



Dienst Justitiële Inrichtingen
Ministerie van Justitie en Veiligheid

Explanation of the form of tender and completion of annexes

Annex 4

Bullet Component Ballistic Identification System

For the Netherlands Forensic Institute

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Introduction

This annex describes the options and conditions for submitting a Tender. A tenderer may submit a Tender on the basis of various commercial relationships:

- independent, without subcontracting;
- independent, with subcontracting;
- partnership, without subcontracting;
- partnership, with subcontracting.

This annex also contains explanatory notes for completing Form A 'Uniform European Tender Document' and Form B 'Tender Form and Statement of Agreement'.

Please note: In the 'Uniform European Tender Document', where the answer to a number of questions relating to the grounds for exclusion is 'no' (if the situation in question does not apply), you should still answer 'yes' if the grounds for exclusion do not apply to you. By answering 'yes' you indicate that you are not covered by the grounds for exclusion. Always check carefully that the information entered is correct.

If there are multiple Lots, the conditions below apply for each Lot you are tendering for.

1.1 Independent Tender

A company may submit a Tender independently, with or without subcontracting. The following are required for this purpose:

Tender form and statement of agreement

- Complete the 'Tender form and statement of agreement', legally sign it, and attach it to your Tender.

Uniform European Tender Document

- Complete and attach the 'Uniform European Tender Document' fully, unconditionally and without reservation to your Tender.

1.2 Partnership

In a partnership, two or more companies submit a Tender jointly. The partnership must designate one of its members to act as a point of contact on behalf of the partnership. This treasurer should have full decision-making authority, binding on all members, to act on behalf of the partnership.

Tender form and statement of agreement

- The partnership submits one 'Tender form and statement of agreement'. It is important that part 2 'agreement to joint and several liability' of the 'Tender form and statement of agreement' is completed in full.
- Part 2 of the 'Tender Form and statement of agreement' lists all members of the partnership and includes a brief description of the work to be performed by the individual members in the context of the Assignment (division of roles between the members of the partnership).
- By completing and signing the 'Tender form and statement of agreement', the members of the partnership, in the event of the tender being awarded, agree to accept joint and several liability (of all members of the partnership) for the full and proper performance of all obligations to the Contracting Authority arising from/related to the Assignment.
- The 'Tender form and statement of agreement' should only be signed by the legal representative of the treasurer at the time of Tender. Only the winning tenderer, upon the request of the Contracting Authority, shall submit the 'Tender form and statement of agreement' again, but co-signed by the legally valid representatives of all partnership members.

Uniform European Tender Document

- Information about the partnership should be entered in the 'Uniform European Tender Document' under 'Mode of participation'. Note: Where the Uniform European Tender Document asks whether you are participating together with others, this means 'in combination'. This does not refer to the situation where you tender yourself and engage subcontractors. Each member of the partnership must complete the 'Uniform European Tender Document' fully, unconditionally and without any reservations and submit it with the Tender. This must be legally signed.

1.3 Third party and subcontractor

A tenderer can involve other entities, such as subcontractors or third parties, when tendering. An entity is usually a company but can also be a natural person (i.e. an individual). Third parties and subcontractors are not tenderers. Therefore, subcontractors and third parties cannot claim the award of the Assignment. Subcontractors and third parties are also not parties to an Agreement concluded on the basis of this tender procedure and cannot derive any rights or be held jointly and severally liable for the performance of the obligations arising from the Agreement.

The difference between subcontractor and third party is as follows:

- A subcontractor is engaged for the performance of the Assignment.
- A third party is an entity whose resources/capacity the tenderer relies on to meet an eligibility requirement.

1.3.1 Reliance on a third party in meeting suitability requirements

The tenderer can use one or more third parties to meet the suitability requirements. This may be to meet the suitability requirements set out in the Tendering guidelines regarding financial and economic standing and/or technical and professional competence. The following applies here:

Tender form and statement of agreement

- Fill in Part 3A of the 'Tender form and statement of agreement' and include the details of each engaged third party. Also provide a brief description of what you are relying upon.
- The third party declares that it has the resources relied upon and is willing to deploy them in the context of the Assignment.
- The 'Tender Form and statement of agreement' should be signed by tenderer himself or the legal representative of the partnership's treasurer only at the time of Tender.

Uniform European Tender Document

- The tenderer or the partnership's treasurer completes Part II, section C of the 'Uniform European Tender Document' for itself and for all members of the partnership. The following is filled in here: the name of the third party being relied upon and the suitability requirement for which the third party is being relied upon.
- Each third party also completes and signs its own 'Uniform European Tender Document' (Part IIA, Part IIB and Part III only), which the tenderer or partnership adds to the Tender.

Reliance on a third party for meeting suitability requirements in respect of:

- financial and economic standing

A tenderer may rely on the resources of one or more third parties to demonstrate the in Chapter 4 of the Tendering guidelines as regards financial and economic capacity, regardless of the legal nature of its links with such third party or parties.

This is subject to the condition that the tenderer can demonstrate that it will have at its disposal, during the term of the Assignment, the resources necessary for the performance of this Assignment by submitting a copy of the contract (e.g. a draft cooperation agreement) with such third party/parties, showing this.

If the resources of the holding company are relied upon, one of the following statements, if legally signed and evidenced by the attached relevant extracts from the Chamber of Commerce, will be accepted:

- A statement pursuant to section 2:403 of the Dutch Civil Code, or
- a corporate guarantee showing that the holding company or the parent group, if the Assignment is awarded to the tenderer, fully and unconditionally guarantees compliance with all obligations arising from the Agreement(s) to be concluded for the Assignment.

Reliance on a third party for meeting suitability requirements in respect of:

- technical and professional competence

A tenderer may rely on the competence and references of a third party (subcontractor and/or group companies) in order to demonstrate the technical and/or professional capacity specified in Chapter 4 of the Tendering guidelines, provided that a written statement is provided by this third party (e.g. a draft cooperation agreement) that for the performance of the Assignment this third party can and will be deployed.

1.3.2 Subcontracting

You can subcontract part of the Assignment. In case of main/subcontracting, the tenderer is not permitted to have the Assignment performed out by parties other than specified in the Tender during the contract period without the express written consent of the Contracting Authority. The following tender instructions and conditions apply.

Subcontractor and third party whose suitability is relied upon.

Tender form and statement of agreement

- Complete parts 3A and 3B of the 'Tender form and statement of agreement' and include the details of each subcontractor used. Also provide a brief description of the work to be carried out by main contractor and individual subcontractor(s) (what work and what part of the work) under the Assignment (division of roles between main contractor and (various) subcontractor(s)).
- You declare in Section 3B of the 'Tender Form and Statement of agreement' that you are fully responsible and liable for the performance of the subcontracted work and the results.
- The 'Tender Form and statement of agreement' should be signed by tenderer himself or the legal representative of the partnership's treasurer only at the time of Tender.

Uniform European Tender Document

- If the tenderer engages subcontractor(s) to meet the suitability requirements and uses this subcontractor (the subcontractor is then 'a third party') state this in the 'Uniform European Tender Document': Part II section C.
- Besides the tenderer, each subcontractor shall also submit a completed 'Uniform European Tender Document' (Part IIA, Part IIB and Part III only). AND it must be legally signed.

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

Tender form and statement of agreement

- Complete Part 3B of the 'Tender form and statement of agreement' and include the details of each subcontractor used. Also provide a brief description of the work to be performed by main contractor and individual subcontractor(s) (what work and what part of the work) under the Assignment (division of roles between main contractor and (various) subcontractor(s), what you are relying upon).
- You declare in Section 3B of the 'Tender Form and Statement of agreement' that you are fully responsible and liable for the performance of the subcontracted work and the results.
- The 'Tender Form and statement of agreement' should be signed by tenderer himself or the legal representative of the partnership's treasurer only at the time of Tender.

Uniform European Tender Document

- If part of the Assignment will be subcontracted while no use is made of this subcontractor to meet the suitability requirements (the subcontractor is not a third party), state this in Part II section D of the 'Uniform European Tender Document'.
- Deployed subcontractor(s) do not need to complete and submit their own 'Uniform European Tender Document'.