

## **INSTRUCTIONS TO TENDERERS**

### **1. Cost of Tendering**

- 1.1 Tenderers must bear all the costs associated with the preparation and submission of their bid and any further costs incurred prior to award of contract unless otherwise previously agreed in writing by BERR.

### **2. Tender Invitation Documents**

- 2.1 You are expected to examine all the tender invitation documents, which indicate what information must be provided. Incomplete bids may be rejected.
- 2.2 All material issued by BERR in connection with the invitation to tender remains the property of the Crown and is to be used solely for the purpose of tendering. Documents must not be copied or forwarded to unauthorised persons.
- 2.3 Information supplied by the BERR is supplied for general guidance in the preparation of tenders. Tenderers must satisfy themselves by their own investigations with regard to the accuracy of such information. No responsibility is accepted by BERR for any inaccurate information obtained by tenderers.

### **3. Amendment to Tender Invitation Documents**

- 3.1 To the extent permissible under EU procurement rules BERR may modify the tender documents by amendment at any time prior to the deadline for receipt of tenders.
- 3.2 Any such amendment will be notified in writing to all prospective bidders who have received the tender documents. A form is attached at Annex A to these instructions and you must record all amendments on this form and return it with the tender documents. Any amendment will be binding on bidders.
- 3.3 In order to give you reasonable time in which to take the amendment into account in preparing your bid, BERR may, at its discretion, extend the deadline for the receipt of tenders.

### **4. Consortium bids**

- 4.1 BERR recognises that consortium bids are possible. In the case that a consortium bid is proposed, a lead consortium member must be appointed by the consortium through whom all communications will be conducted. The various documents required during the tender must however be completed

by the consortium member or members responsible for the relevant part. In the case of financial information, suitable and sufficient information must be presented in order for the DTI to make a complete appraisal of the proposed consortium and its parts.

## **5. Tender Prices**

- 5.1 Prices shall be quoted in pounds sterling and shall be firm for the duration of the contract unless otherwise stated.

## **6. Bid Validity Period**

- 6.1 Bids shall remain valid for a period of 28 days from the closing date for return of tenders. A bid valid for a shorter period may be judged to be non-compliant and rejected by BERR.
- 6.2 In exceptional circumstances, BERR may seek your consent to extend the validity period. You may refuse such a request without penalty. If you grant the request you will not be permitted to modify your bid.

## **7. Documents Establishing the Eligibility and Qualifications of Tenderers**

- 7.1 If so requested by BERR, you should furnish documents establishing your eligibility to tender and your qualifications to fulfil the contract if your tender is accepted.
- 7.2 Such documents will include evidence which establishes to BERR's satisfaction that, where, under the contract, you are offering to supply goods which you did not manufacture or otherwise produce, you have been duly authorised by the manufacturer or producer of the goods to supply those goods to BERR.

## **8. Documents and Samples Establishing Eligibility of Goods and Conformity to Tender Documents**

- 8.1 You must provide documentary evidence that goods and works conform to the tender documents, which may be in the form of literature, drawings and data.

## **9. Language of Tender**

- 9.1 The tender, all correspondence and all documents relating to the tender must be written in English. Any literature printed in another language and provided by you to BERR must be accompanied by an English translation of its relevant

passages. In such cases, for the purpose of interpreting the tender, the English translation shall govern.

## **10. Conflict of Interest**

10.1 Tenderers for all services where a conflict of interest may exist or arise, must inform BERR and submit proposals for avoiding such conflicts. This is particularly important where the conflict could result in a real danger of bias in the execution of the service. Special attention should be paid to services concerned with the contracting out of administrative decisions relating to public law functions, ie functions carried out under statutory authority involving powers and duties not generally available to private law bodies.

## **11. Submission of Tender**

11.1 Your original tender, together with any copies as specified in the Invitation to Tender letter, must be securely sealed in an envelope and sent to the person named in the invitation to tender letter, using the tender label enclosed.

11.2 BERR does not accept responsibility for the premature opening (and therefore rejection) or mishandling of envelopes not properly sealed or not correctly marked.

## **12. Deadline for Receipt of Bids**

12.1 It is the tenderers responsibility to ensure that their tender is delivered by the date and time of the deadline for the receipt of tenders. BERR does not undertake to consider tenders received after the deadline unless clear evidence of despatch is available (eg clear post mark and/or certificate of posting).

12.2 Envelopes franked by the bidders own franking machine will not be regarded as sufficient evidence of posting.

12.3 Any request for an extension of the period of tendering must be received at least 4 working days before the due date for return. No undertaking can be given that an extension will be granted. Tenderers should note that if an extension is given this will be extended to all tenderers.

## **13. Withdrawal and re-submission of Tenders**

13.1 You may withdraw and re-submit your tender at any time prior to the deadline for receipt by giving notice in writing to BERR.

13.2 Your re-submitted tender must be sent sealed, marked and in the same

manner as the original.

- 13.4 You may withdraw your bid at any time prior to BERR notification of acceptance by sending notice of withdrawal in writing to the BERR contact named in the Invitation to Tender letter.

#### **14. Evaluation of Tenders**

- 14.1 BERR will award the contract to the tenderer who, following evaluation, is determined as having provided the Department with the most economically advantageous tender. In determining which is the most economically advantageous tender, account will be taken of whole life costs to the Department and will not necessarily mean the lowest priced tender.

- 14.2 The criteria by which tenderers will be evaluated are as follows:

The degree of compliance with the specification and overall cost effectiveness

#### **15. Right to Reject any or all Bids**

- 15.1 The DTI reserves the right to cancel the tender process and reject all bids at any time prior to award of contract without incurring any liability to the affected bidders.
- 15.2 The DTI does not bind itself to accept the lowest or any tender, and reserves the right to accept a portion of any tender, unless the tenderer expressly stipulates otherwise in his tender.

#### **16. Standard Terms and Conditions of Contract**

- 16.1 Any contract will incorporate the Department's Standard Terms and Conditions of Contract attached to this invitation. The Contractor's terms will not be applicable to any bid.

#### **17. Confidentiality of Tenders**

- 17.1 You should note that your tender will be invalidated if you disclose to any other party, even approximately, what your tendered prices are or will be at any time before the deadline for delivery of tenders. An exception to this will only be made if you need an insurance quotation to calculate your tender prices, in which case you may give your insurance company or brokers any essential information they require, so long as you do so in strict confidence.
- 17.2 Any attempt to obtain any information about anyone else's tender or proposed tender prior to the deadline for delivery of tenders will also invalidate your tender.

## **18. Award of Contract**

### **Contracts awarded following a competition involving the placing of an OJEU notice:**

- 18.1 Prior to the expiry of the bid validity period BERR will send to the successful bidder a letter of provisional acceptance of tender. This letter will make clear that the entering into of a contract will be subject to a minimum mandatory standstill period of 10 calendar days, from the day after the date of the letter of provisional acceptance.
- 18.2 At the same time BERR will notify each unsuccessful bidder.
- 18.3 At the end of the standstill period, unless BERR notify the successful bidder that there has been judicial interruption in the form of an order by a court of competent jurisdiction that the implementation of the contract should be suspended pending a full hearing of the matter by a court of competent jurisdiction, BERR will send to the successful bidder two copies of the contract documentation together with the purchase order.
- 18.4 If judicial interruption takes place BERR will send the successful bidder the contract documentation and purchase order only following the conclusion of the court proceedings (including any appeal(s)) in favour of BERR. If the court proceedings are concluded against the DTI no contract shall be entered into.
- 18.5 Within 7 calendar days of receipt of the contract documentation the successful bidder shall sign both copies and return them to BERR. BERR will sign both copies and return one signed copy to the successful bidder and retain the other copy. No other form of acknowledgement will be accepted.

### **Contracts awarded without the placing of an OJEU notice:**

- 18.6 Prior to the expiry of the bid validity period BERR will send to the successful bidder two copies of the contract documentation together with the purchase order.
- 18.7 Within 7 calendar days of receipt of the contract documentation the successful bidder shall sign both copies and return them to BERR. BERR will sign both copies and return one signed copy to the successful bidder and retain the other copy. No other form of acknowledgement will be accepted.



