**WORKS CONTRACT NOTICE**

**Asphalting and Horizontal Services under a Framework Contract No.6**

**Kosovo**

**Please note that the awarding of the contract is subject to the condition of:**

* *This tender procedure is launched under suspensive clause[[1]](#footnote-1) i.e. the award of this specific tender is subject to the provision of funding to EULEX through the conclusion of a Contract between the European Commission and the EULEX Head of Mission.[[2]](#footnote-2)*
1. **Publication reference**

EuropeAid/140458/ID/WKS/XK

1. **Procedure**

Local Open

1. **Programme title**

Council Joint Action 2008/124/CFSP of 04 February 2008, on the European Union Rule of Law Mission in Kosovo, (hereafter “EULEX Kosovo”) as amended by Joint Action  2009/445/CFSP of 9 June 2009 and by Council Decision 2010/322/CFSP of 8 June 2010, Council Decision 2012/291/CFSP of 5 June 2012, Council Decision 2013/241/CFSP of 27 May 2013, Council Decision 2014/349/CFSP of 12 June 2014, Council Decision 2014/685/CFSP of 29 September 2014 and Council Decision (CFSP)2015/901 of 11 June 2015, Council Decision (CFSP)2016/947 of 14 June 2016, Council Decision (CFSP) 2016/1990 of 14 November 2016, Council Decision (CFSP) 2017/973 of 8 June 2017 Council Decision (CFSP) 2018/856 of 8 June 2018.

1. **Financing**

 CFSP/2018/09/EULEX Kosovo

1. **Contracting Authority**

EULEX Kosovo

**CONTRACT SPECIFICATIONS**

1. **Description of the contract**

The subject of the contract is provision of asphalting and horizontal services (see Annex II and III of the Tender Dossier for the relevant description of the items).

1. **Number and titles of lots**

One lot only

**TERMS OF PARTICIPATION**

1. **Eligibility and rules of origin**

Participation is open to all natural persons and/or legal persons participating either individually or in a grouping (consortium), as authorized by Council Decision (CFSP) 2016/1990 of 14 November 2016 amending Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo (EULEX KOSOVO). The participation of natural and legal persons in the award of procurement contracts financed out of the Mission's budget is open without limitations. Participation is also open to international organisations.

No rule of origin is applied.

1. **Grounds for exclusion**

Tenderers must submit a signed declaration, included in the tender form for a works contract, to the effect that they are not in any of the situations listed in Section 2.6.10.1 of the practical Guide.

Tenderers included in the lists of EU restrictive measures (see Section 2.4. of the PRAG) at the moment of the award decision cannot be awarded the contract.

1. **Number of tenders**

Tenderers may submit only one tender per lot. Tenders for parts of a lot will not be considered. Any tenderer may state in its tender that it would offer a discount in the event that its tender is accepted for more than one lot. Tenderers may not submit a tender for a variant solution in addition to their tender for the works required in the tender dossier.

1. **Tender guarantee**

Tenderers must provide a tender guarantee of **720 euros** when submitting their tender. This guarantee will be released to unsuccessful tenderers once the tender procedure has been completed and to the successful tenderer upon signature of the contract by all parties.

1. **Performance guarantee**

A performance guarantee will be required only if the value of the individual Work Order is equal or above 20.000 Euros at the time of the issuance of the Work Order referred to in the contract and it is set at **5 %** of the amount of the Work Order. The Performance Guarantee must be presented in the form specified in the annex to the tender dossier. It will be released within 60 days of the issue of the final acceptance certificate by the Contracting Authority, except for the proportion assigned to after-sales service. This guarantee must be provided together with the return of the countersigned Work Order no later than 30 days after the tenderer receives the Work Order signed by the contracting authority. If the selected tenderer fails to provide such a guarantee within this period, the Work Order will be void.

1. **Information meeting and site visit**

No information meeting is planned.

1. **Tender validity**

Tenders must remain valid for a period of 90 days after the deadline for submission of tenders. In exceptional circumstances, the Contracting Authority may, before the validity period expires, request that tenderers extend the validity of tenders for a specific period for a specific period.

1. **Period of implementation of tasks**

The period of implementation of tasks: working days in figures and words will be specifying in the “Work Order”. The Contractor shall submit to the Supervisor for approval a detailed implementation program within 10 working days from the date of receiving the “Work Order”.

**SELECTION AND AWARD CRITERIA**

1. **Selection criteria**

The following selection criteria will be applied to tenderers. In the case of tenders submitted by a consortium, these selection criteria will be applied to the consortium as a whole:

1. **Economic and financial capacity of tenderer** *(*based on i.a. item 3 of the Tender Form In case of tenderer being a public body, equivalent information should be provided. The reference period which will be taken into account will be the last three years for which accounts have been closed.
* The average annual turnover of the tenderer in the past 3 years (2018, 2017 and 2016) must be ) must be at least equal or exceed the financial proposal.
1. **Technical and Professional capacity of tenderer** (based on i.a. items 4 and 5 of the Tender Form)
* Evidence of relevant experience in carrying out works of a similar nature, including the nature and value of the contracts, works in hand and contractually committed (Form 4.6.4). The evidence must include successful experience the prime contractor in construction of at least 2 projects of the same nature and complexity comparable to the works concerned by the tender during the last 5 years from the submission deadline(i.e. from 2014 to 2019).

The Contracting Authority reserves the right to ask for copies of certificates of final acceptance signed by the supervisors/contracting authority of the projects concerned.

This means that the contract the tenderer refers to could have been started or completed at any time during the indicated period but it does not necessarily have to be started and completed during that period, nor implemented during the entire period. Tenderers are allowed to refer either to projects completed within the reference period (although started earlier) or to projects not yet completed. In the first case the project will be considered in its whole if proper evidence of performance is provided (statement or certificate from the entity which awarded the contract, final acceptance). In case of projects still on-going only the portion satisfactorily completed during the reference period will be taken into consideration. This portion will have to be supported by documentary evidence (similarly to projects completed) also detailing its value.

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. Some examples of when it may *not* be considered appropriate by the Contracting Authority are when the tender rely in majority on the capacities of other entities or when they rely on key criteria. If the tender rely on other entities it must prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator. Furthermore, the data for this third entity for the relevant selection criterion should be included in the tender in a separate document. Proof of the capacity will also have to be furnished when requested by the Contracting Authority.

With regard to technical and professional criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the tasks for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies, become jointly and severally liable for the performance of the contract.

1. **Award criteria**

The most economically advantageous tender is the technically compliant tender with the lowest price.

**TENDERING**

1. **How to obtain the tender dossier**

The tender dossier is available from the following Internet address: http://www.eulex-kosovo.eu/?page=2,6. The tender dossier is also available from the contracting authority at the following address: http://www.eulex-kosovo.eu/?page=2,6. Tenders must be submitted using the standard tender form for a supply contract included in the tender dossier, whose format and instructions must be strictly observed.

Tenderers with questions regarding this tender should send them in writing to: tenders@eulex-kosovo.eu at the latest 21 days before the deadline for submission of tenders given in item 19. The contracting authority must reply to all tenderers' questions at the latest 11 days before the deadline for submission of tenders Eventual clarifications or minor changes to the tender dossier shall be published at the latest 11 days before the submission deadline on the website <http://www.eulex-kosovo.eu/?page=2,6>.

1. **Deadline for submission of tenders**

The tenderer's attention is drawn to the fact that there are two different systems for sending tenders, either by post or private mail service, or by hand delivery.

In the first case, the tender must be sent before the date and time limit for submission, as evidenced by the postmark or deposit slip[[3]](#footnote-3), but in the second case it is the acknowledgment of receipt given at the time of the delivery of the application/tender which will serve as proof.

On **28 October 2019 at 15:00 hrs**, (Kosovo time zone) at EULEX, Procurement Section, Ndertesa Farmed, “Muharrem Fejza” p.n. Lagja e Spitalit, 10000 Pristina, Kosovo. The contracting authority’s opening hours are Monday to Thursday from 8:00hrs to 17:00hrs and on Friday from 8:00hrs to 16:00hrs.

Any tender submitted to the contracting authority after this deadline will not be considered.

The contracting authority may, for reasons of administrative efficiency, reject any tender submitted on time to the postal service but received, for any reason beyond the contracting authority's control, after the effective date of approval of the evaluation report, if accepting tenders that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

**How tenders may be submitted**

Tenders must be submitted in English exclusively to the contracting authority in a sealed envelope:

EITHER by post or by courier service, in which case the evidence shall be constituted by the postmark or the date of the deposit slip, to:

**EULEX, Procurement Section,**

**Ndertesa Farmed, “Muharrem Fejza” p.n. Lagja e Spitalit,**

**10000 Pristina, Kosovo**

OR hand delivered by the participant in person or by an agent directly to the premises of the contracting authority in return for a signed and dated receipt, in which case the evidence shall be constituted by this acknowledgement of receipt, to:

**EULEX, Procurement Section,**

**Ndertesa Farmed, “Muharrem Fejza” p.n. Lagja e Spitalit,**

**10000 Pristina, Kosovo**

The contract title and the publication reference (see item 1 above) must be clearly marked on the envelope containing the application and must always be mentioned in all subsequent correspondence with the contracting authority.

Tenders submitted by any other means will not be considered.

By submitting a tender Tenderers accept to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the application.

1. **Tender opening session**

On **28 October 2019 at 15:30 hrs,** (Kosovo time zone) at EULEX, Procurement Section, Ndertesa Farmed, “Muharrem Fejza” p.n. Lagja e Spitalit, 10000 Pristina, Kosovo.

1. **Language of the procedure**

All written communications for this tender procedure and contract must be in English.

1. **Repetition of similar works**

**Subsequent to the initial contract resulting from the current tender procedure, new works consisting in the repetition of similar works, up to the estimated amount of 50,000.00 may be entrusted to the initial contractor by negotiated procedure without prior publication of a contract notice, provided the new works are in conformity with the same basic project.**

1. **Legal basis[[4]](#footnote-4)**

Council Joint Action 2008/124/CFSP of 04 February 2008, on the European Union Rule of Law Mission in Kosovo, (hereafter “EULEX Kosovo”) as amended by Joint Action  2009/445/CFSP of 9 June 2009 and by Council Decision 2010/322/CFSP of 8 June 2010, Council Decision 2012/291/CFSP of 5 June 2012, Council Decision 2013/241/CFSP of 27 May 2013, Council Decision 2014/349/CFSP of 12 June 2014, Council Decision 2014/685/CFSP of 29 September 2014 and Council Decision (CFSP)2015/901 of 11 June 2015, Council Decision (CFSP)2016/947 of 14 June 2016, Council Decision (CFSP) 2016/1990 of 14 November 2016, Council Decision (CFSP) 2017/973 of 8 June 2017 Council Decision (CFSP) 2018/856 of 8 June 2018.

1. See Paragraph 2.3.6 of Practical Guide to Contract procedures for EU external actions. <http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2008new_prag_final_en.pdf> [↑](#footnote-ref-1)
2. See paragraph 2.4.12, of the Practical Guide to Contract procedures for EU external actions [↑](#footnote-ref-2)
3. It is recommended to use registered mail in case the postmark would not be readable. [↑](#footnote-ref-3)
4. Please state any specificity that might have an impact on rules on participation (such as geographic or thematic or long/short term). [↑](#footnote-ref-4)