

Terms and Conditions of Participation

Cafeteria for EULEX Headquarters Pristina, Kosovo

1. Publication reference

RFP/2/09/Cafeteria for EULEX HQ

2. Contracting Authority

The Head of EULEX Kosovo

CONTRACT SPECIFICATION

3. Contract description

The Contracting Authority wishes to provide its staff (approximately 350 plus approximately 50 visitors per working day) a cafeteria at its Headquarters located in Farmed Building, Str. Muharrem Fejza, 10000 Pristina, Kosovo. The menu of the cafeteria should basically contain hot & cold beverages, pre-packed snacks, soup, fresh fruits, fresh sandwiches, toasted sandwiches and fresh salads with a view to expand as required with EULEX's control.

The operator will not receive any direct remuneration for the provision of the cafeteria from the Contracting Authority but only a business opportunity. Consequently the operator has to make a living from that what EULEX staff (plus visitors) consumes in his cafeteria.

The Contracting Authority grants the operator the use of facilities on the ground floor in Farmed Building (i.e. kitchen plus equipment and a dining room) against the payment of rent as well as of water, electricity and rubbish disposal based on usage. Therefore a contractual agreement governing the lease, usage of utilities, code of conduct, etc between the Contracting Authority and the operator will be concluded.

The operator is to be fully insured and will be liable for any damage to the building through fire or other culpable action.

European Union (EU) best practices are to be followed for all operations from food storage, preparation and service to staff and facility hygiene standards. Upon request, the contractor must provide valid certificates for staff medical checks and for origin for certain products such as poultry, meat and fish.

4. Scope for additional services

The Contracting Authority may, at its own discretion, allow the operator to extend the scope of the cafeteria e.g. in terms of variety of meals. Any extension of the contract would be subject to satisfactory performance by the Operator.

CONDITIONS OF PARTICIPATION

5. Eligibility

Participation is open to all legal and natural persons [participating either individually or in a grouping (consortium) of candidates] which are established in a Member State of the European Union or in an official candidate country as recognized by the EC (Croatia, FYRoM and Turkey), or

in a Member State of the European Economic Area (Iceland, Liechtenstein and Norway), or in a country that is the beneficiary of the Instrument for Pre-Accession Assistance (Albania, Bosnia and Herzegovina, Kosovo, Montenegro and Serbia).

Participation is also open to international organisations.

6. Candidature

All eligible natural and legal persons (as per item 11 above) or groupings of such persons (consortia) may apply.

A consortium may be a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure. All members of a consortium (ie, the leader and all other members) are jointly and severally liable to the Contracting Authority.

The participation of an ineligible natural or legal person (as per item 11) will result in the automatic exclusion of that person. In particular, if that ineligible person belongs to a consortium, the whole consortium will be excluded.

7. Number of applications

No more than one application 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 application, all applications in which that person has participated will be excluded.

8. Shortlist alliances prohibited

Any tenders received from tenderers comprising firms other than those mentioned in the short-listed application forms will be excluded from this restricted tender procedure. Short-listed candidates may not form alliances or subcontract to each other for the contract in question.

9. Grounds for exclusion

As part of the application form, candidates must submit a signed declaration, included in the standard application form, to the effect that they are not in any of the exclusion situations listed in Section 2.3.3 of the Practical Guide to contract procedures for EC external actions (available under http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/documents/2008new_prag_final_en.pdf)

In addition applicants have to submit with their application satisfactory evidence that they are not in one of the situations described in Section 2.3.3 of the Practical Guide to contract procedures for EC external actions.

The Contracting Authority will accept, as satisfactory evidence that the candidate is not in one of the situations described in (a), (b) or (e) production of a recent extract from the judicial record or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. The Contracting Authority shall accept, as satisfactory evidence that the candidate is not in the situation described in (d), a recent certificate issued by the competent authority of the State concerned. Where no such document or certificate is issued in the country concerned and for the other cases of exclusion listed above, it may be replaced by a sworn / solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in its country of origin or provenance.

10. Sub-contracting

Subcontracting is allowed up to the percentage indicated in the tender dossier.

11. Number of candidates to be short-listed

On the basis of the applications received, between 4-8 candidates will be invited to submit detailed tenders for this contract. If the number of eligible candidates meeting the selection criteria is less than

the minimum of 4, the Contracting Authority may invite the candidates who satisfy the criteria to submit a tender.

PROVISIONAL TIMETABLE

12. Provisional date of invitation to tender

August 2009

13. Provisional commencement date of the contract

September/October 2009

14. Duration of implementation

The contractual agreement between the Contracting Authority and the operator (see item 3) will have duration of two (2) years from the signature of contract by both parties. If the Contracting Authorities' mandate is ending earlier aforementioned contractual agreement shall terminate automatically. The first six (6) months of the contractual agreement however will be a trial period. If the operator has performed satisfactorily the contract will continue until the envisaged duration of two (2) years is ending, if not the Contracting Authority may upon its own discretion terminate the contract.

SELECTION AND AWARD CRITERIA

15. Selection criteria

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

- 1) Economic and financial capacity of candidate (based on item 3 of the application form).
- 2) Professional capacity of candidate (based on items 4 and 5 of the application form)
 - At least 5 staff currently work for the applicant in fields related to this contract; and
 - At least 80% of all staff working for the candidate this year in fields related to this contract are permanent.
- 3) Technical capacity of candidate (based on items 5 and 6 of the application form)
 - *The candidate has successfully carried out a contract to provide cafeteria services in the premises of an international organization and/or public authority (for example, municipal or national government body), and/or, within the past three years, in the premises of a private enterprise similar in size and demand to the herein Contracting Authority. The number of potential costumers in a given day, during a previous undertaking, should be not less than 250 persons. Note that demonstrated experience in a catering function is not specifically required.*

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. It must in that case 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.

If more than 8 eligible candidates meet the above selection criteria, the relative strengths and weaknesses of the applications of these candidates must be reexamined to identify the eight best applications for the tender procedure. The only factors which will be taken into consideration during this re-examination are:

- 1) Number of reference projects as per technical capacity

2) Number of permanent staff

16. Award criteria

Best value for money.

APPLICATION

17. Deadline for receipt of applications

15:00 Kosovo Time on 17/12/2009

Any application received after this deadline will not be considered.

18. Application format and details to be provided

Applications must be submitted using the standard application form that is attached to this document, whose format and instructions must be strictly observed.

Any additional documentation (brochure, letter, etc) sent with an application will not be taken into consideration.

19. How applications may be submitted

Applications must be submitted in English exclusively to the Contracting Authority:

- EITHER by recorded delivery (official postal service) to :

**EULEX Kosovo
Procurement Section
Ndërtesa Farmed
“Muharren Fejza” p.n.
Lagja e Spitalit
10000 Pristina, Kosovo**

- OR hand delivered (including courier services) directly to the Contracting Authority in return for a signed and dated receipt to:

**EULEX Kosovo
Procurement Section
Ndërtesa Farmed
“Muharren 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.

Applications submitted by any other means will not be considered.

20. Alteration or withdrawal of applications

Candidates may alter or withdraw their applications by written notification prior to the deadline for submission of applications. No application may be altered after this deadline.

Any such notification of alteration or withdrawal shall be prepared and submitted in accordance with Item 19. The outer envelope (and the relevant inner envelope if used) must be marked 'Alteration' or 'Withdrawal' as appropriate.

21. Operational language

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

22. Additional information

N/A

23. Legal basis

Council Joint Action 2008/124/CFSP of 04 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX Kosovo.

APPLICATION FOR REQUEST FOR PROPOSAL

Reference: RFP/2/09/Cafeteria for EULEX HQ

CAFETERIA FOR EULEX HEADQUARTERS

One signed application must be supplied, together with **three copies**. For economical and ecological reasons, we strongly recommend that you submit your files on paper-based materials (no plastic folder or divider). We also suggest you use double-sided print-outs as much as possible. The application must include a signed declaration using the annexed format from each legal entity making the application. **All data included in this application must concern only the legal entity or entities making the application.**

Any additional documentation (brochure, letter, etc) sent with an application will not be taken into consideration. Applications being submitted by a **consortium** (i.e., either a permanent, legally-established grouping or a grouping which has been constituted informally for a specific tender procedure) must follow the instructions applicable to the consortium leader and its members.

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. It must in that case 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.

1 SUBMITTED by (i.e. the identity of the Candidate)

	Name(s) of legal entity or entities making this application	Nationality ¹
Leader ²		
Member		
Etc ...		

2 CONTACT PERSON (for this application)

Name	
Organisation	
Address	
Telephone	
Fax	
e-mail	

3 ECONOMIC AND FINANCIAL CAPACITY³

Please complete the following table of financial data⁴ based on your annual accounts and your latest projections. If annual accounts are not yet available for this year or last year, please provide your latest estimates, clearly identifying estimated figures in italics. Figures in all columns must be on the same basis to allow a direct, year-on-year comparison to be made (or, if the basis has changed, an explanation of the change must be provided as a footnote to the table). Any clarification or explanation which is judged necessary may also be provided. In case of applicant being a public body, equivalent information should be provided.

Financial data	2 years before last year ⁵	Year before last year	Last year	Average ⁶	This year
	€	€	€	€	€
Annual turnover ⁷ , excluding this contract					
Cash and cash equivalents ⁸ at beginning of year					
Net cash from / (used in) operating, investing & financing activities ⁹ excluding future contracts					
Net forecast cash from/ (used in) future contracts, excluding this contract					
Cash and cash equivalents ⁸ at end of year (i.e., the sum of the above three rows)					

4 STAFF RESOURCES

Please provide the following personnel statistics for the current year and the two previous years.¹⁰

Average manpower	Year before last		Last year		This year	
	Overall	Total for fields related to this contract ¹¹	Overall	Total for fields related to this contract ¹¹	Overall	Total for fields related to this contract ¹¹
Permanent staff ¹²						
Other staff ¹³						
Total						
Permanent staff as a proportion of total staff (%)	%	%	%	%	%	%

5 FIELDS OF SPECIALISATION

Please use the table below whose objective is to indicate the relevant specialisms related to this contract of each legal entity making this application, by using the names of these specialisms as the row headings and the name of the legal entity as the column headings. Show the relevant specialism(s) of each legal entity by placing a tick (✓) in the box corresponding to those specialisms in which the legal entity has significant experience. **Maximum 10 specialisms.**

	Leader	Member 2	Member 3	Etc ...
Relevant specialism 1				
Relevant specialism 2				
Etc ... ¹⁴				

6 EXPERIENCE

a) General description of the restaurant or coffee/snack bar the candidate operates (in free format)

.....

b) Description of reference projects concerning the provision of functions (as per item 15 (3) of this document

Please complete a table using the format below to summarise the major relevant projects related to this contract carried out in the course of the past 3 years¹⁵ by the legal entity or entities making this application. The number of references to be provided must not exceed 4 for the entire application

Ref no 1	Project title							
Name of legal entity	Country	Overall project value (EUR)¹⁶	Proportion carried out by legal entity (%)	No of staff provided	Name of client	Origin of funding	Dates (start/end)	Name of consortium members, if any
...
Detailed description of project						Type of services provided		
<i>e.g. number of potential customers deployed in clients premises, size of the cafeteria, description of meals served (hot and/or cold meals), etc.</i>						...		

Ref no 2	Project title							
Name of legal entity	Country	Overall project value (EUR)¹⁷	Proportion carried out by legal entity (%)	No of staff provided	Name of client	Origin of funding	Dates (start/end)	Name of consortium members, if any
...
Detailed description of project						Type of services provided		
<i>e.g. number of potential customers deployed in clients premises, size of the cafeteria, description of meals served (hot and/or cold meals), etc.</i>						...		

Ref no 3	Project title							
Name of legal entity	Country	Overall project value (EUR) ¹⁸	Proportion carried out by legal entity (%)	No of staff provided	Name of client	Origin of funding	Dates (start/end)	Name of consortium members, if any
...
Detailed description of project						Type of services provided		
<i>e.g. number of potential customers deployed in clients premises, size of the cafeteria, description of meals served (hot and/or cold meals), etc.</i>						...		

Ref no 4	Project title							
Name of legal entity	Country	Overall project value (EUR) ¹⁹	Proportion carried out by legal entity (%)	No of staff provided	Name of client	Origin of funding	Dates (start/end)	Name of consortium members, if any
...
Detailed description of project						Type of services provided		
<i>e.g. number of potential customers deployed in clients premises, size of the cafeteria, description of meals served (hot and/or cold meals), etc.</i>						...		

7 DECLARATION(S)

As part of their application, each legal entity identified under point 1 of this application, including every consortium member, must submit a signed declaration using the attached format. The declaration may be in original or in copy. If copies are submitted the originals must be dispatched to the Contracting Authority upon request.

8 STATEMENT

I, the undersigned, being the authorised signatory of the above Candidate (including all consortium members, in the case of a consortium), hereby declare that we have examined the documentation related to the request for proposal referred to above. If our application is short-listed, we fully intend to submit a tender to provide the services requested in the tender dossier.

We recognise that our tender may be excluded if we propose key experts who have been involved in preparing this project or engage such personnel as advisers in the preparation of our tender and that we may also be subject to exclusion from other tender procedures and contracts funded by the EC/EDF.

We are fully aware that, in the case of a consortium, the composition of the consortium cannot be modified in the course of the tender procedure. We are also aware that the consortium members would have joint and several liability towards the Contracting Authority concerning participation in both the above tender procedure and any contract awarded to us as a result of it.

Signed on behalf of the Candidate

Name	
Signature	
Date	

FORMAT OF THE DECLARATION REFERRED TO IN POINT 7
OF THE APPLICATION FORM

To be submitted on the headed notepaper of the legal entity concerned

<Date>

<Name and address of the Contracting Authority - see points 5 & 25 of the procurement notice >

Your ref: RFP/2/09/Cafeteria for EULEX HQ

Dear Sir/Madam

In response to your procurement notice **RFP/2/09/Cafeteria for EULEX HQ**, we, < Name(s) of legal entity or entities>, confirm that we intend to submit a tender for the contract for [Lot number <number> of]* the above if we are invited to do so.

We hereby declare that we:

- are making this application [on an individual basis]* / [as member of the consortium led by < name of the leader / ourselves >]* for this contract. We confirm that we are not participating in any other application for the same contract, whatever the form of the application (as a member - including leader - in a consortium or as an individual Candidate);
- are not in any of the situations excluding us from participating in contracts which are listed in Section 2.3.3 of the Practical Guide to contract procedures for EC external actions (available from the following Internet address: http://ec.europa.eu/europeaid/work/procedures/index_en.htm);
- agree to abide by the ethics clauses in Section 2.4.14 of the Practical Guide to contract procedures for EC external actions, have not been involved in the preparation of the project which is the subject of this tender procedure unless we prove that the involvement in previous stages of the project does not constitute unfair competition, and, in particular, have no conflict of interests or any equivalent relation in that respect with other Candidates or other parties in the tender procedure at the time of the submission of this application;
- [have attached a current list of the enterprises in the same group or network as ourselves] / [are not part of a group or network]* and have only included data in the application form concerning the resources and experience of [our legal entity] / [our legal entity and the entities for which we attach a written undertaking] *;
- will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the implementation of the tasks; and
- fully recognise and accept that if we participate in spite of being in any of the situations listed in Section 2.3.3 of the Practical Guide to contract procedures for EC external actions , we may be excluded from tender procedures and contracts in accordance with the Section 2.3.4 of the Practical Guide to contract procedures for EC external actions. Furthermore, we acknowledge that, should we provide false declarations, make substantial errors or commit irregularities and fraud we may also be subject to financial penalties representing 2% to 10% of the total value of the contract being awarded. This rate may be increased to 4% to 20% in the event of a repeat offence within five years of the first infringement;
- are aware that, for the purposes of safeguarding the financial interests of the Communities, our personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office.

We also undertake, if required, to provide evidence of the financial and economic standing and the technical and professional capacity according to the selection criteria for this call for tender specified in the procurement notice, point 21. The documentary proofs required are listed in section 2.4.11.1.3 and 2.4.11.1.4 of the Practical Guide.

[* Delete as applicable]

If this declaration is being completed by a consortium member:

The following table contains our financial data as included in the consortium's application form. These data are based on our annual audited accounts and our latest projections. Estimated figures (i.e., those not included in annual audited accounts) are given in italics. Figures in all columns have been provided on the same basis to allow a direct, year-on-year comparison to be made <except as explained in the footnote to the table>.

Financial data	2 years before last⁵ €	Year before last year €	Last year €	Average⁶ €	This year €
Annual turnover ⁷ , excluding this contract					
Cash and cash equivalents ⁸ at beginning of year					
Net cash from / (used in) operating, investing & financing activities ⁹ excluding future contracts					
Net forecast cash from/ (used in) future contracts, excluding this contract					
Cash and cash equivalents ⁸ at end of year (i.e., the sum of the above three rows)					

The following table contains our personnel statistics as included in the consortium's application form:

Average manpower	Previous year		Last year		This year	
	Overall	Total for fields related to this contract¹¹	Overall	Total for fields related to this contract¹¹	Overall	Total for fields related to this contract¹¹
Permanent staff ¹²						
Other staff ¹³						

Yours faithfully,

<Signature of authorised representative>

Name and position of authorised representative

¹ Country in which the legal entity is registered

² Add / delete additional lines for consortium members as appropriate. **Note** that a sub-contractor is not considered to be a consortium member for the purposes of this application form. Subsequently, the data of the subcontractor must not appear in the data related to the economic, financial and professional capacity. If this application is being submitted by an individual legal entity, the name of that legal entity should be entered as 'Leader' (and all other lines should be deleted). Any change in the identity of the Leader and/or any consortium members between the deadline for receipt of applications indicated in the Procurement Notice and the award of the contract is not permitted without the prior written consent of the Contracting Authority.

³ Natural persons have to prove their capacity in accordance with the selection criteria and by the appropriate means

⁴ if this application is being submitted by a consortium, the data in the table must be the sum of the data in the corresponding tables in the declarations provided by the consortium members – see point 7 of this application form.

⁵ Last year =last accounting year for entity

⁶ Amounts entered in the 'Average' column must be the mathematical average of the amounts entered in the three preceding columns of the same row.

⁷ The gross inflow of economic benefits (cash, receivables, other assets) arising from the ordinary operating activities of the enterprise (such as sales of goods, sales of services, interest, royalties, and dividends) during the year.

⁸ Cash and cash equivalents comprise cash on hand and demand deposits, together with short-term, highly liquid investments that are readily convertible to a known amount of cash, and that are subject to an insignificant risk of changes in value. An investment normally meets the definition of a cash equivalent when it has a maturity of three months or less from the date of acquisition. Equity investments are normally excluded, unless they are in substance a cash equivalent (e.g. preferred shares acquired within three months of their specified redemption date). Bank overdrafts which are repayable on demand and which form an integral part of an enterprise's cash management are also included as a component of cash and cash equivalents.

⁹ Operating activities are the main revenue-producing activities of the enterprise that are not investing or financing activities, so operating cash flows include cash received from customers and cash paid to suppliers and employees. Investing activities are the acquisition and disposal of long-term assets and other investments that are not considered to be cash equivalents. Financing activities are activities that alter the equity capital and borrowing structure of the enterprise. Interest and dividends received and paid may be classified as operating, investing, or financing cash flows, provided that they are classified consistently from period to period. Cash flows arising from taxes on income are normally classified as operating, unless they can be specifically identified with financing or investing activities.

¹⁰ if this application is being submitted by a consortium, the data in the table above must be the sum of the data in the corresponding tables in the declarations provided by the consortium members – see point 7 of this application form.

¹¹ corresponding to the relevant specialisms identified in point 5 below

¹² staff directly employed by the Candidate on a permanent basis (i.e., under indefinite contracts)

¹³ other staff not directly employed by the Candidate on a permanent basis (i.e., under fixed-term contracts).

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- ¹⁴ add / delete additional lines and/or rows as appropriate. If this application is being submitted by an individual legal entity, the name of the legal entity should be entered as 'Leader' (and all other columns should be deleted).
- ¹⁵ In the case of framework contracts (without contractual value), only specific contracts corresponding to assignments implemented under such framework contracts shall be considered.
- ¹⁶ Effect of inflation will not be taken into account.
- ¹⁷ Effect of inflation will not be taken into account.
- ¹⁸ Effect of inflation will not be taken into account.
- ¹⁹ Effect of inflation will not be taken into account.