

Denmark-Copenhagen: Foreign economic-aid-related services

OJ S 170/2016 03/09/2016

Contract notice**Services****Legal Basis:**

Directive 2014/24/EU

Section I: Contracting authority

I.1. Name and addresses

Official name: Ministry of Foreign Affairs of Denmark, Danida

Postal address: Asiatisk Plads 2

Town: Copenhagen K

NUTS code: DKZZZ Extra-Regio NUTS 3

Postal code: 1448

Country: Denmark

Contact person: Lars Finn Poulsen

E-mail: danidacontracts@um.dk

Telephone: +45 33920000

Internet address(es):Main address: <http://um.dk/en/danida-en/business/contracts/>**I.3. Communication**The procurement documents are available for unrestricted and full direct access, free of charge, at: <http://um.dk/en/danida-en/business/contracts/long/contract-opportunities>

Additional information can be obtained from the abovementioned address

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

I.4. Type of the contracting authority

Ministry or any other national or federal authority, including their regional or local subdivisions

I.5. Main activity

Other activity: development assistance

Section II: Object

II.1. Scope of the procurement**II.1.1. Title**Implementing Partner for Support to Rule of Law and Human Rights, Myanmar 2017 — 2020;
Denmark-Myanmar Country Programme 2016-2020.

Reference number: 2016-25482

II.1.2. Main CPV code

75211200 Foreign economic-aid-related services

II.1.3. Type of contract

Services

II.1.4. Short description

The contract is for an implementing partner to implement Danish support to Rule of Law and Human Rights in Myanmar under the Denmark-Myanmar Country Programme 2016-2020.

II.1.5. Estimated total value

II.1.6. Information about lots

This contract is divided into lots: no

II.2. Description

II.2.3. Place of performance

NUTS code: DKZ Extra-Regio NUTS 1

Main site or place of performance: Myanmar.

II.2.4. Description of the procurement

The contract is for an implementing partner to implement Danish support to Rule of Law and Human Rights in Myanmar under the Denmark-Myanmar Country Programme 2016-2020.

The award of contract is subject to approval of the Country Programme by the Danish appropriating authorities and the Government of Myanmar.

The support for Rule of Law and Human Rights has as its objective to contribute to 'increased application of and respect for international human rights standards and rule of law in Myanmar's justice system'.

The objective will be promoted by strengthening capacities in key justice sector actors with a focus on human rights education and research at universities, stronger lawyer and CSO networks to advance human rights through litigation and advocacy, and enhanced capacity of formal justice sector actors (the Office of the Union Supreme Court, the Union Attorney General's Office (UAGO)) to apply human rights law and judicial and procedural ethics in its decisions and functions.

The following outputs are expected:

- Human rights education established at two universities
- Access to human rights knowledge through human rights resource centers
- Enhanced access to justice through university legal aid clinics
- Evidence-based policy discourse on human rights, rule of law and justice sector reform
- Capacity of CSOs to monitor and document human rights violations and advocate for effective responses developed
- Capacity of lawyers' network to advance human rights improved through litigation
- Capacity in independent bar association to advise lawyers on human rights increased
- Judicial capacity to incorporate human rights law and standards in its decisions and assert its independence improved
- Capacity at UAGO to incorporate human rights in decisions and legal drafting enhanced

While different support will be applied for the different partners a sustained capacity development approach that relies largely on mentoring, training of trainers and institutionalization of training capacity will as far as possible be applied.

The Implementing Partner should provide 3 long term legal/human rights specialists with international experience and expectedly 8 long term local legal experts. In addition, the Implementing Partner will be responsible for managing the whole Development Engagement, e.g. short-term input, scholarships, procurement of equipment planned for the different outputs, etc.

The Implementing Partner will be responsible for day to day management and implementation of the Development Engagement, including technical assistance to all counterpart institutions and partners, planning and financial management. The Implementing Partner should have thorough experience in human rights and justice sector reform, and be able to bring on board

qualified short-term experts — both international and local, to complement the long term TA as and when relevant to assist the Myanmar counterpart institutions and partners.
The Implementing Partner is expected to be able to start implementation of the contract no later than 1.2.2017.

II.2.5. Award criteria

Price is not the only award criterion and all criteria are stated only in the procurement documents

II.2.6. Estimated value

II.2.7. Duration of the contract, framework agreement or dynamic purchasing system

Start: 01/01/2017 End: 31/12/2020

This contract is subject to renewal: no

II.2.9. Information about the limits on the number of candidates to be invited

Envisaged number of candidates: 5 Objective criteria for choosing the limited number of candidates:

Selected on the basis of most relevant project references presented in the ESPD seen in relation to the services to be provided, cf. description in section II.2.4).

Emphasis will be on relevant experience with capacity development of judges and judicial officers in courts, staff at public prosecutors' offices, as well lawyers, university law departments and CSOs in regard to to rule of law and human rights, and relevant experience from Myanmar. The two parameters will have equal importance.

II.2.10. Information about variants

Variants will be accepted: no

II.2.11. Information about options

Options: no

II.2.13. Information about European Union funds

The procurement is related to a project and/or programme financed by European Union funds:
no

II.2.14. Additional information

The award of contract is subject to the final approval of the programme by the relevant authorities.

Section III: Legal, economic, financial and technical information

III.1. Conditions for participation

III.1.2. Economic and financial standing

List and brief description of selection criteria:

Using the ESPD, the applicant should quote its annual turnover for the last three available accounting years.

The information should be provided in the ESPD, Part IV, B: Economic and financial standing, section 1a.

Unless the information is publicly and electronically accessible free of charge, the documentation for the turnover quoted in the ESPD should be included in the e-mail with the

ESPD. The documentation should be in the form of financial statements or extracts from the financial statements or a statement of the undertaking's overall turnover certified by a chartered accountant or certified public accountant.

Minimum level(s) of standards possibly required:

20 000 000 DKK each accounting year.

If the applicant is a joint venture, the joint venture shall, as a whole, meet the minimum conditions related to economic and financial standing. In that case, each member shall submit a completed and signed ESPD.

If the applicant relies on the capacity of others, the turnover is calculated as the sum of the turnover of the applicant and the other entity's (or entities') turnover.

An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links, which it has with them. Where an economic operator wants to rely on the capacities of other entities, it should prove to the contracting authority that it will have at its disposal the resources necessary, for example, by producing a commitment by those entities to that effect. The letter of commitment or relevant documentation shall establish the legal commitment of the party concerned to support the applicant for the full contract period. A template for a letter of commitment is available at <http://um.dk/en/danida-en/business/contracts/long/contract-opportunities>

Such entities, including the parent company of the candidate, must respect the same rules of eligibility, and must comply with the conditions as stated in this contract notice (see section VI. 3)). Such an entity must also submit a completed and signed ESPD.

III.1.3. Technical and professional ability

List and brief description of selection criteria:

Using the ESPD, the applicant should provide:

a) a list of no more than ten project references of contracts or project agreements (entered or finalized) in the last 3 years of the most relevant services provided (cf. section II.2.4)). The information should include a description of the assignment and the services provided, the contract sum, dates (its duration), and the name of the client. Information should be entered in the ESPD, Part IV, C, section (1b).

No documentation will be required for the information provided in the ESPD regarding project references of contracts.

b) a description of the technical facilities and measures used by the economic operator for ensuring quality of the services. Information should be entered in the ESPD, Part IV, C, section (3).

Documentation in the way of a certificate or description of the quality assurance system should be provided when forwarding the ESPD.

Minimum level(s) of standards possibly required:

If the applicant is a joint venture, the joint venture shall, as a whole, meet the minimum conditions related to technical and professional ability. In that case, each member shall submit a completed and signed ESPD. Note that no more than 10 project references must be presented for the joint venture as a whole.

Regarding a): 3 relevant reference(s) of contract(s) or project agreements (entered or finalized) in the last three years; Of these:

Minimum 1 relevant contract for capacity development of public justice sector institutions (judiciary, attorney general's office)

Minimum 1 relevant contract for capacity development of university law departments in the area of human rights education.

Minimum 1 relevant contract for capacity development of CSO(s) and/or lawyers with regard to rule of law and human rights standards.

Minimum 1 of the above references must be for services/activities in Myanmar.

One project reference may cover more than one of the above.

Regarding b): An EN ISO 9001 certification or similar, or another operating quality assurance and management system.

An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links, which it has with them. With regard to criteria relating to the educational and professional qualifications or to the relevant professional experience, economic operators may however only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required.

Where an economic operator wants to rely on the capacities of other entities, it should prove to the contracting authority that it will have at its disposal the resources necessary, for example, by producing a letter of commitment by those entities to that effect. The letter of commitment or relevant documentation shall establish the legal commitment of the party concerned to support the applicant for the full contract period. A template for a letter of commitment is available at <http://um.dk/en/danida-en/business/contracts/long/contract-opportunities>. Such entities, including the parent company of the candidate, must respect the same rules of eligibility, and must comply with the conditions as stated in this contract notice (see section VI. 3). Such an entity must also submit a completed and signed ESPD.

III.2. Conditions related to the contract

III.2.2. Contract performance conditions

The winner of the contract will be required to perform the services in compliance with the Danida Anti-corruption Code of Conduct and the principles of the UN Global Compact.

A group of economic operators will be required to enter a joint venture agreement.

Where a joint venture is proposed, the Ministry of Foreign Affairs of Denmark and The Danish Embassy in Myanmar will require that all members of the joint venture are jointly and severally liable.

Section IV: Procedure

IV.1. Description

IV.1.1. Type of procedure

Restricted procedure

IV.1.3. Information about a framework agreement or a dynamic purchasing system

IV.1.8. Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: yes

IV.2. Administrative information

IV.2.2. Time limit for receipt of tenders or requests to participate

Date: 30/09/2016 Local time: 10:30

IV.2.3. Estimated date of dispatch of invitations to tender or to participate to selected candidates

IV.2.4. Languages in which tenders or requests to participate may be submitted

English

IV.2.6. Minimum time frame during which the tenderer must maintain the tender

Duration in months: 2 (from the date stated for receipt of tender)

Section VI: Complementary information

VI.1. Information about recurrence

This is a recurrent procurement: no

VI.2. Information about electronic workflows

Electronic invoicing will be accepted

Electronic payment will be used

VI.3. Additional information

The tender procedure is subject to the law of Denmark and the rules applicable hereunder.

Any legal entity may only submit one application.

No restrictions on nationality.

The pre-qualification applications (ESPD and documentation) should be submitted using the ESPD file available on <http://um.dk/en/danida-en/business/contracts/long/contract-opportunities>

A signed electronic version of the ESPD (pdf file) preferably along with supporting documentation for the claims provided in the ESPD, unless it is publicly and electronically accessible free of charge, must be received by the Contracting Authority at the address stated in section I.1) before the time limit stated in section IV.2.2) of this Contract Notice.

The Contracting Authority shall exclude an economic operator from participation in a procurement procedure where they have established that the applicant is covered by the exclusion grounds listed in the Danish Public Procurement Act, (Udbudsloven) §135 and §136 (EU Directive 2014/24/EU, article 57(1)-(3), and article 57 (4)(e),(f) and (h).) (i.e. Grounds relating to criminal convictions, grounds relating to the payment of taxes or social security contributions, Grounds relating to conflicts of interests or distortion of competition from the prior involvement of the economic operators in the preparation of the procurement procedure, if this cannot be remedied by other, less intrusive measures, guilty of serious misrepresentation of information.)

The Contracting Authority will exclude an applicant from the procurement procedure if the applicant is in a situation covered by the Danish Public Procurement Act (Udbudsloven) §137, stk. 1, no. 2. (EU Directive 2014/24/EU, article 57 (4) (b).) (i.e. Grounds relating to insolvency).

Applicants should include documentation with the ESPD for the claims given in the ESPD proving the absence of grounds for exclusion, as stipulated in the Danish Public Procurement Act § 135, stk. 1 and 3, and §137 stk. 1, no 2. (EU Directive 2014/24/EU, article 57 (1), article 57 (2), and article 57 (4)(b)). (i.e. Grounds relating to criminal convictions, the payment of taxes or social security contributions and grounds relating to insolvency). For Danish applicants documentation can be presented in the form of a 'serviceattest'.

Entities from other EU member states may identify the relevant certificate(s) using the online platform e-Certis. Where the country in question does not issue such documents or certificates, or where these do not cover all the cases specified, they may be replaced by a declaration on oath or, in countries where there is no provision for declarations on oath, by a solemn declaration made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country where the economic operator is established.

The Ministry reserves the right — but is not obliged — to use the remedies provided for in the Danish Public Procurement Act, §159, stk. 5, if applications or tenders do not fulfil the formalities of the tender documents. (EU Directive 2014/24/EU, article 56 (3))

Rationale for not splitting the contract up into lots (cf. Danish Public Procurement Act §49, stk. 2): The character of the services to be provided makes it unsuitable for distributing over several lots.

The Client opposes exclusive agreements with sub-consultants, be they organisations or individuals.

VI.4. Procedures for review

VI.4.1. Review body

Official name: Klagenævnet for Udbud, Erhvervsstyrelsen (The Complaints Board for Public Procurement, Danish Commerce and Companies Agency)

Postal address: Dahlerups Pakhus Langelinie Allé 17

Town: Copenhagen Ø

Postal code: 2100

Country: Denmark

E-mail: klfu@erst.dk

Telephone: +45 35291095

Internet address: <http://klfu.dk>

VI.4.3. Review procedure

Precise information on deadline(s) for review procedures:

Precise information on deadline(s) for lodging appeals pursuant to the Danish Act on Enforcement of the Procurement Rules, etc. (the Act is available at www.retsinformation.dk), the following deadlines apply to the lodging of appeals:

Appeals for not having been prequalified must be submitted to the Danish Complaints Board for Public Procurement (Klagenævnet for Udbud) within 20 calendar days calculated from the day after the day when the contracting authority has notified the applicants concerned which applicants have been prequalified provided that the notification has included a short explanation of the relevant grounds for the decision.

In other situations, appeals regarding tender procedures must be lodged with the Complaints Board for Public Procurement within:

1) 45 calendar days after the contracting authority has published a notice in the Official Journal of the European Union that the contracting authority has concluded the contract. The deadline is calculated from the day after the day when the notice was published.

2) 30 calendar days calculated from the day after the day when the contracting authority has notified the applicants concerned that a contract based on a framework agreement with reopening of competition or a dynamic purchasing system has been entered into if the notification has included a short explanation of the relevant grounds for the decision.

3) 6 months after the contracting authority has entered into a framework agreement calculated from the day after the day when the contracting authority has notified the applicants and tenderers concerned, see section 2(2) of the Act.

The complainant must no later than at the same time as lodging the appeal with the Complaints Board for Public Procurement notify the contracting authority that an appeal has been lodged with the Danish Complaints Board for Public Procurement and whether the appeal has been lodged within the standstill period, see section 3(1) of the Act. In the event that the appeal has not been lodged within the standstill period, the complainant must furthermore indicate whether he has requested a suspensory effect of the appeal, see clause 12(1) of the Act.

The e-mail address of the Complaints Board for Public Procurement is set out in section VI. 4.1).

The Complaints Board's own complaints procedure is available at www.klfu.dk

VI.4.4. Service from which information about the review procedure may be obtained

Official name: Konkurrence- og Forbrugerstyrelsen (Danish Competition and Consumer Authority)

Postal address: Carl Jacobsens Vej 35

Town: Valby

Postal code: 2500

Country: Denmark

E-mail: kfst@kfst.dk

Telephone: +45 41715000

Fax: +45 41715100

Internet address: www.kfst.dk

VI.5. Date of dispatch of this notice

30/08/2016