



7.2 THE NEGOTIATED PROCEDURE FOR SERVICES

(EUR 10,000 – 149,999)

The Negotiated Procedure is more formal than the Simple Procedure. This procedure is applicable within the threshold of EUR 10,000 – 149,999 and requires that a minimum of three candidates are invited simultaneously to submit a proposal based on a RFP. The contract shall be awarded to the most compliant candidate. It is mandatory to publish an Award Notice for contracts above EUR 30,000 and Letters to all unsuccessful candidates shall always be submitted. The Negotiated Procedure is less formal than a Local Open Tender and gives the opportunity to negotiate the terms of the contract.

Before the procurement process is initiated, please ensure that all members of the Procurement Committee sign the Declaration of Impartiality and Confidentiality (GEN 2-1). Furthermore, please ensure that the mandatory general Advertisement of Business Opportunities (GEN 8) was published. For more information on the general Advertisement of Business Opportunities, see section 4.11.1.

Step Guide:

1

Purchase Request with Terms of Reference



Identify the service(s) to be procured from the Procurement Plan and draft the TOR using SER 2-3: Terms of Reference.



Procurement starts with the completion and authorization of the Purchase Request Form GEN 1-1. The Purchase Request originates outside the Procurement Department and programme staff are usually in charge of drafting the TOR.

The Purchase Request identifies the TOR of the services, ensures sufficient budget and requests the procurement responsible staff to procure the services.


Clear, adequate and well-defined TOR is a prerequisite for receiving proposals matching the requirements and the budget. Please refer to section 4.12.2 when drafting the TOR.

Establish if the content of the TOR qualifies for the use of Open Budget and decide if the procedure will use Open Budget.

NOTE: If a candidate assists with input to the technical specifications, the candidate is excluded from participating in that procedure.



MANDATORY TEMPLATE

[GEN 1-1: Purchase Request Form](#) 

SUPPORT TEMPLATE

[SER 2-3: Terms of Reference](#) 



Learn more about drafting TORs in e-training number 6. [Guide to SER 2: Request for Proposal](#)

2

Prepare Shortlist

Prepare a shortlist with a minimum of three candidates applying GEN 13. It is



recommended to include 4-8 candidates to ensure that a minimum of three proposals are collected. For more information on sourcing candidates see section 4.11.2.



At this stage it is recommended to collect general information on sector and country specific ethical risks to identify potential risks related to procuring the service in question. Include the information in the sourcing decisions and further in drafting the RFP. See section 1.2.1 for implementation of the ethical procurement principles.



MANDATORY TEMPLATE

[GEN 13: Shortlist of Suppliers/Candidates and Receipt Form](#)

3

Draft Request for Proposal



Carefully prepare the RFP applying the template in SER 2, SER 2-1 or SER 2-2 and approach the candidates for a proposal. The RFP shall be forwarded simultaneously (on the same day) to all the shortlisted candidates. This is to ensure that all candidates are given an equal amount of time to prepare and submit their proposal.



When preparing the RFP consider all the articles and options and decide on:

Deadline

Decide on the deadline for receipt of proposals. It is recommended to allow the bid flow to be a minimum of two weeks.



Open Budget

Establish if the content of the TOR qualifies for the use of Open Budget and decide if the procedure will use Open Budget. If yes, please use SER 2-2 Request for Proposal for Open Budget.



Type of Remuneration

The Service Contract may be a 'global price' contract, a 'fee-based' contract or a mix of the two. One of the three options must be chosen in article A.6 Financial Proposal of the RFP and in article B.5 Remuneration of the Draft Contract.



For the global price the Contracting Authority pays the candidate according to the delivery of certain output(s), e.g. reports, workshops, etc. The global price includes all costs and is a total price. A major advantage of the global price contract is the simplicity of its administration. The Contracting Authority having only to be satisfied with the outputs without monitoring the staff inputs or the reimbursable expenses. Studies are usually carried out on a global price basis e.g. surveys, master plans, simple feasibility and engineering studies.

In fee-based contracts remuneration is based on (i) agreed unit rates for the candidate's staff multiplied by the actual time spent by the staff in executing the assignment, and (ii) reimbursable expenses using actual expenses or agreed unit prices. This type of contract is heavy on administration and requires the Contracting Authority to closely supervise and monitor the Contractor. 'Fee-based' contracts are used for assignments for which remuneration is being determined based on the time spent by the Contractor in carrying out the services. Such contracts are recommended when the scope of the services cannot be established with enough precision, or the duration and quantity of services depend on variables that are beyond the control of the contractor.

Evaluation Criteria

Article A.11 of the RFP instructs the candidates of the technical and financial criteria, which the Procurement Committee will use for the evaluation of the proposals. Furthermore, it informs the candidates of the weights assigned to the technical and financial scores. Finally, the article details how the Procurement Committee will weigh the various technical criteria.

For the technical evaluation criteria, defined in the table in article A.11, it is important to note that these are suggested criteria and it is the responsibility of the Procurement Committee to modify these to match the requirements of the contract in question. To assist the evaluation process, please define unambiguous and measurable evaluation criteria. The technical score is the sum of the points each candidate has obtained for each technical criterion. The Contracting Authority has the right to discard technical offers scoring below a certain number of points. This is to safeguard the procedure against low quality offers.

Examples of technical evaluation criteria could be; the candidate's experience in the field of assignment, the candidates' general academic qualifications and specific experience in the region/country of the assignment, the adequacy of the proposed methodology and the work plan in responding to the TOR, the candidate's availability and the required time to perform the services, CSR related policies and certifications, etc.

The financial evaluation criteria are predefined in article A.11 as the formula $S_f = 100 \times F_m/F$ (S_f is the financial score of a proposal; F_m is the lowest price; and F is the price of the proposal under evaluation). This formula cannot be changed. During the evaluation in Step 4, the Procurement Committee applies this formula to calculate a financial score for each proposal received. Please note that the overall score links directly to the award criteria in article A.12 of the RFP.

Donor Requirements

Please take note of specific donor requirements such as requirements to origin and nationality, exclusivity clauses, publication rights, visibility, right to audit, exclusion and eligibility clauses, preference criteria, etc., which might require amendment of the RFP.



Ethical Criteria

It is recommended to collect general information on sector and country specific ethical risks to identify potential risks related to procuring the service in question. Is there a need to include specific criteria to ethical procurement issues in the RFP such as certifications (or equivalent proof of compliance to ethical criteria) or the inclusion of specific terms related to e.g. environmental or social performance?

Bank Guarantees

Will a prepayment guarantee, or a performance guarantee be required? For more information on bank guarantees, see section 9.3. The standard RFP does not contain provisions in respect of such guarantees since it is uncommon that they are required for Service Contracts. However, it may be relevant to require in the case of a high value contract.

Follow Up

To ensure that enough offers will be received on time it is recommended to contact all shortlisted candidates 1-2 days after submitting the RFP to ask if they intend to

submit a proposal. When a short deadline is required, it is a good practice to follow up to explain the importance of completing the Submission Form and submitting the offer prior to the deadline.



MANDATORY TEMPLATE

[SER 2: Request for Proposal](#) 🇩🇪 🇪🇬

[SER 2-1: Request for Proposal for Framework Services](#) 🇩🇪

[SER 2-2: Request for Proposal for Open Budget](#) 🇩🇪



Learn more about drafting TORs in e-training number 6. [Guide to SER 2: Request for Proposal](#)

4

Register Proposals and Initiate Evaluation



Upon receipt of the proposals register the date and time of receipt in GEN 13. The Procurement Committee initiates the evaluation, utilising the Evaluation Grid in SER 3. Make sure all the evaluation criteria, defined in the RFP, are applied to the Evaluation Grid before evaluation starts.



Proposals shall be ranked according to their combined technical and financial scores using the weighting of the technical proposal and the financial proposal predefined in the RFP send to the candidates.



Please note that candidates who have not submitted their proposals before the deadline shall not be considered.

Evaluation Challenges

In case all candidates have offered prices above the budget or the TOR needs to be changed or adjusted, it is not necessary to issue a new RFP. Instead the candidates can be contacted in writing with the amendments, the new deadline and a revised quotation requested.

If less than three proposals have been received, and if some candidates have declined to submit a proposal, the Contracting Authority can proceed with the best offer provided that the general procurement principles are met. E.g. it shall be ensured that enough candidates were shortlisted, that all candidates have been given enough time to submit a proposal, and that all candidates have acknowledged receipt of the RFP. If it is not possible to find a minimum of three qualified candidates in the market, it is important to survey broader e.g. markets in neighbouring districts and countries. Please see section 4.11.2 for how to source new candidates. Lack of candidates in the local market is not sufficient grounds for proceeding with less than three proposals.



MANDATORY TEMPLATE

[SER 3: Evaluation Grid for Negotiated Procedure](#) 🇩🇪

[GEN 13: Shortlist of Suppliers/Candidates and Receipt Form](#) 🇩🇪

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Interview and Negotiation



Interview

The candidates who are deemed Administratively Compliant in Part A of the Evaluation Grid, can be invited for an interview. This is not a requirement, but it is recommended. After the interviews the Procurement Committee has the possibility to



change the scores in the Evaluation Grid. There is a separate column in the Evaluation Grid for this purpose.

An interview can also facilitate a discussion on identified ethical risks in order to find possible solutions or determine if the proposal shall be turned down for ethical reasons.

Negotiation

The Procurement Committee has the option to negotiate the terms of the contract, and it is recommended to do so. There are no specific procedures on negotiations except that the general procurement principles shall always be respected and negotiations shall not entail any substantial deviation from the terms and conditions of the RFP. The main purpose of negotiation is to obtain better conditions in terms of technical quality, implementation period, price, payment conditions etc.

Negotiations may however have the purpose of reducing the scope of the services or revising other terms of the contract in order to reduce the proposed remuneration. This may be necessary when the prices proposed exceed the limits of the funds available to the Contracting Authority. In this case, all candidates involved should be invited to participate in the negotiations and to potentially submit a new proposal.

The negotiations can be done by email, phone or at a meeting. A written summary shall be prepared, filed and submitted to the candidate.

When negotiating the terms, consider how requirements on e.g. delivery times and price may affect the candidates' ability to comply with the ethical principles and standards.



MANDATORY TEMPLATE

[SER 3: Evaluation Grid for Negotiated Procedure](#) 

6

Select Candidate and Issue Contract



Finalize evaluation and select the best and most compliant candidate whose proposal has been determined to be substantially responsive to the requirements of the RFP and has obtained the highest overall score. This provided further that the candidate has also been determined to fulfil the eligibility and non-exclusion criteria including the selected candidate(s)'s eligibility as per DCA Counter Terrorism Policy, by checking the UN Security Council, EU and donor required sanctions lists.



After selecting the winning candidate, the Procurement Committee issues the contract applying SER 4. Check if the standard contract must be adapted to national legislation, traditions or requirements. Incorporate all agreements reached with the selected candidate in the contract and never delete or make alterations to the GTC.



The contract shall be forwarded unsigned to the selected candidate and returned signed to the Contracting Authority. Only thereafter shall the contract be signed by the Contracting Authority. Signing the contract creates a legally binding document for both parties.



Before signing the contract the Procurement Committee shall ensure:

- That adequate and exact reference is made in the Contract to the relevant RFP
- That the candidate acknowledges the GTC and the COC without exceptions or

amendments

- For new contractors, make sure that satisfactory references and company data have been collected

NOTE: If the selected candidate cannot accept the GTC, the Procurement Committee shall decline the proposal and continue the process with another candidate.



MANDATORY TEMPLATE

[SER 3: Evaluation Grid for Negotiated Procedure](#) 🇩🇰

[SER 4: Contract](#) 🇩🇰

[SER 4-1: Framework Contract](#) 🇩🇰

7

Send Letter to Unsuccessful Candidates



Once the selected contractor has returned the contract duly signed, a letter shall be sent to the unsuccessful candidates informing them of the result of the procedure i.e. the name of successful contractor, the total contract amount and the scores as per the Evaluation Grid. Apply SER 5



MANDATORY TEMPLATE

[SER 5: Letter to Unsuccessful Candidates](#) 🇩🇰 🇪🇺

8

Publish Award Notice



For contracts above EUR 30.000 it is mandatory to publish an Award Notice applying GEN 17. The Award Notice shall be published in a suitable media where candidates will notice the information and on the Contracting Authority's website. The purpose of a public announcement is to meet the principle of transparency with the added benefit of attracting new candidates. Thus, the Award Notice is useful and recommended for all contracts.

For situations where the Procurement Committee finds that posting an Award Notice will bring project staff, beneficiaries, the project or the winning contractor at risk, the Procurement Committee may refrain from posting an Award Notice, see blanket derogation (k). This shall be duly documented.

NOTE: The Procurement Committee shall take notice of any specific donor requirements for publishing an Award Notice.



MANDATORY TEMPLATE

[GEN 17: Award Notice \(Optimal below EUR 30,000\)](#)

9

Receive and Inspect



Ensure that the services completed, inspected and received comply with the contract. Issue a Completion Certificate or file other relevant documentation as proof of receipt of the services e.g. a report or adapt SUP 13 to the needs. The Contracting Authority shall follow up on the timely delivery and satisfactory quality of the received services.



SUPPORT TEMPLATE

[SUP 13: Goods Received Note](#)



DOCUMENTATION IN THE PROCUREMENT FILE

- Declaration of Impartiality and Confidentiality
- Purchase Request
- Shortlist of Suppliers/Candidates and Receipt Form
- Request for Proposal
- Proposals Received
- Evaluation grid for Negotiated Procedure
- Contract
- Letter to Unsuccessful Candidates
- Copy of invoice
- Award Notice (optional below EUR 30.000)
- Proof of receipt of the service(s)
- Note to File, if relevant