

## TENDER RULES

**OBJECT OF THE PROPOSED CONTRACT:**

SUPPLY OF IT EQUIPMENT – SUSTAINABLE CITIES PHASE 1 PROJECT

**LEGAL REPRESENTATIVE OF THE CONTRACTING AUTHORITY:**

Jérémie PELLET, Chief Executive Officer of EXPERTISE FRANCE

**DATE AND TIME OF OFFER SUBMISSION DEADLINE:**

**21/02/2025 at 5:00 PM (PARIS TIME)**

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## **ARTICLE 1: OBJECT AND SCOPE OF THE TENDER**

### **Object of the tender**

The tender covers the award of a supplies contract covering “Supply of IT equipment – Sustainable cities phase 1 project”.

The scope of the needs to be satisfied is set out in the Specifications.

### **Scope of the tender**

This contract is subject to the French Public Procurement Code (CPP) in its applicable version under Ordinance no. 2018-1074 of 26 November 2018, establishing the legislative elements of Decree no. 2018-1075 of 3 December 2018, establishing the regulatory elements of the Public Procurement.

It is awarded by means of:

adapted procedure in application of Articles L. 2123-1 and R. 2123-1 to R. 2123-7 of CCP

### **Provisional schedule of the tender**

<b>Estimated date</b>	<b>Stage</b>
02/21	Bid submission deadline
NA	N/A
02/24	Technical Inspection
02/28	Rejection letters sent to non-selected candidates
02/28	Contract award

### **Tender language – currency**

All the tender documents must be written in French.

The Contracting Authority will conclude contracts in the following currency: Ghanaian Cedis (GHC).

### **Composition of the tender documents**

The tender documents are composed of the following:

- These tender rules (the “Rules”);
- The draft contract (general conditions and special conditions) and any annexes;
- The Specifications and any annexes;
- The application form (Expression of Interest);
- DAJ\_GU006ENG\_v01 - PLACE user guide for companies.

Supplementary tender documents:

- The total and fixed pricing breakdown schedule;
- The unit pricing schedule;
- The technical and/or financial offer schedule;

### **Modification of the tender documents**

Modifications may be made to the tender documents up to 3 days prior to the bid submission deadline.

Modifications are only forwarded to the economic operators duly identified during the tender document consultation phase.

Bidders must respond on the basis of the latest modified documents. Should any candidate/bidder have submitted any bid or offer prior to modification, they may resubmit based on the latest modified documents prior to the bid reception deadline.

## **ARTICLE 2: GENERAL CHARACTERISTICS OF THE PROPOSED CONTRACT**

### **Form of the contract**

The contract is a framework contract via purchase order entered into with several operators.

### **Estimated amount of the need**

The contract is entered into without a minimum or maximum amount. The amount of the contract depends on the prices offered by the selected candidate.

### **Term of the contract**

The provisional term of the contract is three (3) months from its award date. For illustrative purposes only, the anticipated award date is 28/02/2025.

### **Allotment**

This tender is not divided into lots.

### ***Renewal***

[The contract is entered into for an initial term of [XX] months from its award date. It may be renewed on [X] occasions via tacit renewal at the discretion of the contracting authority without exceeding a total duration of [XX] months.]

## **ARTICLE 3: CANDIDATE PARTICIPATION CONDITIONS**

### **Candidate presentation conditions**

A single entity may not represent more than one candidate for any given tender (Article R. 2142-4 of the French Public Procurement Code). In the context of this tender, however, the contracting authority does not authorise the candidate to present multiple offers when acting at the same time as:

- an individual candidate and member of one or more consortia of economic operators;
- a member of multiple consortia of economic operators.

In the event of an application being made by a consortium of economic operators, each member of the consortium must provide all the documents and information certifying their legal, professional, technical and financial capacity. The consortium's capacities will be assessed on an overall basis.

### **Grounds and conditions of exclusion**

Notably under:

- The French Law no. 2016-1691 of 9 December 2016 on transparency, anti-corruption and modernisation of the economy, the so-called "Sapin 2" law;
- Chapter II of the French Monetary and Financial Code setting out provisions for the freezing of assets and the prohibition of making funds available (notably Article L. 562-4 and Article L. 562-5);
- Relevant requirements emanating from accreditation for managing delegated EU funds (Pillar 7 relating to exclusion from accessing financing);

Candidates or their representative in any of the situations set out in Articles L.2141-1 to L.2141-10 of the French Public Procurement Code, or which are on any official exclusion list, shall be excluded from the procedure, whether their situation is established by means of their own declarations or through the application of vigilance measures by the contracting authority.

However, where the exclusion decision is at the discretion of the contracting authority, it shall invite the candidate(s) liable to exclusion to present their observations in order to establish, via all means and within a reasonable period not exceeding 10 days, that the measures required to rectify the failings laying behind exclusion have been taken and, as applicable, that their participation in the tender will not undermine equality of treatment among the bidders.

Where an operator finds itself to be in a position of exclusion during the procedure, it shall notify the contracting authority without delay, which shall apply exclusion on these grounds.

### **Minimum prerequisites in terms of economic, technical and professional capacity**

The contracting authority does not impose minimum capacity levels on candidates.

Each consortium member must provide all the documents required under these Rules. In order to demonstrate its professional, technical and financial capacity, the candidate may ask for due consideration to be given to the professional, technical and financial capacity of one or more economic operators. In such cases, it must demonstrate the capacities of the other economic operator(s) from which it benefits for contract implementation.

In the case of a temporary consortium, the aforementioned participation conditions will be assessed on an overall basis; the application file must include authorisation of the lead company from its co-contractors, which may be issued via form DC1.

### **Specific requirements for consortia of economic operators**

#### ***Grounds for the exclusion of consortia***

Where the grounds for exclusion from the tender procedure concern one of the consortium members, the contracting authority shall demand its replacement by an entity not subject to the grounds for exclusion, to take place within 10 days of the lead company receiving said demand. Failing this, the consortium shall be excluded from the procedure;

#### ***Form of the consortium***

[The consortium shall be jointly and severally liable].

[The consortium shall be jointly liable]. The lead company is liable for execution of the contract by each of the consortium members with regard to their contractual obligations vis-à-vis Expertise France].

### **Subcontracting**

#### ***Grounds for exclusion in the case of subcontracting***

Entities subject to grounds for exclusion cannot be accepted as subcontractors.

Where the subcontractor subject to grounds for exclusion is presented at the application phase, the contracting authority shall demand its replacement by an entity not subject to the grounds for exclusion, to take place within 10 days of the candidate receiving said demand. Failing this, the candidate shall be excluded from the

procedure.

***Presentation of a subcontractor***

Subcontractors are to be presented using form DC 4 (Subcontracting Declaration)<sup>1</sup> duly completed by the subcontractor and the candidate, incorporating a statement of the subcontractor's professional, technical and financial capacity, in addition to a sworn declaration that the subcontractor is not subject to any prohibition on participating in public procurement.

**ARTICLE 4: PRESENTATION OF BIDS AND SUBMISSION PROCESS**

Bidders must submit a complete bid incorporating the documents specified below. The requested documents must be signed by the bidder, the lead company of the temporary consortium or each of the members of the consortium.

**Application documents**

Candidates must submit the following application documents:

- Proof of registration at the trade and companies registry ("k-bis" or equivalent);
- The attached application form;
- A proof of a legal identity form ;
- The declaration of honour on exclusion criteria and absence of conflict of interest template and the identification sheet of a third party ;
- The draft contract, including the candidate's financial offer, duly completed, dated and signed ;
- A breakdown of the financial tender presented in the form of a unit price schedule indicating the price in man-days and with an estimate of the number of days necessary to carry out the service and covering all the services owed under the contract;

**Bid documents**

Same as above

**Bid validity period**

The validity of bids submitted shall be at least 120 days from the submission deadline.

**Bid submission process**

***Bids submitted in paper format***

Bids submitted in paper format will be rejected.

***Electronic submission***

In order to access the tender consultation space or to submit their bid, bidders must connect to the French government procurement platform at:

<https://www.marches-publics.gouv.fr>

Electronic submission is mandatory. Any submission via other means will be rejected.

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<sup>1</sup> Form DC4 is available at: <https://www.economie.gouv.fr/daj/formulaires-mise-a-jour-formulaire-declaration-sous-traitance-dans-marches-publics>

The bid submission procedure is detailed on the website [www.marches-publics.gouv.fr](http://www.marches-publics.gouv.fr).

On this site, bidders will notably find a user guide available for download which specifies the platform's conditions of use, notably the technical prerequisites and electronic certificates.

Should they so wish, bidders may make contact by phone on 01 76 64 74 07 on all business days between 9am and 7pm in order to obtain technical assistance with how to complete all the necessary tasks.

In the event of allotment, all lots must be covered by an electronic submission. However, it is possible to make a single electronic submission for multiple lots provided that the lots covered by a bid can be identified without ambiguity.

The costs of accessing the network and of electronic signature shall be borne by the candidate.

Bidders are invited to test the configuration of their work device and to perform a test tender to ensure that their technical environment is functioning as required.

Bidders' attention is drawn to the fact that they must at least have internet browser software. It is not mandatory to have an electronic signature system.

In order to make an offer, bidders must forward files in the following computer formats: PDF, RTF, ZIP, suite Microsoft Office, LibreOffice or Open Office. Any computer file in a different format will be declared null and void.

**NOTE:**

All bid files must be free of computer viruses and must have been previously treated to this end by the bidder, using the latest version of an antivirus software. The same applies to all other files exchanged during this public procurement procedure.

The contracting authority may place any file containing a virus in a security archive. It will therefore be deemed never to have been received.

NB: Bidders' attention is drawn to the time required to deliver large volume electronic files. The average downloading time may vary according to various parameters, such as the technical capacity of the device, the type of internet connection, traffic on the network, etc.

To the extent that the date and time of completed upload constitutes the legal reference for submission of electronic bids, bidders are invited to allow sufficient time for all electronic submissions.

Even though its bid for this public procurement procedure will have been submitted electronically, the bidder undertakes, notably if its bid has been accepted, to provide contractually valid paper documents. In this regard, it also undertakes that the natural person providing the electronic signature also provides their handwritten signature without making any modifications to the documents, to be forwarded to the contracting authority in this format. Lastly, the bidder undertakes to accept notification in paper format, in accordance with standard practices.

**ARTICLE 5: ANALYSIS OF APPLICATIONS**

Applications are selected by the Evaluation Committee of Expertise France in accordance with the following procedure.

[Under Article R.2161-4 of the French Public Procurement Code, the Evaluation Committee may decide to examine offers before applications.

In such cases, the supporting documentation for aptitude and capacity and the evidence relating to grounds for exclusion are only requested by the contracting authority from bidders preselected for award of the tender.]



### **Application supplementary information requests**

Before examining applications, should the contracting authority note that requested documents or information are missing or incomplete, it may ask the bidders concerned to complete their application pack within a deadline applicable to all such bidders. The deadline will be specified in the request for supplementary information.

Applications that are incomplete or which remain incomplete following a request for additional information will be eliminated.

### **Rejection of late applications - Opening bids**

The Bid Opening Committee (meeting in non-public session) lists the bids received, the identity of applicants and the composition of the bids submitted.

Bids received after the deadline will be immediately rejected.

### **Admissibility of applications**

In accordance with Article 3 of this document covering the conditions for participation, the Evaluation Committee of Expertise France analyses the admissibility of applications based on the following criteria:

- Candidate's registration at the trade and companies registry (or equivalent)
- Candidate's compliance with its social security obligations
- Candidate's compliance with its tax obligations
- The applicant must not be in any of the situations set out in Articles L. 2141-1 to L. 2141-6 and L. 2141-7 to L. 2141-11 of the French Public Procurement Code, nor be on any official exclusion list, whether their situation is established by means of their own declarations or through the application of vigilance measures by the contracting authority
- The candidate or its representative must not be in a situation of conflict of interest vis-à-vis the contracting authority and/or any beneficiary of the procurement contract
- The candidate must be able to demonstrate adequate implementation of appropriate technical and organisational measures such that data processing conforms with relevant data protection laws and regulations (GDPR and French data protection legislation), thereby guaranteeing the rights of data subjects
- [Applications not demonstrating professional aptitude and/or which manifestly do not have the professional, technical or financial capacity required for this tender will be eliminated]. [Applications not demonstrating professional capacity and/or which do not meet the minimum capacity levels will be eliminated]
- The candidate must provide evidence of a reliable internal security system to guarantee the safety of the persons involved in the implementation of the contract when travel is planned in an organ or red zone (in accordance with the regional vigilance maps made available by the French Ministry of Europe and Foreign Affairs <https://www.diplomatie.gouv.fr/fr/conseils-aux-voyageurs/>).

### **Application selection**

The Evaluation Committee of Expertise France analyses the admissibility of applications based on the following criteria:

- Technical quality of as specified in the as required
- Price of IT supplies quoted
- Past references (2 years) for project implementation to be specified
- to be specified

The **to be specified (between 1 and 3)** best-rated candidates at the application stage will be selected for the restricted list. They will be consulted directly and receive the tender documents for the purposes of submitting a bid. Candidates not selected for the restricted list will be eliminated at the application stage.

## **ARTICLE 6: BID EVALUATION, NEGOTIATIONS AND AWARD**

The bid selection procedure is conducted by the Evaluation Committee of Expertise France in accordance with the following procedure:

### **Rejection of late bids - Opening bids**

The Bid Opening Committee (meeting in non-public session) lists the bids received, the identity of applicants and the composition of the bids submitted.

Bids received after the deadline will be immediately rejected.

### **Bid analysis**

After having verified that the bids received are conforming, admissible and appropriate, the Evaluation Committee of Expertise France analyses the bids from selected bidders in accordance with the following criteria.

### **Rejection of non-conforming, inadmissible or inappropriate bids**

The Evaluation Committee examines all bids received and, in accordance with Article R.2152-1 of the French Public Procurement Code, rejects bids judged to be non-conforming, inadmissible or inappropriate, as applicable, after having implemented the regularisation procedure set out in Article R.2152-2 of said code.

### **Comparison of bids for selection of the most economically beneficial bid**

Bids will be assessed separately in accordance with the following criteria by awarding a score up to the maximum number of points per criterion as set out below:

#### ***Criterion 1: price of the services***

The **financial score (FS out of a maximum of 60 points)** will cover the comparison of the financial offers of all candidates having submitted a conforming bid.

#### ***Criterion 2: Technical offer***

<b>Sub-criteria for assessing the technical quality</b>	<b>Maximum number of points</b>
<b>Sub-criterion 1: Technical quality of supplies</b>	<b>30</b>
<b>Sub-criterion 2: Confirmation of installation by supplier</b>	<b>5</b>
<b>Sub-criterion 3: Proposed solution, assessed with regard to technical inspection</b>	<b>5</b>
<b>TOTAL</b>	<b>40</b>

Each technical offer, deemed to be technically conforming, will be attributed a **technical score (TS out of a maximum of 40 points)** by adding up the weighted scores obtained for each sub-criterion.

[Bids having obtained a technical score of less than **20/40** will be deemed to be inappropriate.]

### **Negotiations**

After conducting an initial analysis of the bids, the Evaluation Committee may negotiate with all or some of the bidders in accordance with the principle of equality of treatment.

However, the contracting authority reserves the right to award the tender without negotiation.

### ***Bidder interviews – bid negotiations***

Bidders will be invited to visit the premises of Expertise France in order to present their bid.

It is planned for such presentations to take place during **February month of 2025 and lasting 3 days**

Negotiations may take place remotely.

### **Award process**

An **overall score (OS out of a maximum of 100 points)** obtained by adding together the technical and financial scores (**OS=FS+TS**) will be attributed to each bid that has been assessed for its technical and financial content.

The bidder who obtains the highest overall score will be deemed to have made the most beneficial economic offer and will be awarded the contract.

The contracting authority may decide not to pursue the tender for reasons of public interest.

## **ARTICLE 7: PROCESSING OF PERSONAL DATA IN THE CONTEXT OF THIS TENDER AND FOR THE PURPOSES OF CONTRACT MONITORING**

Under Article 13 or Regulation (EU) no. 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR), the applicants/bidders are notified that personal data, notably name, first name and e-mail address collected when using under the French government procurement platform (<https://www.marches-publics.gouv.fr>) in the context of this tender procedure and execution of the associated contract, may be processed.

For processing performed with PLACE services, the *Ministère de l'action et des comptes publics* (Ministry of Public Accounts) – the procurement department of the State and of Expertise France, the contracting authority, are co-controllers of personal data.

For processing performed outside the scope of PLACE services, Expertise France, the contracting authority, is the controller of personal data.

### **Identity and contact details of the data controller and its representative**

#### **For the PLACE platform:**

*Ministère de l'action et des comptes publics* (Ministry of Public Accounts)

59, boulevard Vincent Auriol

75703 Paris Cedex 13

Represented by the Director of Public Procurement

Operational data controller:

The Department of Public Procurement, represented by its director.

#### **Contact details of the Data Protection Officer:**

[le-delegue-a-la-protection-des-donnees-personnelles@finances.gouv.fr](mailto:le-delegue-a-la-protection-des-donnees-personnelles@finances.gouv.fr)

#### **For the contracting authority:**

Expertise France

40, Boulevard de Port Royal

75005 Paris

Represented by the Managing Director,

Operational data controller:

The IT Department, represented by its director

**Contact details of the Data Protection Officer:**

informatique.libertes@expertisefrance.fr

The legal basis under which such processing is performed are set out in c) and e) of Article 6.1 of the GDPR, namely:

- The processing is necessary in order to comply with a legal obligation by which Expertise France is bound;
- The processing is necessary for performance of a public-interest assignment or which falls within the scope of the public authority entrusted to Expertise France.

The purposes of the processing are as follows:

- The management and monitoring of this tender procedure;
- The management and monitoring of the award of a public procurement contract.

The recipients or category of recipients of the personal data are exclusively authorised personnel of the Contracting Authority, ministries and state operators responsible for awarding and executing this contract, including any service providers assisting them with their activities.

Retention period: the data will be held throughout the award process and execution of the contract, including the DUA (duration of administrative usefulness) applicable to the contract.

Under Articles 15 to 21 of the GDPR, persons whose personal data is collected enjoy a right of access, rectification and deletion with regard to such data. They also enjoy the right to restrict and refuse processing on legitimate grounds. The information and other rights of data subjects may be exercised by contacting the Data Protection Officer of Expertise France.

Persons whose personal data is collected under this procedure may submit a complaint to CNIL.

## **ARTICLE 8: ADDITIONAL INFORMATION**

Any request for additional information about technical or administrative matters must be forwarded via the government procurement platform at least 5 business days prior to the bid submission deadline.

Expertise France undertakes to provide a response 2 business days at most before the bid submission deadline.

If a candidate asks any questions, all candidates will receive an e-mail asking them to consider one or more documents provided in response to the questions concerned.

## **ARTICLE 9: APPEAL CHANNELS AND DEADLINES**

The body responsible for the appeals process is the Tribunal Administratif de Paris, located at 7, rue de Jouy, F-75004 Paris; e-mail: [greffe.ta-paris@juradm.fr](mailto:greffe.ta-paris@juradm.fr)

Information about lodging an appeal may be obtained from the Greffe du Tribunal Administratif de Paris, located at 7, rue de Jouy, F-75004 Paris; e-mail: [greffe.ta-paris@juradm.fr](mailto:greffe.ta-paris@juradm.fr)