

**Call for Expression of Interest  
N° AMI/009/2020**

**For compiling a list of vendors to assist the European Union Intellectual Property  
Office (EUIPO)**

**Administrative and technical annex**

Preliminary remark

This annex aims at giving potential vendors some general information about the call itself, the estimated needs of the Office, the future award and performance of contracts, and any other detail that may seem relevant at this stage. In any case, this information will be completed, adapted or further detailed in future requests for offers and contracts.

Please note that references in this document to the following terms may be understood as references to:

- “contract” or “purchase order” .

**1. GENERAL INFORMATION, AIMS AND OBJECTIVES**

The European Union Intellectual Property Office (hereafter the EUIPO) is issuing a call for expression of interest in order to compile a list of vendors to provide independent and on-hand expertise on specialised services in the field of intellectual property rights to assist the EUIPO, in particular the Observatory on Infringements of Intellectual Property Rights (hereafter the Observatory) and the International Cooperation Service (hereafter IC), service within the International Cooperation and Legal Affairs Department (hereafter ICLAD).

The scope includes economic studies related to IP and non IP matters, legal studies, enforcement studies and activities in the field of the different intellectual property rights.

The services may include capacity building, technical assistance, academic research, outreach activities, development of guides, manuals and reports or monitoring and evaluation, comparative research and assessment, drafting of contributions to foster IP cooperation and increase effective IP awareness.

The services will be provided to the EUIPO in the framework of its activities in the EU and in third countries and to its EU-funded projects (<https://ipkey.eu/en> and <https://euiپoeuf.eu/en>).

The list of vendors will be valid during 4 years following the publication in the Official Journal of the European Union and may be used during this period whenever the EUIPO deems appropriate.

Please note that the list drawn up on the basis of this call does not imply any form of obligation on the part of the EUIPO to award a service contract to the successful applicants.

For further information on the activities of the Observatory and the Academy, please consult the following link from the official EUIPO homepage:  
<https://euiپo.europa.eu/ohimportal/en/web/observatory/about-us>

For further information on ICLAD's activities (EU-Funded Projects), please consult: <http://www.ipkey.org/en/> ; <https://euipoef.eu/en>.

## 2. SUBMISSION OF APPLICATIONS

The procurement documentation related to the present call is composed of:

- The call notice, as published in the Official Journal of the European Union;
- The present administrative and technical annex.
- EUIPO's integrated management systems policy ([Office's Integrated Management Systems Policy](#))

Candidates should also pay particular attention to:

- EUIPO general terms and conditions to be found under the link: [General Terms and Conditions of the Office](#):

If you are interested in taking part in this call for expression of interest, please submit your application <https://etendering.ted.europa.eu/cft/cft-display.html?cftId=6554> at any time prior to the last three months of validity of the list.

The EUIPO reserves the right to reject any incomplete or illegible application.

Expenses incurred in connection with preparing and submitting the application shall be borne by the applicant and will not be reimbursed.

By registering applicants accept to receive notification on 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.

## 3. PARTICIPATION

Apart from the specific case of EU funded projects, which are further described in point 3.1, participation in this call for expression of interests is open on equal terms to all natural and legal persons falling within the scope of the Treaties. This includes all legal entities registered in the EU and all natural persons having their domicile in the EU, regardless of whether they have branches outside the EU.

**For UK candidates or tenderers:** Please be aware that following the entry into force of the EU-UK Withdrawal Agreement\* on 1 February 2020 and in particular Articles 127(6), 137 and 138, the references to natural or legal persons residing or established in a Member State of the European Union are to be understood as including natural or legal persons residing or established in the United Kingdom. UK residents and entities are therefore eligible to participate under this procedure.

\* Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

### 3.1 EU-funded project invitation to tender/ to participate

The EUIPO would like to draw the attention that, for invitation to tender launched in the framework of the EU-funded projects, participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of tenderers) which are effectively established in a eligible country or territory for the applicable instrument under which the contract is financed (See list of instruments below and Annex A2a of the practical guide available at <https://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>). Participation is also open to international organisations established in a eligible countries.

The instruments applicable to the EU-funded projects currently in place are:

- EDF: Annex IV to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 as amended in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010. Reference is made to Annex IV as revised by Decision 1/2014 of the ACP-EU Council of Ministers of 20 June 2014.
- Regulation (EU) No 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable instrument under which the contract is financed.
  - Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020;
  - Regulation (EU) No 234/2014 establishing a Partnership Instrument for cooperation with third countries;
  - Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument.

The participation of an ineligible natural or legal person will result in the automatic exclusion of that person from a specific invitation to tender/to participate. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

### 3.2 Joint candidature

A joint candidature is the situation where an application is submitted by a group (with or without legal form) of economic operators regardless of the link they have between them. The group as a whole is considered a vendor.

All members of the group (partners) assume joint and several liability towards the contracting authority for the performance of the contract as a whole, i.e. both financial and operational liability. Nevertheless, vendors must designate one of the economic operators as a single point of contact (the leader) for the contracting authority for administrative and, if necessary, financial aspects as well as operational management of the contract.

Economic operators can submit an application in reply to this call of expression of interests as a sole applicant or as a group in a joint tender. In either case, subcontracting is permitted.

The role of each entity involved in an application must be clearly specified in the application: sole applicant, group member or group leader, subcontractor or entity on whose capacities the applicant relies.

In the case the composition of a joint candidature changes after its application, a new application must be submitted and the previous application will be de facto withdrawn from the list.

#### **4. INVITATION TO TENDER/TO PARTICIPATE**

Whenever the EUIPO wishes to order a particular service, the contracting authority will invite all the vendors registered on the list by choosing a one-step procedure or a two-step procedure:

- One-step procedure: all procurement documents (including exclusion, selection and award criteria) will be sent to all vendors. Full tenders are received and evaluated.
- Two-step procedure: A description of the service, exclusion and selection criteria are sent to all vendors and they submit requests to participate. Only those who pass exclusion and selection criteria are then invited to tender in a second step.

The EUIPO shall clearly identify in the invitation to tender/to participate the specific conditions of eligibility for participation. Vendors should read the documents carefully.

Vendors who do not have the required conditions of eligibility for participation will be excluded.

At the moment of each invitation to tender/to participate, a declaration of professional independence will be requested. The minimum time limit for receipt of tender/request to participate is 10 calendar days, from the day following the dispatch of the invitation.

Based on the proposal received by the vendor(s), the exclusion and selection criteria and the award criteria announced in the request, the EUIPO will award the contract to the vendor whose tender is considered as offering the best value for money. In any case, the Office always reserves the right not to award a contract or order form.

When a contract or order form is to be awarded, the selected vendor shall have 10 calendar days from the award decision (unless otherwise specified) to provide the requested documentary evidence on exclusion criteria.

The contract or order form shall enter into force on the date it is signed by both parties. The period allowed for performance of the task(s) set shall start as of the same date. As an exception to the rule, the contracting parties can agree to different deadlines.

For each invitation to tender /to participate, no more than one tender/request to participate can be submitted by a natural or legal person whatever the form of participation (as an individual legal entity or as leader or member of a consortium submitting an application). In the event that a natural or legal person submits more than one tender/request to participate, all tenders/requests to participate in which that person has participated will not be accepted.

Any tenders /requests to participate received from tenderers other than those registered will be excluded from this tender procedure unless prior approval from the contracting authority has been obtained.

Within each specific procedure candidates may not form alliances or subcontract to each other the execution of all or part of the contract unless prior approval from the contracting authority has been obtained.

## **5. COPYRIGHT**

In accordance to the EUIPO's General Terms and Conditions (see link in point 2), the Contractor shall be required to divulge to the EUIPO all the results of his research, in compliance with copyright rules. The Contractor shall undertake to cede to the EUIPO, in full, the copyright on the expertise, in accordance with the provisions of copyright legislation, and in particular full or partial publication and distribution rights in whatever form.

## **6. ACCEPTANCE OF TERMS AND CONDITIONS**

Submission of an application implies acceptance of the terms and conditions laid down in the Notice of call for expression of interest and all the annexes thereto.

Annexes:

- the present administrative and technical Annex,
- EUIPO general terms and conditions (see link in point 2)
- EUIPO's integrated management systems policy (see link in point 2)

## **7. ENVIRONMENTAL ASPECTS**

The Office runs an environmental management system (EMAS) and aims to minimise the environmental impact of all its activities, including those carried out under contracts. The successful candidate will, therefore, be requested to apply the Office's environmental guidelines in their work (see EUIPO Integrated Management Systems policy document annexed to the Call for Expression of Interest documentation). In accordance with its policy, the Office recommends to apply as far as possible Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 allowing voluntary participation by organisations in a Community eco-management and audit scheme for all goods and services requested by the Office.

## **8. EX POST TRANSPARENCY**

For transparency purposes, the EUIPO will publish on its website the names of contractors to which it has awarded service contracts of more than EUR 15.000 awarded in the frame of this call no later than 30 June of the year following contract award.

## **9. PROTECTION OF PERSONAL DATA**

Personal data gathered for the purpose of the present procedure will be processed pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC. This data will be processed by the Office as indicated in the privacy statement published on the Office's website (<https://euipo.europa.eu/ohimportal/en/public-procurement>). Any request regarding your personal data will be addressed to the data controller responsible for the call for tenders ([FD.DataProtection@euipo.europa.eu](mailto:FD.DataProtection@euipo.europa.eu)). You may also contact the Office's Data Protection officer (DPO) at [DataProtectionOfficer@euipo.europa.eu](mailto:DataProtectionOfficer@euipo.europa.eu).

If your request has not been responded to adequately by the data controller and/or DPO, you can lodge a complaint with the European Data Protection Supervisor at [edps@edps.europa.eu](mailto:edps@edps.europa.eu).

In addition, if the contract relates to an external action in Partner Countries outside the EU, transmission of personal data may occur to the Partner Country, solely for the purpose of complying with its obligations under the applicable legislative framework and under the financing agreement concluded between the EU and the Partner Country with regard to this tender procedure.

Details concerning processing of your personal data are available on the privacy statement at <https://euipo.europa.eu/tunnel->

[web/secure/webdav/guest/document\\_library/contentPdfs/data\\_protection/Procurement and Grants\\_procedure\\_en.pdf](https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/data_protection/Procurement_and_Grants_procedure_en.pdf)<sup>1</sup>

In cases where you are processing personal data in the context of participation to a tender (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) you shall accordingly inform the data subjects of the details of the processing and communicate the above mentioned privacy statement to them.

The controller of your call for tender is the Director of the International Cooperation and Legal Affairs Department of the European Union Intellectual Property Office.

In the case of tenders launched in the framework of EU-funded projects, if processing your reply to the invitation to tender involves transfer of personal data (such as names, contact details and CVs) to the European Commission, they will be processed solely for the purposes of the monitoring of the procurement procedure and of the implementation of the contract by the Commission, for the latter to comply with its obligations under the applicable legislative framework and under the financing agreement concluded between the EU and the Partner Country without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law. For the part of the data transferred by the contracting authority to the European Commission, the controller for the processing of personal data carried out within the Commission is, depending on the programme concerned:

- the head of legal affairs unit of DG International Cooperation and Development;
- the head of contracts and finance unit R4 of DG Neighbourhood and Enlargement Negotiations or
- Head of Unit of Foreign Policy Instruments Unit 4 Partnership Instrument

Details concerning processing of your personal data by the Commission are available on the privacy statement at:

<http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>

In cases where you are processing personal data in the context of participation to a tender (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) you shall accordingly inform the data subjects of the possible transmission of their data to EU institutions and bodies and communicate the above mentioned privacy statement to them.

Your personal data may be registered in the Early Detection and Exclusion System (EDES) by the responsible Authorizing Officer of the Commission, should you be in one of the situations mentioned in Article 136 and Article 141 of the Financial Regulation (Regulation - EU, Euratom - 2018/1046 of the European Parliament and of the Council of 18 July 2018), and communicated to the persons and entities concerned in relation to the award or the execution of a procurement contract.

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<sup>1</sup> This link will lead you to the 'privacy statement'.