

IRL-Tallaght: legal advisory services  
OJ S 14/2012 21/01/2012  
Contract notice  
Services

Directive 2004/18/EC

**Section I: Contracting authority**

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**I.1. Name and addresses**

Official name: The RAs c/o Commission for Energy Regulation

Postal address: The Exchange, Belgard Square North

Town: Tallaght

Postal code: Dublin 24

Country: Ireland

For the attention of: Siobhan Keating

E-mail: [procurement@cer.ie](mailto:procurement@cer.ie)

Telephone: +353 14000800

Fax: +353 14000850

**Internet address(es):**

General address of the contracting authority: <http://www.cer.ie>

Address of the buyer profile: [http://www.etenders.gov.ie/search/Search\\_AuthProfile.aspx?ID=AA01831](http://www.etenders.gov.ie/search/Search_AuthProfile.aspx?ID=AA01831)

**Additional information can be obtained from:**

the abovementioned address

**Specifications and additional documents (including documents for competitive dialogue and a dynamic purchasing system) can be obtained from:**

the abovementioned address

**Tenders or requests to participate must be submitted:** the abovementioned address

**I.2. Type of the contracting authority**

Body governed by public law

**I.3. Main activity**

Other: Regulatory authorities

**I.4. Contract award on behalf of other contracting authorities**

The contracting authority is purchasing on behalf of other contracting authorities: yes

Official name: Northern Irish Authority for Utility Regulation

**Section II: Object of the contract**

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**II.1. Description**

**II.1.1. Title attributed to the contract by the contracting authority**

Single member framework agreement for legal support to SEM Committee.

**II.1.2. Type of contract and place of performance or delivery**

Services

Service category No 27: Other services

Main site or place of performance: Dublin & Belfast.

NUTS code IE Éire / Ireland

**II.1.3. Information about a framework agreement or a dynamic purchasing system**

The procurement involves the establishment of a framework agreement

**II.1.4. Information about framework agreement**

Framework agreement with a single operator

**Duration of the framework agreement**

Duration in years: 4

**II.1.5. Short description of the contract or purchase(s)**

In November 2004, the Department of Enterprise, Trade and Investment (DETI) and the Department of Communications Marine and Natural Resources (DCMNR) together with the Northern Ireland Authority for Utility Regulation (Utility Regulator, UR) and the Commission for Energy Regulation (CER) published a development framework for an All Island Energy Market, setting out the dates by which they expect to achieve these unified markets.

On 1.11.2007 the Single Electricity Market (SEM) went live, commencing the trading of wholesale electricity in Ireland and Northern Ireland on an All-Island basis. The Commission and the Utility Regulator jointly regulate the Single Electricity Market ("the SEM") through the SEM Committee. The duties of the SEM Committee are set out in separate legislation in Northern Ireland and in the Republic of Ireland.

The regulatory authorities now invite tenders from suitably qualified and experienced firms in order to establish a single-member framework agreement for a maximum duration of 4 years, subject to annual renewal for the provision of appropriate legal services across a range of specialist areas to the SEM Committee.

Note: To register your interest in this notice and obtain any additional information please visit the eTenders web site at [http://www.etenders.gov.ie/Search/Search\\_Switch.aspx?ID=369352](http://www.etenders.gov.ie/Search/Search_Switch.aspx?ID=369352).

The awarding authority has indicated that it will accept electronic responses to this notice via a "Tender Submission Postbox" facility. Further details of this facility are available at [http://www.etenders.gov.ie/PostBox/Postbox\\_Explain.aspx?ID=369352](http://www.etenders.gov.ie/PostBox/Postbox_Explain.aspx?ID=369352).

Suppliers are advised to allow adequate time for uploading documents and to dispatch the electronic response well in advance of the closing time to avoid any last minute problems. The postbox closes precisely at the time stated.

**II.1.6. CPV code(s)**

79111000 Legal advisory services, 79100000 Legal services, 79110000 Legal advisory and representation services, 79112000 Legal representation services, 79140000 Legal advisory and information services

**II.1.7. Information about the Government Procurement Agreement (GPA)**

The procurement is covered by the Government Procurement Agreement: yes

**II.1.8. Lots**

This contract is divided into lots: no

**II.1.9. Information about variants**

Variants will be accepted: no

**II.2. Scope of the procurement**

**II.2.1. Total quantity or scope**

The successful tenderer is to work with the SEM Committee and the regulatory authorities to

support and deliver legal expertise on SEM Matters. The key (though not exhaustive) areas that the SEM Committee requires expert legal advice on are:

- Constitutional and administrative law underpinning various statutory bases for SEM Committee activities in Northern Ireland and Ireland,
- Issues arising from the market monitoring function of the SEM Committee and adherence to the Bidding Code of Practice (including competition law, enforcement, due process),
- Code and licence modifications and breaches of licence conditions,
- Regulatory and energy law – including treatment of market operator and system operator regulation,
- The treatment and facilitation of renewable energy in the SEM – having particular regard to the natural tensions between All-island policies and EU Member State legal requirements,
- Contract Law including adherence to contractual obligations, code obligations and requirements,
- EU Law including EC directives and regulations underpinning the legislative changes and proposed amendments to legislation,
- Company and Corporate Law in relation to (but not limited to) transactions such as acquisitions in both jurisdictions,
- The use of SEM Committee competition law powers – (noting the prospect of Northern Ireland Law and Irish Law distinctions),
- SEM Committee objectives and functions, governance and rules and procedures,
- Other Legal Services as and when the regulatory authorities elect to so procure through the framework (which may include litigation).

#### **II.2.2. Information about options**

Options: no

#### **II.2.3. Information about renewals**

This contract is subject to renewal: no

#### **II.3. Duration of the contract or time limit for completion**

### **Section III: Legal, economic, financial and technical information**

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#### **III.1. Conditions related to the contract**

##### **III.1.1. Deposits and guarantees required**

##### **III.1.2. Main financing conditions and payment arrangements and/or reference to the relevant provisions governing them**

Tenderers should note that the Commission and the Utility Regulator will bear the costs of the consultancy in the following proportions: 50 % to the Commission and 50 % to the Utility Regulator.

All fees and expenses shall have to be invoiced separately to the Commission and the Utility Regulator in these proportions.

All invoices issued to the Commission will be in Euro and subject to Irish VAT and withholding tax.

All invoices issued to the Utility Regulator will be in sterling and subject to Northern Ireland VAT.

The liability of the Commission and the Utility Regulator for the payment of all fees and expenses shall be severable, not joint and severable. On no account will either the Commission or the Utility Regulator be accountable for any fees and expenses incurred by the other.

### **III.1.3. Legal form to be taken by the group of economic operators to whom the contract is to be awarded**

A grouping if successful must be prepared to contract as a single entity having joint and several liability.

### **III.1.4. Contract performance conditions**

The performance of the contract is subject to particular conditions: no

## **III.2. Conditions for participation**

### **III.2.1. Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers**

List and brief description of conditions: Please refer to Section 4.1 of the Request for Tender document available to download from [www.etenders.gov.ie](http://www.etenders.gov.ie).

### **III.2.2. Economic and financial ability**

List and brief description of conditions: Please refer to Section 4.1 of the Request for Tender document available to download from [www.etenders.gov.ie](http://www.etenders.gov.ie).

### **III.2.3. Technical and professional ability**

List and brief description of conditions:

Please refer to Section 4.1 of the Request for Tender document available to download from [www.etenders.gov.ie](http://www.etenders.gov.ie).

### **III.2.4. Information about reserved contracts**

## **III.3. Conditions specific to services contracts**

### **III.3.1. Information about a particular profession**

Execution of the service is reserved to a particular profession: yes

Reference to the relevant law, regulation or administrative provision: The regulatory authorities require suitably qualified and experienced legal professionals.

### **III.3.2. Information about staff responsible for the performance of the contract**

Obligation to indicate the names and professional qualifications of the staff assigned to performing the contract: yes

## **Section IV: Procedure**

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### **IV.1. Type of procedure**

#### **IV.1.1. Type of procedure**

Open

#### **IV.1.2. Information about the limits on the number of candidates to be invited**

#### **IV.1.3. Information about reduction of the number of solutions or tenders during negotiation or dialogue**

### **IV.2. Award criteria**

#### **IV.2.1. Award criteria**

The most economically advantageous tender in terms of Price is not the only award criterion and all criteria are stated only in the procurement documents

#### **IV.2.2. Information about electronic auction**

An electronic auction will be used: no

#### **IV.3. Administrative information**

##### **IV.3.1. File reference number attributed by the contracting authority**

011-03-233

##### **IV.3.2. Previous publication concerning this procedure**

##### **IV.3.3. Conditions for obtaining specifications and additional documents or descriptive document**

##### **IV.3.4. Time limit for receipt of tenders or requests to participate**

28.2.2012 - 12:00

##### **IV.3.5. Estimated date of dispatch of invitations to tender or to participate to selected candidates**

##### **IV.3.6. Languages in which tenders or requests to participate may be submitted**

English. Irish.

##### **IV.3.7. Minimum time frame during which the tenderer must maintain the tender**

##### **IV.3.8. Conditions for opening of tenders**

#### **Section VI: Complementary information**

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##### **VI.1. Information about recurrence**

##### **VI.2. Information about European Union funds**

##### **VI.3. Additional information**

Please see the "Conditions of Tender" and "Instructions to Tenderers" sections of the attached RFT document (available to download from [www.etenders.gov.ie](http://www.etenders.gov.ie)) for all additional information.

The Commission for Energy Regulation is procuring this service on behalf of the, the Northern Ireland Authority for Utility Regulation ("the Authority") and the Commission for Energy Regulation ("the Commission") (together "the Regulatory Authorities - RAs. (ET Ref:369352).

##### **VI.4. Procedures for review**

###### **VI.4.1. Review body**

Official name: The High Court  
Postal address: Four Courts, Inns Quay  
Town: Dublin 7  
Country: Ireland

###### **VI.4.2. Review procedure**

###### **VI.4.3. Service from which information about the review procedure may be obtained**

##### **VI.5. Date of dispatch of this notice**

19.1.2012