



Dienst Justitiële Inrichtingen
Ministerie van Justitie en Veiligheid

Explanation tender types and completion of appendices

Appendix 3

Telephony for Detainees for DJI

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Introduction

This appendix specifies the options and conditions for submission of a Request to Participate in a procurement procedure. A Candidate can submit a Request to Participate in various capacities:

- Sole tenderer, without subcontracting.
- Sole tenderer, with subcontracting.
- Joint venture, without subcontracting.
- Joint venture, with subcontracting.

You will also find information here about how to complete form A (the European Single Procurement Document) and form B (Participation Form and Statement of Agreement, hereinafter referred to as: 'Participation Form'). Please note: the European Single Procurement Document will automatically fill in the answers that are positive in your case. It will, however, still be your responsibility to verify that this was done correctly.

1.1 Sole Tenderer

A company can submit a Request to Participate as a sole economic operator, with or without the use of subcontracting. For a sole tender, you must:

Participation Form

- Complete the Participation Form, sign it in a legally valid manner, and enclose it with your Request to Participate.

European Single Procurement Document

- Complete the European Single Procurement Document in full, unconditionally, and without any reservations, sign it in a legally valid manner, and enclose it with your Request to Participate.

1.2 Joint Venture

In case of a joint tender by a Joint Venture, at least 2 of the companies involved must jointly submit a Request to Participate. The joint tenderers must appoint one of the partners in the Joint Venture as the lead tenderer who will be the point of contact for the Joint Venture. The lead tenderer must have full authority to make and rescind decisions on the Joint Venture's behalf.

Participation Form

One Participation Form must be submitted on behalf of the Joint Venture. Part 2 'Statement of agreement on joint and several liability' of the 'Participation Form and Statement of Agreement' must be completed in full;

- All members of the Joint Venture must be specified in Part 2 of the Participation Form, along with a brief description of the work to be carried out by each of the partners as part of the Contract (roles of the various members of the Joint Venture);
- By filling in and signing the Participation Form, the members of the Joint Venture accept joint and several liability (of all members of the Joint Venture) for full and correct compliance with all obligations towards the Contracting Authority ensuing from/associated with the Contract, if the Contract were to be awarded;
- When submitting your Request to Participate, the Participation Form must be signed solely by the lead tenderer's legal representative. Only Selected Candidates will, at the Contracting Authority's request, be required to submit the Participation Form again, but then also signed by the legal representatives of the other members of the Joint Venture.

European Single Procurement Document

- Each of the joint tenderers in a Joint Venture must complete the European Single Procurement Document in full, unconditionally, and without any reservations, sign it in a legally valid manner, and submit it along with your Request to Participate.

1.3 Third party and subcontractor

A Candidate may also involve other entities as subcontractors or third parties in their Request to Participate. Such an entity will generally be a company, but it can also be a natural person, i.e. an individual. Third parties and subcontractors are not classed as Candidates. Subcontractors and third parties can, therefore, not be awarded the Contract. Neither are subcontractors and third parties a party to any Agreement entered into based on this procurement procedure and no rights can be derived from

this. They cannot be held jointly and severally liable either for compliance with any obligations ensuing from the Agreement.

- The services of a subcontractor are used in the performance of the Contract.
- A third party is an entity on whose means/capacity the Candidate relies to be able to meet an eligibility requirement.

1.3.1 Reliance on a third party to meet eligibility requirements

In all of the above cases, the Candidate may rely on a third party to meet eligibility requirements. This would then be intended to meet eligibility requirements with respect to financial and economic capacity and/or technical and professional competency, as specified in the Selection Guidelines. This is subject to the following:

Participation Form

- You must fill in Part 3A of the Participation Form and include the details of every third party involved. You must also provide a brief description of what you are relying on;
- The third party must confirm that they actually have the means that the Candidate relies on and that they are willing to make these means available for performance of the Contract;
- When submitting your Request to Participate, the Participation Form must be signed solely by the Candidate themselves or by the legal representative of the lead tenderer of a Joint Venture.

European Single Procurement Document

- The Candidate or the lead tenderer of a Joint Venture must complete Part II, Section C, of the European Single Procurement Document for themselves and for all other members of the Joint Venture. The following details must be provided here: the name of the third party relied upon and what eligibility requirement this is intended to meet;
- Every third party must also complete a European Single Procurement Document of their own, which the Candidate or Joint Venture must append to the Request to Participate.

Reliance on a third party to meet eligibility requirements with respect to:

- financial and economic capacity

The Candidate may rely on the means of one or multiple third parties to meet the eligibility requirement with respect to financial and economic capacity specified in Chapter 3 of the Selection Guidelines, regardless of the legal nature of the Candidate's ties to the third party or parties.

This is on the condition that the Candidate can show that they will be able to dispose of the means required for the performance of this Contract during the term of the Agreement by submitting a copy of an agreement to this effect (such as a draft collaboration agreement) with the third party or parties.

If the Candidate relies on the means of the holding, one of the following statements will also be accepted, provided it was signed in a legally valid manner as per the relevant trade register extracts:

- A statement based on Section 2:403 of the Dutch Civil Code;
- A guarantee provided by the parent company showing that the holding or the parent group will act as guarantor for the Candidate if the Contract is awarded, in full and unconditionally, for compliance with all obligations ensuing from the Agreement(s) to be entered into for the Contract.

Reliance on a third party to meet eligibility requirements with respect to:

- technical and professional competency

In order to prove compliance with the eligibility requirement(s) with respect to technical and/or professional competency specified in Chapter 3 of the Selection Guidelines, the Candidate may rely on the competency and references of a third party (subcontractor and/or group companies), on the condition that a written statement by this third party be submitted (such as a draft collaboration agreement) confirming that this third party can and will actually be deployed for the performance of this Contract.

1.3.2 Subcontracting

You may subcontract part of the Contract. When subcontracting/main contracting, the Candidate will not be allowed to, during the contract term, subcontract performance of the Contract to parties other than those specified in the Request to Participate without the Contracting Authority's specific written consent. A Request to Participate with subcontracting is subject to the following instructions and conditions.

Subcontractor who is also a third party whose suitability is relied upon

Participation Form

- You must fill in Parts 3A and 3B of the Participation Form and include the details of every subcontractor used. You must also provide a brief description of the work to be carried out by the main contractor and individual subcontractor(s), i.e. what work and what part of the work, as part of the Contract (division of work between the main contractor and (various) subcontractor(s) that you are relying on);
- In Part 3B of the Participation Form, the Candidate accepts full responsibility and liability for the performance of the subcontracted work and the results thereof;
- When submitting the Request to Participate, the Participation Form must be signed solely by the Candidate themselves or by the legal representative of the lead tenderer of the Joint Venture.

European Single Procurement Document

- If the Candidate uses a subcontractor or subcontractors, and relies on this subcontractor or these subcontractors to meet eligibility requirements (which means that the subcontractor will be a 'third party'), the Candidate must state this on the European Single Procurement Document: Part II, Section C;
- Besides the Candidate, each subcontractor must complete the European Single Procurement Document, sign it in a legally valid manner, and append it to the Request to Participate.

Subcontractor who is not also a third party whose suitability is relied upon

Participation Form

- You must fill in Part 3B of the Participation Form and include the details of every subcontractor used. You must also provide a brief description of the work to be carried out by the main contractor and individual subcontractor(s), i.e. what work and what part of the work, as part of the Contract (division of work between the main contractor and (various) subcontractor(s) that you are relying on);
- In Part 3B of the Participation Form, the Candidate accepts full responsibility and liability for the performance of the subcontracted work and the results thereof;
- When submitting the Request to Participate, the Participation Form must be signed solely by the Candidate themselves or by the legal representative of the lead tenderer of the Joint Venture.

European Single Procurement Document

- If part of the Contract will be subcontracted without relying on this subcontractor to meet eligibility requirements, i.e. the subcontractor is not a third party, the Candidate must state this in Part II, Section D, of the European Single Procurement Document;
- The subcontractor(s) used will then not have to complete the European Single Procurement Document and append it to the Request to Participate.