are conforming, admissible and appropriate, the Evaluation Committee of Expertise France analyses the bids from selected bidders in accordance with the following criteria.

Rejection of non-conforming, inadmissible or inappropriate bids

The Evaluation Committee examines all bids received and, in accordance with Article R.2152-1 of the French Public Procurement Code, rejects bids judged to be non-conforming, inadmissible or inappropriate, as applicable, after having implemented the regularisation procedure set out in Article R.2152-2 of said code.

Comparison of bids for selection of the most economically beneficial bid

Bids will be assessed separately in accordance with the following criteria by awarding a score up to the maximum number of points per criterion as set out below:

Criterion 1: price of the services

The **financial score (FS out of a maximum of 40 points)** will cover the comparison of the financial offers of all candidates having submitted a conforming bid.

Criterion 2: Technical offer

Sub-criteria for assessing the technical quality	Maximum number of points
Sub-criterion 1: National Construction license category GC/BC, Grade 5 and above	5
Sub-criterion 2: Quality of works organization and technical Equipment	20
Sub-criterion 3: Implementation methodology and proposed schedule	10
Sub-criterion 4: Team composition and relevant experience, assessed with regard to Supervising personnel	25
TOTAL	60

Each technical offer, deemed to be technically conforming, will be attributed a **technical score (TS out of a maximum of 60 points)** by adding up the weighted scores obtained for each sub-criterion.

Bids having obtained a technical score of less than 40 points will be deemed to be inappropriate.

Negotiations

After conducting an initial analysis of the bids, the Evaluation Committee may negotiate with all or some of the bidders in accordance with the principle of equality of treatment.

However, the contracting authority reserves the right to award the tender without negotiation.

Bidder interviews – bid negotiations

Bidders will be invited to visit the premises of Expertise France in order to present their bid.

It is planned for such presentations to take place during **April 17, 2023 and lasting 2 hours**.

For such presentations, Expertise France will provide a projector and internet connection.

Following the presentation, the meeting may include a negotiation phase covering all or parts of the bid.

Award process

An **overall score (OS out of a maximum of 100 points)** obtained by adding together the technical and financial scores (**OS=FS+TS**) will be attributed to each bid that has been assessed for its technical and financial content.

The bidder who obtains the highest overall score will be deemed to have made the most beneficial economic offer and will be awarded the contract.

The contracting authority may decide not to pursue the tender for reasons of public interest.

ARTICLE 7: PROCESSING OF PERSONAL DATA IN THE CONTEXT OF THIS TENDER AND FOR THE PURPOSES OF CONTRACT MONITORING

Under Article 13 or Regulation (EU) no. 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR), the applicants/bidders are notified that personal data, notably name, first name and e-mail address collected when using under the French government procurement platform (<https://www.marches-publics.gouv.fr>) in the context of this tender procedure and execution of the associated contract, may be processed.

For processing performed with PLACE services, the *Ministère de l'action et des comptes publics* (Ministry of Public Accounts) – the procurement department of the State and of Expertise France, the contracting authority, are co-controllers of personal data.

For processing performed outside the scope of PLACE services, Expertise France, the contracting authority, is the controller of personal data.

Identity and contact details of the data controller and its representative

For the PLACE platform:

Ministère de l'action et des comptes publics (Ministry of Public Accounts)

59, boulevard Vincent Auriol

75703 Paris Cedex 13

Represented by the Director of Public Procurement

Operational data controller:

The Department of Public Procurement, represented by its director.

Contact details of the Data Protection Officer:

le-delegue-a-la-protection-des-donnees-personnelles@finances.gouv.fr

For the contracting authority:

Expertise France

40, Boulevard de Port Royal

75005 Paris

Represented by the Managing Director,

Operational data controller:

The IT Department, represented by its director

Contact details of the Data Protection Officer:

informatique.libertes@expertisefrance.fr

The legal basis under which such processing is performed are set out in c) and e) of Article 6.1 of the GDPR, namely:

- The processing is necessary in order to comply with a legal obligation by which Expertise France is bound;
- The processing is necessary for performance of a public-interest assignment or which falls within the scope of the public authority entrusted to Expertise France.

The purposes of the processing are as follows:

- The management and monitoring of this tender procedure;
- The management and monitoring of the award of a public procurement contract.

The recipients or category of recipients of the personal data are exclusively authorised personnel of the Contracting Authority, ministries and state operators responsible for awarding and executing this contract, including any service providers assisting them with their activities.

Retention period: the data will be held throughout the award process and execution of the contract, including the DUA (duration of administrative usefulness) applicable to the contract.

Under Articles 15 to 21 of the GDPR, persons whose personal data is collected enjoy a right of access, rectification and deletion with regard to such data. They also enjoy the right to restrict and refuse processing on legitimate grounds. The information and other rights of data subjects may be exercised by contacting the Data Protection Officer of Expertise France.

Persons whose personal data is collected under this procedure may submit a complaint to CNIL.

ARTICLE 8: ADDITIONAL INFORMATION

Any request for additional information about technical or administrative matters must be forwarded via the government procurement platform at least 5 business days prior to the bid submission deadline.

Expertise France undertakes to provide a response 2 business days at most before the bid submission deadline.

If a candidate asks any questions, all candidates will receive an e-mail asking them to consider one or more documents provided in response to the questions concerned.

ARTICLE 9: APPEAL CHANNELS AND DEADLINES

The body responsible for the appeals process is the Tribunal Administratif de Paris, located at 7, rue de Jouy, F-75004 Paris; e-mail: greffe.ta-paris@juradm.fr

Information about lodging an appeal may be obtained from the Greffe du Tribunal Administratif de Paris, located at 7, rue de Jouy, F-75004 Paris; e-mail: greffe.ta-paris@juradm.fr

SWORN DECLARATION RELATING TO EXCLUSION CRITERIA AND THE ABSENCE OF CONFLICTS OF INTEREST

(Complete or delete the grey parts in italics between brackets)

[Select one option from the grey parts between square brackets]

[The] undersigned *(name of the signatory of this form)*:

acting in my own name *(in the case of a natural person)*

or

acting in any capacity as representative of the following legal entity: *(only if the economic operator is a legal entity)*

full official name:

official legal form:

full official address:

VAT number:

➤ hereby declare *[that the aforementioned legal entity][that he][that she]* is not in any of the situations specified in Articles L. 2141-1 to L. 2141-6 and L. 2141-7 to L. 2141-11 of the Public Procurement Code, notably any situation by which *[it][he][she]*:

- a) is in a state of, or subject to proceedings of, bankruptcy, liquidation, receivership, arrangement with creditors or cessation of activity, or any equivalent procedure resulting from proceedings of the same nature under different domestic legislation or regulations;
- b) has been the subject of a ruling handed down by a competent authority with the force of res judicata in respect of any offence affecting their professional integrity;
- c) has committed serious professional misconduct, duly substantiated via any means the contracting authority may be able to substantiate, including a decision by the European Investment Bank or an international organisation;
- d) has failed to meet their obligations relating to the payment of social security contributions or taxes under the legal provisions of the country where *[it][he][she]* is established or those of the country of the contracting authority or those of the country where the contract is to be executed;
- e) has personally been the subject of a ruling with force of res judicata for fraud, corruption, participation in a criminal enterprise, money laundering or any illegal activity that may undermine the financial interests of the EU or any member state;
- f) is the subject of any administrative sanction for having been found guilty of making false declarations when providing information required by the contracting authority for their participation in a grant award procedure or the award of any other contract, or has failed to provide such information, or for having been declared to be in serious breach of their obligations under any contract or grant financed by the budget of the EU or any member state.

SWORN DECLARATION REGARDING EXCLUSION CRITERIA AND THE ABSENCE OF ANY CONFLICTS OF INTEREST

- *(Solely for legal entities other than member states and local authorities, otherwise delete)* declares that the natural persons with the power of representation, decision-making or control² over the aforementioned legal entity are not in any of the situations set out in points b) or e) above;
- declares that [the aforementioned legal entity][he][she]:
 - g) is not in a situation of conflict of interest with regard to the contract; a conflict of interest may notably be generated by economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest;
 - h) shall notify the contracting authority without delay should any situation arise that constitutes, or may lead to, a situation of conflict of interest;
 - i) has not agreed to, looked for or sought to obtain or accepted, and undertakes not to agree to look for, seek to obtain or accept any advantage, whether financial or in kind, in favour or on behalf of any person where said advantage constitutes an illegal practice or be classified as corruption, whether directly or indirectly, by receiving a gratuity or reward relating to the award of the contract.
 - j) has provided accurate, honest and full information to the contracting authority in the context of this contract award procedure;
- acknowledges that [the aforementioned legal entity][he][she] may be subject to administrative and financial sanctions if it is established that false declarations have been made or false information has been provided.

In the event of being awarded the contract, the following elements will be provided on request within the deadline specified by the contracting authority:

For the cases set out in points a), b) and e), a recent criminal record file is required or, failing this, a recent equivalent document, issued by a judicial or administrative authority of the country of origin or provenance, demonstrating that the requirements in question are met. If the bidder is a legal entity and the domestic law of the country in which it is established does not provide such documentation for legal entities, these documents are requested for the natural persons, such as senior managers or any person with the power of representation, decision-making or control over the bidder.

In the case of point d) above, declarations or recent letters issued by the competent authorities of the state in question are required. These documents must provide proof of the payment of all taxes and social security contributions owed by the bidder, including VAT, income tax (natural persons only), corporation tax (legal entities only) and social charges.

Regarding the situations set out in points a), b), d) and e), where a document specified in the two paragraphs above is not issued in the country in question, it may be replaced by a declaration under oath or, failing this, a solemn declaration, made by the interested party before a judicial or administrative authority, a notary or a qualified professional body of the country of origin or provenance.

If the bidder is a legal entity, the information about natural persons with the power of representation, decision-making or control over said legal entity must only be provided if requested by the contracting authority.

² Namely senior company managers, members of the board of directors or supervisory board and natural persons individually holding a majority of the shares.

SWORN DECLARATION REGARDING EXCLUSION CRITERIA AND THE ABSENCE OF ANY CONFLICTS OF INTEREST

Surname First name	Function	Date: Signature
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