Formalized procedure to tender to encourage the sustainability of independent media in the Mashreq countries

Invitation to tender launched in an open tender procedure in accordance with Article R. 2124-21 of French Public Procurement Code

BIDDING REGULATIONS

Document no. 2

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1 Main French Public Procurement Code articles mentioned in this invitation to tender are detailed in Annex 1.
PREAMBULE:

In all tender documents, translated legislative articles are free translations. In case of conflict between English and French version, French version shall prevail and be the only applicable one.

All the legal references mentioned in the tender documents have a hypertext link to French legislative texts.

Indeed, all references to the French Public Code mentioned in this invitation to tender are detailed in Annex 1.

ARTICLE 1: PURPOSE OF THE CONTRACT – GENERAL PROVISIONS

1.1 Nature of the contract

This invitation to tender is an adapted, open invitation to tender that falls within the scope of the provisions of article R-2124-2 of the French Public Procurement Code.

The contract concluded shall be an administrative contract pursuant to the French Public Procurement Code.

The parties explicitly agree that the provisions of the General Conditions of Contract for supplies and services and the General Conditions of Contract for intellectual services shall not apply to this contract.

1.2 Purpose of the contract and Allotment

CFI needs a Service provider to encourage the sustainability of independent media in the Mashreq countries. Also, CFI need a service provider to bring expertise to media outlets (existing or in creation) to develop business models and increase their economic value and to develop the local media ecosystem, as set in the Technical and Administrative Specifications (document no. 3).

In accordance with the provisions of Article L. 2113-10 of the Public Order Code, the Tender consists of 4 lots:

- Lot 1: Media support in Iraq;
- Lot 2: Media support in Jordan;
- Lot 3: Media support in Lebanon;
- Lot 4: Media support in Palestine.

Tenderers may submit bids for one or more lots.

Each lot will be allocated to a Service provider.
1.3 General provisions

1.3.1 Variants and options

Variants and options are not allowed.

1.3.2 Subcontracting

**Pursuant to article L. 2193-4 of French Public Procurement Code, subcontracting is not permitted without the prior agreement of CFI.** In the event that CFI grants permission for subcontracting, the candidates must state the identity of the subcontractor they have chosen and the portion of the contract that they intend to subcontract.

Any operator that deliberately provides inaccurate information in support of a request for acceptance of a subcontractor shall have its contract terminated at its own expense and risk.

In the same way, any secret subcontracting may be sanctioned with termination of the contract at the expense and risk of the company that holds the contract.

1.3.3 Consortium

As the conditions defined in article R. 2142-19 et seq. of the French public procurement code, candidates may submit an application and an offer:

- either as individual candidates,
- either as temporary groups of economic operators (co-contracting):
  - This group can be joint or solidary;
  - However, in the event of a joint grouping, the agent must be jointly and severally liable for all the other members of the group;
  - Candidates may submit an offer acting as members of several groups;
  - the same service provider cannot be the agent of several groups.
- or with subcontractors for part of the services covered by the framework agreement (subcontracting) subject to strictly complying with the provisions of Law No. 75-1334 of December 31, 1975 relating to subcontracting. So:
  - Subcontractors can be presented to CFI for acceptance:
    - When submitting to the Tender,
    - During the execution of the contract.
  - The Contractor may subcontract the performance of certain parts of the contract, provided that they have obtained from CFI:
    - The acceptance of this subcontractor on the basis of form DC4 and attached documents,
    - The approval of payment conditions.
  - Candidates wishing to present a subcontractor when submitting to the contract must justify the latter’s financial, technical and professional capacities by providing the same application documents required in these consultation regulations.
1.3.4 Applications

Pursuant articles L.2141-1 to L. 2141-5, L. 2141-7 to L. 2141-10 and R.2143-3 of the French Public Procurement Code, the persons listed below (a)- to d)- may not bid for the contract as defined under article 1 of these regulations, and shall therefore not be able to put forward a tender and act as a candidate and especially not as the service provider for the said contract:

a)- Anyone who has received a final conviction within the last five years for one of the following offences, stipulated by articles 222-38, 222-40, 313-1 to 313-3, 314-1 to 314-3, 324-1 to 324-6, 421-2-1, by the second paragraph of article 421-5, article 433-1, the second paragraph of article 433-2, the eighth paragraph of article 434-9, the second paragraph of article 434-9-1, articles 435-3, 435-4, 435-9, 435-10, 441-1 to 441-7, the first and second paragraphs of article 441-8, article 441-9, articles 445-1 and 450-1 of the criminal code and article 1741 of the general tax code;

b)- Anyone who has received a conviction within the last five years, listed in bulletin no. 2 of the police record for the offences mentioned in articles L. 8221-1, L. 8221-3, L. 8221-5, L. 8231-1, L. 8241-1 and L. 8251-1 of the labor code;

c)- Anyone who is subject to the compulsory liquidation procedure provided for under article L. 640-1 of the commercial code, natural persons who have been declared bankrupt in accordance with articles L. 653-1 to L. 653-8 of the same code and persons who are subject to an equivalent procedure governed by the laws of another country. Persons who have entered the process of receivership established by article L. 631-1 of the commercial code or an equivalent procedure governed by the laws of another country must provide proof that they have been authorized to continue their activities during the foreseeable period of performance of the contract;

d)- Persons who, as at 31 December of the year preceding that in which the call for tenders is launched, have not submitted the declarations that they are required to submit under tax and company law or have not paid the taxes and contributions that are payable by this date. However, persons who, as at 31 December of the year preceding that in which the call for tenders was launched, had not made the various payments due by that date or made any guarantees, but who, before the date on which the call for tenders was launched, and in the absence of any enforcement measures by the accountant or the body in charge of recovery, have either made the said payments or provided guarantees considered sufficient by the accountant or the body in charge of recovery, shall be regarded as being in order. Natural persons who are directors, either de facto or de jure, of a legal entity that does not comply with the conditions set out in this paragraph cannot tender personally for a contract. The list of taxes and contributions concerned is drawn up under conditions stipulated in the regulations.

N.B.: The provisions of paragraphs a)- to d)- above apply both to persons who put themselves forward as candidates and to those who are members of a group of persons that is a candidate.

Notifications relating to the contract shall be deemed to be valid if made to the address shown under article A of the Letter of Commitment.
It is essential that the tenders made by candidates comply with the Bidding Regulations and the Administrative and Technical Specifications.

1.4 Submission of tenders

The candidates must submit their tenders only in dematerialized form:

In accordance with the provisions of article R 2132-13 of the French Public Procurement code, CFI imposes the transmission of applications and offers by electronic form.

For this consultation, only electronic deposits are authorized at the following address: https://www.marches-publics.gouv.fr/index.php?page=entreprise.AccueilEntreprise&lang=en

The transmission must be subject to a certain date of receipt and an electronic acknowledgment of receipt.

Electronic signature of document is not required.

The tenders must be received no later than:

27 May 2021 at 6.00 pm UT

This deadline must not be exceeded. No tenders submitted after the date and time shown above will be taken into account.

Documents that are submitted after the date and time shown, or for which acknowledgement of receipt is delivered after the date and time shown, will not be examined.

The period of validity of the tender is set at 120 days from the deadline for receipt of tenders.

1.5 Term/deadlines for performance

The Contractor’s conditions of employment will be in accordance with the contract for the provision of services.

The period for performance of this contract shall run from the date on which notification is given to the service provider until the 1st June 2024.

1.6 Amendment of the details of the tender documents by CFI

CFI reserves the right to amend the details of the tender documents up to 15 days before the deadline set for submission of tenders. These amendments shall not alter the key points of the contract. It shall inform all candidates of the changes, ensuring that the principle of equality is respected.
Candidates must respond on the basis of the amended documents and may not lodge any complaint in this regard or deviate from the main guidelines in the amended documents.

1.7 Contact details of the person responsible for the contract

The person responsible for the contract is CEO, Mr Thierry VALLAT, 62, rue Camille Desmoulins, 92130 Issy-les-Moulineaux.

1.8 Locations where the services will be provided

Lot 1: Iraq
Lot 2: Jordan
Lot 3: Lebanon
Lot 4: Palestine

1.9 Contractual documents

The documents that constitute the contract include, in declining order of priority:
No. 1: The Letter of Commitment;
No. 2: These Bidding Regulations;
No. 3: The Technical and Administrative Specifications;
No. 4: The completed offer from the chosen candidate;
No. 5: The Service contract that CFI will establish for the chosen candidate.

In the event of any contradiction between the various provisions of these documents or of any difficulty in interpreting these provisions, the parties explicitly agree that the provisions of the documents above shall prevail in that order.

ARTICLE 2: PRICE AND SETTLEMENT OF ACCOUNTS

2.1 The price, expressed in euros, shall be regarded as the total fixed price and in particular shall include the following:

- Any tax and parafiscal charges that must be levied on the service;

- All fees and travel costs and all ancillary expenses necessitated by meetings that must be scheduled with the various departments of CFI and the Service provider, including an initial brief meeting in Paris to meet with CFI’s headquarters;

- All fees and travel costs and all ancillary expenses that are necessary in order to gain the knowledge in the field that is required for the assessment (particularly national and international transport costs, visas, insurance, accommodation and meals in the areas being assessed, although this is not an exhaustive list);

- the services involved in conducting the studies, up to approval of the various files and notices by CFI;
- Costs for secretarial work, particularly for photocopying.

If VAT applies under territorial regulations, VAT shall be added to the amount of the invoices at the applicable rate when the invoices are drawn up. If this rate changes during the period of the contract, the new rate shall apply ipso jure.

2.2 The price shall be fixed for the full period of performance of the contract

The price shall be fixed for the full period of performance of the contract and shall not exceed the amount of 1 080 000 € excluding taxes (lot 1+ Lot 2 + Lot 3+ Lot 4).

- Lot 1: media support in Iraq: 270 000 €;
- Lot 2: media support in Jordan: 270 000 €;
- Lot 3: media support in Lebanon: 270 000 €;
- Lot 4: media support in Palestine: 270 000 €.

The price shall be paid in accordance with the following schedule:

- 30% at the signature of the purchase order;
- 25% after validation of reports relating to year 1;
- 25% after validation of reports relating to year 2;
- 20% after validation of reports relating to year 3.

The services that are the subject of the contract shall be paid for in arrears, within 30 days of the end of the month in which the invoice is received.

ARTICLE 3: SUBMISSION OF APPLICATIONS AND TENDERS

This shall take place in a single phase, in which the applications and tenders shall be analyzed.

3.1. Information concerning the application

- A letter of application (DC1 form or equivalent) accompanied by the power of the person authorized to sign. In case of consortium, the application letter will indicate the composition and form of the consortium as well as the identity of the representative. The application letter is dated and signed by the individual candidate, members of the consortium or by the mandatory justifying his authorization to represent the consortium. It contains a declaration of honor attesting that the candidate is not concerned by the terms stipulated in Article L. 2141-1 to L. 2141-10 of the public procurement code, prohibiting him/her to present an application;
- A statement indicating the candidate's average annual workforce, and their seniority;
- Presentation of the consortium organization. The candidate will comply with the competency framework provided by the contracting authority attached to this notice;
Supporting documents and proof that the candidate is not prohibited to tender (in the event of a consortium, for each member of the group):
  o Certificates delivered by the competent authorities based on the list set by the decree of March 22, 2019 fixing the list of taxes, social contributions allowing to issue the certificates for the procedures related to the public procurement contract (the candidate established abroad produces a certificate drawn up by the administrations and organizations of his country of origin or establishment);
  o Extract of a relevant register (extract K bis, or any equivalent document). In the event of judicial reorganization, a copy of the judgment(s) pronounced;
• If applicable, the candidate should provide the documents of the Articles R. 1263-12, D. 8222-5 or D. 8222-7 or D. 8254-2 à D. 8254-5 of the Labor Code;
• When the competent authorities of the candidate's country of origin or establishment do not issue the equivalent supporting documents, or when they do not mention all the cases of prohibition to tender, they may be replaced by a declaration under oath. In countries where these procedures do not exist, it can be replaced by a solemn declaration made by the person concerned in front of a judicial or administrative authority, a notary or a qualified professional authority of his country of origin or establishment.

Applicants should attach a translated version, into French or English, of documents written in other languages, for submission.

B - Economical and financial capacities

  • Declaration on honor (Form DC2 or equivalent) concerning the overall turnover and the turnover related to similar services, realized during the last three financial years (in case of consortium, for each member of the group).

In addition, the successful tenderer must provide, as soon as possible without exceeding seven (7) days from the sending of the email from CFI making the request, the following documents:
The documents provided for in Articles D8222-5 and D8222-8 of the Labor Code *:
- The attestations and certificates issued by the competent bodies proving that he has met his fiscal and social obligations *;
- A sworn statement justifying that the candidate is not subject to any of the prohibitions on tendering for public contracts and that he is in order with regard to Articles L. 5212-1 to L.5212-11 of the Code du Travail, concerning the employment of disabled workers.
- Bank account details (IBAN).

CFI invites candidates to make sure, as soon as their offer is made, that they will be able to provide all these documents within this period. If the candidate is unable to send all these documents to CFI at the end of this 7-day period, his offer will be rejected, and he will be eliminated. The next candidate will then be asked to produce the requested documents before the contract is awarded to him. If necessary, this procedure may be reproduced if suitable tenders remain. If the remaining tenders, although consistent with the subject of the contract, are not acceptable, the procurement procedure may be declared unsuccessful.

* For foreign bidders, it will be necessary to provide a certified copy of an equivalent document.
3.2. Information concerning the content of the Tender

CFI requests the same documents and information for each of the 4 lots for this Tender.

1. The letter of commitment completed, dated, signed by hand, stamped, and scanned;

2. A technical offer including:
   - Detailed methodology and action plan as well as the CVs of the proposed team involved in the implementation process.
   - Details about the structure and his experience in the field

3. A quotation/price offer expressed in Euros.
   The financial proposal will be a fixed global amount, expressed in euros;

4. Various types of documentation the candidate may consider useful (optional).

The response must be written in English. Any application that is incomplete shall be rejected.

The submission of an offer constitutes full and complete acceptance of all the parts of the DCE.

ARTICLE 4: EVALUATION OF TENDERS

4.1 Only applications that are (i) complete, (ii) do not show any irregularities, (iii) contain all the documents requested and (iv) are received by the deadline shall be examined.

Any other applications shall be rejected.

The Letter of Commitment must be dated, signed and initialed and must bear the company's stamp; the signatory must not forget to state his/her name and position and provide his/her authorization to enter into commitments on behalf of the company.

4.2 Tenders that are in order shall be analyzed one by one and then comparatively.

Tenders shall be evaluated and classified in accordance with the following weighted criteria:

Technical offer, including methodology and action plan. 50

Experience and record of the tenderer and the team proposed for implementation 30

Costs of the service excluding tax 20

The evaluation is based on a total score of 100.
The contract shall be awarded to the candidate that submits the tender with the highest overall score.

We would like to point out that the contract will not necessarily be awarded to the candidate who asks for the lowest price.

We would like to remind candidates that, in accordance with the provisions of article R.2144-7 of French Public Procurement Code:

"If a candidate or tenderer is in a case of exclusion, does not meet the conditions for participation set by the buyer, produces, in support of his application, false information or documents, or cannot produce in the deadline the supporting documents, the means of proof, the complements or explanations required by the buyer, his application is declared inadmissible and the candidate is eliminated.

In this case, when the verification of the applications comes after the selection of the candidates or the classification of the tenders, the candidate or the tenderer whose candidacy or the offer was classified immediately after his / hers is solicited to produce the necessary documents. If necessary, this procedure may be reproduced as long as there are still admissible applications or offers which have not been rejected on the ground that they are inappropriate, irregular or unacceptable."^2

In accordance with the provisions of articles R.2152-3 et seq. of French Public Procurement Code, if a tender appears abnormally low, CFI may reject it on reasonable grounds after requesting any further details it considers useful in writing and after checking the justification provided.

ARTICLE 5: INFORMATION

Any technical and/or administrative information may be requested by PLACE platform, no later than 20 days before the deadline for submission of tenders:


CFI shall communicate its responses to questions no later than 15 days before the deadline set for receipt of tenders.

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^2 This is an English free translation of French Public Procurement Code. In case of conflict between English and French version, French version shall prevail and be the only applicable one. Main French Public Procurement Code articles mentioned in this invitation to tender are detailed in Annex 1
ARTICLE 6: REFERRING PERSON

As soon as the contract is notified, the Service Provider must designate a single referring person responsible for the management of the contract and relations with CFI. This contact person must be available to respond to any request, in English, about CFI's services and for Tender monitoring.

The project manager will oversee monitoring the Tender.

In the event of a change of the referent, CFI will inform the service provider within a reasonable time.