



Procurement guide on the European tender under the open procedure for:

Hydraulic testing boreholes, feasibility phase Einstein Telescope Euregio Meuse-Rhin

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Contracting authority: NIKHEF
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Table of contents

1.	Introduction	4
1.1.	Introduction project Einstein Telescope	4
1.2.	Tender designation	4
1.3.	Contracting authority	4
1.4.	Contact	4
1.5.	Documents	4
1.5.1.	Tender documents	4
1.5.2.	Mandatory use of supplied documents	5
1.5.3.	Ranking documents	5
1.5.4.	European Single Procurement Document (ESPD)	5
2.	Description of the assignment/agreement	5
2.1.	Description assignment.....	5
2.1.1.	Prices	5
2.1.2.	Invoicing and payment	6
3.	The tendering process	6
3.1.	Type of procurement procedure.....	6
3.2.	Planning tender procedure	6
3.3.	Note of Information.....	6
3.4.	Tender procedure.....	8
3.4.1.	Documents	8
3.4.2.	Completing/signing documents	8
3.5.	Tender conditions.....	8
3.5.1.	General conditions	8
3.5.2.	Reserve	9
3.6.	Confidentiality and privacy statement	10
3.6.1.	Procurement confidentiality.....	10
3.7.	Taxation, environmental protection, labour protection and working conditions obligations...	10
3.8.	Minutes of opening of tenders.....	10
4.	Eligibility requirements	10
4.1.	Eligibility requirement: reference(s)	10
5.	Award criterion and methodology	10
5.1.	Award criterion	10
5.2.	Assessment methodology	11

5.3.	Best value for money	11
5.4.	Sub-award criterion Price	11
5.5.	Sub-award criterion Quality	11
5.6.	Sub-award criterion 1: Technical description for Borehole Measurements	12
5.7.	Assessment of sub-award criteria Quality	13
5.8.	Notice of award decision (Intention to award)	14

1. Introduction

1.1. Introduction project Einstein Telescope

The Einstein Telescope will be an advanced observatory for gravitational waves. The border region of the Netherlands, Belgium and Germany is in the picture as a possible location. This is because of its tranquillity, stable soil, and strong ecosystem of knowledge institutions and high-tech companies. Researchers, companies and governments in the Netherlands, Belgium and Germany are jointly exploring the possibilities. The ultimate goal is to build the Einstein Telescope in the Meuse-Rhine Euroregion. For more info see <https://www.einsteintelelescope.nl/en/>.

Project office ET

The Project Office ET, based in Maastricht, is carrying out a feasibility study. This phase includes activities within various disciplines (project management, contract management, technical management, environmental management, project control). The project office uses the IPM (Integrated Project Management) model. The management of the project office is conducted jointly by the delegated principal on behalf of the Province of Limburg and the director of Nikhef.

1.2. Tender designation

This document is the Procurement Guide of the European tender under the open procedure for: "Hydraulic testing boreholes, feasibility phase Einstein Telescope Euregio Meuse-Rhin". The reference of this tender is: P2.1_042.

1.3. Contracting authority

The contracting authority, also the future Client, is Nikhef (hereinafter referred to as "Nikhef", or "*Client*".) Further information about Nikhef as an organization is published on this webpage: <https://www.nikhef.nl/>.

Visiting address: Duboisdomein 30, 6229 GT, Maastricht
 Postal address: P.O. Box 41882, 1009 DB, Amsterdam
 Website: <https://www.nikhef.nl>

1.4. Contact

The contact person for this tender is:

Name	J. Kerstjens	Phone	+31 6 34 84 76 67
Function	Manager Project Management	Email	j.kerstjens@et-emr.eu

PLEASE NOTE: It is only permitted to contact the above contact person at Nikhef in connection with this tender procedure. It is therefore **not permitted to contact** other employees of Nikhef / members of the Project Office ET.

1.5. Documents

1.5.1. Tender documents

The following annexes belong to this Tender Guidelines:

Annex 1	the Assignment Description
Annex 2	Nikhef's General Conditions of Purchase for Supplies and Services. https://www.nwo-i.nl/en/nwo-institutes-organisation/about-nwo-i/purchaseandsalesterms/
Annex 3	Price sheet

1.5.2. Mandatory use of supplied documents

Various documents to be completed will be made available under this tender. Tenderers are required to make use of these documents. Tenderers may not make any changes to these documents other than completing the requested information

1.5.3. Ranking documents

To the extent that the documents below contradict each other, the higher mentioned document prevails over the lower mentioned one:

1. note(s) of Inquiry*;
2. this Tender Guidelines;
3. the Assignment Description incl. Appendix (**ANNEX 1**);
4. Nikhef's General Conditions of Purchase for Supplies and Services (**ANNEX 2**);
5. your application.

*If several information notes have been published, in the event of contradictions between them, the provisions of the most recent information note shall prevail.

1.5.4. European Single Procurement Document (ESPD)

The European Single Procurement Document (ESPD) is a self-declaration on: financial condition, abilities and suitability of an economic operator for a procurement procedure and is part of the present tender (**ANNEX 4**). Part V is not applicable.

The ESPD does not need to be signed separately. A signature under the registration/notification/price sheet also counts as a signature of the ESPD.

2. Description of the assignment/agreement

2.1. Description assignment

The subject of the tender is to carry out hydraulic tests in the boreholes being realized as part of the Einstein Telescope Euregio Meuse-Rhine feasibility study.

For a full description of the assignment and the related conditions and requirements, please refer to the Assignment Description included as **ANNEX 1**.

If a circumstance terminates the feasibility study, the agreement with the contractor shall also terminate.

2.1.1. Prices

Both the Client and the tenderer shall agree the (unit) prices and (hourly) rates as stated by the winning tenderer on the Price Sheet to be submitted with the tender (**ANNEX 3**). In doing so:

- All quoted (unit) prices and (hourly) rates are exclusive of VAT, but inclusive of other taxes and levies.
- All quoted (unit) prices and (hourly) rates correspond to the complete work and/or services and/or supplies. Costs not included in the prices will not be reimbursed unless otherwise indicated in the tender documents.
- All quoted (unit) prices and (hourly) rates agree including [travel costs, accommodation costs, call-out costs, administration costs, packaging and shipping costs, printing costs, etc.].

- The quoted (unit) prices, (hourly) rates, fees, etc. are fixed and unchangeable during the entire term of the agreement. This means that the quoted (unit) prices, (hourly) rates, fees are not indexed during the entire term of the agreement (including optional extension periods).

2.1.2. Invoicing and payment

Both the Client and the tenderer agree on the following billing schedule:

- Billing per location based on payment statement approved by Client.

To ensure prompt payment of invoices, they should be sent to the following e-mail address: finances@nikhef.nl

As the formal billing address, you should always include the following postal address on your digital invoices:

*Nikhef
Project Einstein Telescope
Attn: Mr A. van Rijn
PO Box 41882
1009 DB Amsterdam*

Except to the extent deviated from in this paragraph, the provisions of the General Conditions of Purchase (**ANNEX 2**) apply with regard to invoicing and payment.

3. The tendering process

3.1. Type of procurement procedure

Procurement will take place in accordance with the Procurement Act 2012, revised version 2016.

3.2. Planning tender procedure

Date	Activity
24-08-2023	Announcement TED / TenderNed
20-09-2023, 23:59	Deadline and time for submission of questions.
27-09-2023	Send Note of Information I.
11-10-2023, 23:59	Deadline and time for submission of tenders.
16-10-2023	Send Verbal of Tenders and written notification of award decision / intention to award
From 17-10-2023 to 7-11-2023	Suspension period
8-11-2023	Send final award.
13-11-2023	Start date of agreement.

Please note! The dates and times in bold in the above schedule are final dates. The other dates are indicative and not binding. The Client reserves the right to adjust the schedule for both final and indicative dates in the interim. Tenderers should take this into account.

3.3. Note of Information

- One round of questions will be held as part of this tender. Tenderers can ask questions about both the tender procedure and the (performance of the) contract.
- The deadline and time for asking questions is included in the schedule (**section 3.2**).

- Questions can be sent via TenderNed.
- The answers to these questions will be made available by the scheduled date (**section 3.2**).
- The questions asked and the answers provided to them together constitute the Note of Information.
- The Note of Information is an explicit part of the tender documents.
- Client reserves the right to provide information on its own initiative. This information will then form part of the Note of Information.
- At the same time as the Supplementary Information Document at the latest, the principal will announce whether the questions asked have given rise to the amendment of one or more tender documents and, if so, to what extent these documents will be amended.
- All documents pertaining to this tendering procedure have been compiled with due care. If a Tenderer encounters any inconsistencies, ambiguities and/or inadequacies in the Tender Guidelines (including appendices) and/or the Tender Specifications, the Tenderer should make these known at its earliest convenience or ask questions and/or make any objections known. This is possible up to and including the deadline for submitting questions within the framework of the Information Notice. If the tenderer fails to make use of the opportunity offered, this will be at the tenderer's risk. In that case, both the Client and the other tenderers may assume that the tenderer has no objections to the tender procedure and to the provisions and requirements included in the tender documents. By tendering, the tenderer explicitly and unreservedly waives any right to raise objections to the tender procedure and/or to the provisions and requirements included in the tender documents after tendering.

3.4. Tender procedure

3.4.1. Documents

The documents below should be supplied at the time of application:

Document		Annex	Sign
1	Price sheet	Annex 3	Yes
2	European Single Procurement Document (ESPD)	Annex 4	No
3	Reference	N/A	No
4	Project plan for Borehole Measurements	N/A	No

3.4.2. Completing/signing documents

Some of the Annexes to this Guidelines are documents that must be signed at the time of application. You should print and sign these documents, after which these documents should be made available to the Client in scanned form. At the Client's request (if any), the winning tenderer should provide the original documents prior to award.

The Price Sheet (**ANNEX 3**) must be *fully* completed and duly *signed*.

3.5. Tender conditions

3.5.1. General conditions

With regard to the tender to be submitted, the following general conditions will be applied:

Legal framework procurement procedure

- This multiple-negotiated procurement procedure is subject to Nikhef's Purchasing and Procurement Policy.
- The relevant provisions of Chapter 1 of the Procurement Act 2012 also apply to this multiple private tender procedure.
- For the rest, this tender procedure is governed by Dutch law.

Application rules

- This invitation to tender is not a contract nor can it be construed as such. No rights may therefore be derived from this invitation.
- Making a application is only possible through TenderNed.
- Tenders must be submitted by the deadline and time for submission of tenders (= 'the closing date') specified in the schedule (section 3.2).
- A tender must be in accordance with the provisions of the tender documents, including the provisions of: the Tender Guidelines, the Assignment Description (**Annex 1**), the associated appendices and the Note(s) of Information. By submitting a tender, Tenderers declare that they agree to all that the Client has prescribed in the Tender Documents.
- A tender with conditions attached or which does not comply with the rules, requirements and conditions set out in the tender documents is **invalid**.
- Subject to the statutory power, but not a duty, of the principal to request (further) information and to enable a tenderer to rectify certain shortcomings in its tender, tenders that do not comply with the stipulated regulations, requirements and conditions, as included in tender documents (Procurement Guide, Assignment Description, etc.) are **invalid**.

- The Client conforms to the provisions of the Tender Cost Reimbursement Guide (October 2018). Pursuant to the provisions of this Guide, the Client will not incur any costs for a tender. In the event that a tender does not result in an award, there will therefore be no entitlement to reimbursement of any costs incurred.
- Tenders should be valid for 30 (thirty) days from the deadline for receipt of tenders. In the event of summary proceedings in connection with this tender procedure, the validity of the submitted tender shall be automatically extended to eight days after the ruling in summary proceedings.
- Appendices are attached to these Tender Guidelines which must be completed in full and/or the questions set out therein must be answered in full, both generally and specifically. If the tenderer decides not (or not able to) answer a question, it must indicate this explicitly and with reasons, before the deadline and time mentioned in the schedule for submitting questions in the context of the Memorandum of Information I. It is emphasized that the commissioning authority reserves the right not to further consider incomplete tenders.
- The risk of missing information and/or answers due to incorrect or incomplete adoption of statements, data and declarations rests with the Tenderer. Depending on the nature and extent of the omission or inaccuracy, this may result in exclusion.
- The documents or data provided by bidders upon submission or otherwise in connection with the present tender procedure will not be returned upon completion;
- In performing the work, the Contractor guarantees that no infringement of any copyright or any other proprietary right of third parties will be made. The Contractor shall indemnify and hold the Client harmless for all damages and costs arising from any infringement or alleged infringement of any third party property right. The Contractor expressly waives intellectual property rights.
- If any changes occur or threaten to occur in your business operations that affect the progress of the tender, you should notify the contact person of this tender as soon as possible.
- Where brand names and/or versions are used in these Tender Guidelines, the Tender Specifications (**ANNEX 1**), the other appendices and/or Memorandum(s) of Information, or where standards, programmes, patents or types, or a certain origin or production are indicated, these should be read with the addition: "*or equivalent*".

3.5.2. Reserve

The Client reserves the right until the moment of final award, without more and without being liable for damages in any way (for example, for: compensation of tender costs, lost profit or other damages):

- suspend or abort the tender procedure in the interim;
- change the timing of the tender process and/or the contract;
- not to award the contract at all.

The Client therefore has no obligation to award the contract. By submitting a tender, the tenderer agrees to this reservation.

3.6. Confidentiality and privacy statement

3.6.1. Procurement confidentiality

All information provided and received in the context of this tender will be treated as confidential. This publication may only be used in the context of this tendering procedure. All tenders received under the tender become the property of Nikhef upon receipt and will also be treated confidentially.

3.7. Taxation, environmental protection, labour protection and working conditions obligations

Tenderers are obliged to comply with the laws and regulations in force in the Netherlands on taxation, environmental protection, labour protection and working conditions. Further information in this regard is available from:

- Inland Revenue, for tax provisions: www.belastingdienst.nl
- Ministry of Infrastructure and the Environment, for provisions on environmental protection: www.rijksoverheid.nl/ministeries/ienm
- Ministry of Social Affairs and Employment, for provisions on employment protection and working conditions: www.rijksoverheid.nl/ministeries/szw, such as: the Foreign Nationals (Employment) Act (WaV)¹ and the Act on Tackling Shadow Constructions (WaS)².

3.8. Minutes of opening of tenders

The Client shall prepare a record of the opening of tenders received in time. This official record will be sent to all tenderers as soon as possible after the opening of tenders.

4. Eligibility requirements

There is 1 eligibility requirement under this tender procedure. Bidders must meet this suitability requirement.

4.1. Eligibility requirement: reference(s)

For the performance of the contract, a Tenderer must possess sufficient technical and professional competence. In this context, a Tenderer should possess the core competency listed below, which should be demonstrated by submitting one or more **references**.

Core competence 1

The company has minimal 20 similar hydraulic testing and fracking projects

5. Award criterion and methodology

5.1. Award criterion

The award criterion for this tender is the **Economically Most Advantageous Tender**, which in this tender is determined on the basis of **Best Price-Quality Ratio ("BPKV")**. Tenders will be assessed against this award criterion.

Award will therefore be made to the tenderer:

- whose bid meets the minimum requirements, (technical) specifications, standards and conditions set out in the tender documents;
- who meets the specified suitability requirements;

¹ See also: <https://wetten.overheid.nl/BWBR0007149/2018-01-01>

² See also: <https://wetten.overheid.nl/BWBR0036706/2017-07-01>
Nikhef | European tender | P2.1_042_V1.0

- which offered the Best Price-Quality Ratio.

5.2. Assessment methodology

First, all timely submitted tenders will be checked for completeness. An incomplete tender may be set aside as invalid. The Client may demand a supplement to and/or clarification of the tender or request the submission of certain missing documents/documents, to the extent that this is not contrary to the principles of procurement law. The Client is not obliged to do so.

Once the tender has shown that it meets the minimum requirements and specifications set out in the tender documents, the tender will be assessed on the award criterion (Best Price-Quality Ratio).

When assessing for Quality, an assessment team has been set up. The members of the assessment team first assess each tender individually on Quality. One or more plenary sessions of the assessment team then take place, during which the final assessment of the tenders on Quality is determined by consensus.

The assessment team will not take notice of the Prize until after the assessment on Quality has been completed.

5.3. Best value for money

In assessing the tenders, points are awarded for Price and for Quality. The tender with the highest combined score for Quality and Price will be considered the tender with the Best Price-Quality Ratio.

If several tenderers finish exactly equal, the tender with the highest score for Quality will be regarded as the tender with the Best Price-Quality Ratio. In the unlikely event that several tenderers finish exactly equal on Price and Quality, a draw will be held between them.

Tenders will be evaluated on the basis of the following weighting and scoring:

Sub-award criteria		Maximum number of points	Weighting
1	Price	40 points	40 %
2	Quality	60 points	60 %
Maximum number of points		100 points	100,00%

5.4. Sub-award criterion Price

A maximum of 40 points can be obtained for the sub-award criterion Price. The tender with the lowest tender sum obtains the maximum number of points for the sub-award criterion price, namely: 40 points. Subsequent tenders with their higher tender sums achieve lower scores in accordance with the formula below:

$$Score = \left(\frac{Lowest\ Price\ "LP"}{Price\ registrant\ "Pr"} \right) \times 40\ punten$$

Negative scores will not be awarded, the lowest possible score is 0 points. If applicable, awarded scores will be rounded to 2 decimal places. To complete the prizes, please use the Price Sheet attached as **ANNEX 3**.

5.5. Sub-award criterion Quality

A maximum of 60 points can be obtained for the sub-award criterion Quality. The sub-award criterion Quality will be assessed against 1 further sub-award criterion, viz:

Sub-award criteria Quality		Maximum number of points	Weighting
1	Technical description	60 points	100,00%
Maximum number of points		60 points	100,00%

Per sub-award criterion Quality, the following assessments are possible:

Review	Insufficient	Sufficient	Ample	Good	Excellent
1 Technical description	0 pnt.	15 pnt.	30 pnt.	45 pnt.	60 pnt.

Bidders scoring an '**insufficient**' for the above sub-award criterion on Quality, i.e. 0 points, will be excluded from further participation in the tender. Scoring an insufficient score for the sub-award criterion on Quality is thus considered a so-called '**knock-out**' criterion.

5.6. Sub-award criterion 1: Technical description for Borehole Measurements

The tenderer should submit a Technical description plan for Borehole Measurements, describing how it intends to implement the contract. In doing so, a tenderer should answer at least the following questions:

Subject	Notes
1 Project approach	Describe - after studying the Assignment Description - your proposed project approach with regard to the assignment to be carried out. Technical description including test program, methodology and work steps, statements on quality assurance and safety, installation concept, logistics, supply and disposal concept, a site installation plan and comprehensive information on the operating materials used with safety data sheets
2 Quality assurance	How will you guarantee the quality requested in the Assignment Description, taking into account foreseen and unforeseen circumstances?
3 Role distribution	How do you see the division of roles between Client and contractor in the execution of the assignment? How does the contractor ensure integrality with other disciplines?
4 Communications	In what way and to what extent do you communicate with the Client on the progress of the assignment? In other words, how do you ensure that the Client is adequately informed about the progress of the assignment?
5 Risks	What risks do you see for the success of the assignment? What (management) measures do you recommend to overcome these risks?
6 'Taking a different approach'	Which aspects related to the process would you - after studying the Assignment Description - address differently, if any, and why?
7 Data protection	To what extent are personal data processed as part of the execution of the assignment? With regard to the processing of personal data, how is compliance with the provisions of the AVG ensured?
8 Planning	Indicate how the planning of the measurements can be well coordinated with the drilling work.

- Responses to questions 1 to 8 of the Project plan for Borehole Measurement should be a **maximum of 10 single-sided pages A4 size** (including cover page, table of contents, images, etc.). The font should be Arial (font size 10) or Calibri (font size 11).

5.7. Assessment of sub-award criteria Quality

Each of the Quality sub-award criteria will be assessed by the assessment team as follows:

- **Insufficient (knockout)**
 - The Component is not fully described. The tenderer does not address or insufficiently addresses the requested aspects, resulting in an incomplete picture.
 - The Component is incomplete and/or insufficiently elaborated on essential points.
 - The Part is not realistic.
 - By means of the interpretation described in the Subsection, the tenderer stands out negatively from the other tenderers.
 - The Component does not or hardly meet the Client's expectations.
- **Sufficient**
 - The Component provides a sufficient picture of the interpretation proposed by the tenderer, but otherwise offers little or no added value/added value.
 - The Component is described in sufficient detail. The tenderer addresses most of the requested aspects.
 - The Component is sufficiently elaborated on the most essential points.
 - The interpretation described in the Component is sufficiently clear and relevant to the assignment.
 - The Component is in sufficient realism on the most essential points.
 - By means of the interpretation described in the Subsection, the tenderer does not distinguish itself negatively or positively from the other tenderers.
 - The Component meets the Client's expectations to a limited extent.
- **Ample**
 - The Component provides an ample picture of the infill proposed by the tenderer and also provides some added value/added value.
 - The Component is predominantly fully described. The tenderer addresses almost all requested aspects.
 - The Component is more than adequately developed.
 - The interpretation described in the Component is clear and relevant to the assignment.
 - The Component is realistic on almost all counts.
 - Through the fulfilment described in the Component, the tenderer distinguishes itself positively from the other tenderers in parts.
 - The Component largely meets the Client's expectations.
- **Good**
 - The Component provides a good and complete picture of the interpretation proposed by the tenderer and clearly adds value/added value and/or is innovative to some extent.
 - The Component is fully described. The tenderer addresses all requested aspects.
 - The Component is comprehensively elaborated on the requested points.
 - The interpretation described in the Component is clear and relevant to the assignment.
 - The Part is realistic.
 - The fulfilment described in the Component demonstrates that the tenderer provides a good quality of service.

- Through the fulfilment described in the Component, the Tenderer stands out positively from the other tenderers.
- The Component meets the Client's expectations.
- **Excellent**
 - The Component provides an excellent and very complete picture of the interpretation proposed by the tenderer and also offers a lot of added value/added value and/or is innovative.
 - The Component is fully described. The Tenderer addresses all requested aspects and also contributes additional relevant information.
 - The Component is very comprehensive on the requested points.
 - The Part is realistic.
 - The fulfilment described in the Component demonstrates that the tenderer provides excellent and high quality services.
 - Through the interpretation described in the Subsection, the tenderer stands out very positively from the other tenderers.
 - The Component fully meets or exceeds the Client's expectations.

5.8. Notice of award decision (Intention to award)

Before the contract is (definitively) awarded to the tenderer with the Best Price-Quality Ratio, the Client first sends a so-called *intention to award*. (This is the *notification of the award decision* as referred to in Article 2.130 of the Dutch Procurement Act 2012). This intention to award does not yet imply a final award of the contract. The expression of the intention to award therefore does not yet create a contract, as referred to in Article 6:217 of the Dutch Civil Code. The following applies to the announcement of the award decision:

- a. The tenderer to whom the Client intends to award the contract will receive a written request to provide the evidence within 10 (ten) calendar days.
- b. This evidence should be provided within *10 (ten) calendar days* from the date of request.
- c. If the assessment of the evidence received shows that the tenderer (still) does not comply, the Client will revoke the award decision.
- d. In the event of a situation as referred to under c., the Client may redetermine which tenderer has submitted the Economically Most Advantageous Tender. The Client will then announce a new intention to award.
- e. Unsuccessful tenderers will receive a reason for rejection. This rejection will be sent simultaneously with the intention to award the contract to the successful tenderer. If a tenderer cannot agree with the rejection or exclusion, it must lodge an application for interim relief with the Interim Injunction Judge at the Limburg District Court, location Maastricht, no later than 10 (ten) calendar days after the date of dispatch of the intention to award the contract. This period of ten calendar days is also referred to as the suspension period or standstill period. If the preliminary relief proceedings are not commenced within the stipulated period of ten days, the claim will be declared inadmissible.
- f. By submitting a tender, Tenderers accept a contractual sunset clause, being a ten-calendar-day sunset period for bringing claims related to the present tender. Tenderers also accept to be inadmissible in their claims and to have processed them, should the interlocutory proceedings referred to under b. above be instituted after the aforementioned period of (10) ten calendar days. The limitation period ensures the expediency of the proceedings and it protects the legitimate interests of, inter alia, the winning tenderer in legal certainty.