



**CONTRACT FOR THE PROVISION OF
EVALUATION SERVICES OF A DOSSIER OF PLANT
PROTECTION PRODUCT IN ACCORDANCE WITH
DIRECTIVE 1991/414/EEC AND LN 358/2009**

Project Title: The Provision of Evaluation Services of a dossier of a Plant Protection Product in accordance with Directive 1991/414/EEC and LN 358/2009 to be rendered to the Malta Standards Authority

PREAMBLE

Employer:

Malta Standards Authority
Second Floor, Evans Building
Merchants Street
Valletta VLT 1179.

Tel: (356) 23952000
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PART I

INSTRUCTIONS TO TENDERERS

GENERAL

The Employer shall not be responsible for any expenses or losses which may be incurred by any Tenderer in the preparation of his Tender.

(a) Tendering Procedure

The Tender must be complete in all respects and any exclusions or lack of information where so requested in the attached documents may lead to disqualification of the Tenderer.

All entries shall be clearly done in INK.

Any alteration or erasure to any entry made by the Tenderer in the priced document must be initialled by the Tenderer prior to submission.

No entries or alterations shall be made on these documents except where expressly provided for in the same documents.

All recipients of documents for the purpose of submitting a tender shall treat the details of the documents as strictly private and confidential.

Tenders may not be assigned.

(b) Sufficiency of Tender

The Tenderer shall fulfil all his obligations as per tender requirements in order to provide **Evaluation Services of a dossier of a Plant Protection Product in accordance with Directive 1991/414/EEC and LN 358/2009** and she/he shall ensure that this Tender covers the complete execution of the Contract notwithstanding whether any part or aspect is specifically described or contained within the Tender documents or not.

(c) Tender Evaluation

The Employer reserves the right to reject any or all Tenders or to award different parts of the Tender to two or more different Tenderers.

(d) Right of Recourse

Unsuccessful bidders shall be notified with the outcome of the evaluation process, and will be provided the following information:

- (i) the criteria for award
- (ii) the name and the successful tenderer
- (iii) the recommended price of the successful bidder
- (iv) the reasons why the tenderer did not meet the technical specifications/notification that the offer was not the cheapest (if applicable)
- (v) the deadline for filing a notice of objection (appeal)
- (vi) the deposit required if lodging an appeal

(e) Submission of Tender

The Tender shall be submitted in a sealed opaque envelope bearing only the name of the project and shall be delivered **by not later than 13th August 2010, 10:00 am**, Malta time, at the address and on the date specified in this Invitation to Tender.

Tender documents must be filled-in as instructed and must be returned in their entirety, with the documents bound in their original state.

The Tenderers are required to **initial each page** of the submitted Tender Documents thus verifying that the page has been 'Read and Approved and Good for Agreement'.

- i) If a Tender does not conform to the requirements set out in the Tender Documents it may be rejected.
- ii) Tenders shall be considered irregular and may be rejected for reasons including but not limited to the following:
 - a) If the Tender is not submitted in time on the specific forms furnished by the employer or if the Forms are altered.
 - b) If the Tender is not properly signed.
 - c) If the Tenderer changes any of the Conditions of Contract or Specific Conditions of Contract as stated in the Tender Documents.
 - d) If the Tenderer adds any provision reserving the right to accept or reject the Award of Tender.
 - e) If any of the required documents are lacking.
 - f) If there is any evidence of "collusion" between Tenderers.

The Tenderers should price all items for all sections which are considered of having a value. If any items are not priced by the tenderer, they will be deemed to have no monetary value.

(f) **Tender Documents**

Each Tenderer, by making his/her Tender, confirms that he/she has read and understood all the tender Documents and his/her tender is made in strict accordance therewith.

(g) **Confirmation of Tender Documents**

The Tenderer must complete and sign the Form as under, to clearly define all the Documents which have been taken into consideration in the preparation of this Tender.

(h) **Clarifications**

Tenderers may submit questions in writing through:

- sending an email to gilbert.a.camilleri@msa.org.mt

up to 5 calendar days before the deadline for submission of tenders. The Malta Standards' Authority must reply to all tenderers' questions, and amend the tender documents by publishing clarification notes, up to at least 5 calendar days before the deadline for submission of tenders.

Questions and answers, and alterations to the tender document will be published as a clarification note on the website of the Malta Standards Authority www.msa.org.mt within the respective tender's page, under the subheading "Download Tender Clarifications". Clarification notes will constitute an integral part of the tender documentation, and it is the responsibility of tenderers to visit this website and be aware of the latest information published online prior to submitting their Tender.

Description of document

Invitation to Tender

Preamble

Instructions to Tender

Conditions of Contract

All to be submitted with the Tender Documents.

Signature: _____

Full Name: _____

Duly authorised to sign for and on behalf of: _____

Date: _____

Official Stamp:

PART II

DESCRIPTION OF SERVICES TO BE PROVIDED

Tender for the provision of Evaluation Services of a dossier of a Plant Protection Product in accordance with Directive 1991/414/EEC and LN 358/2009

As per Act XXIX of 2007 the Malta Standards Authority has become the Competent Authority responsible for Plant Protection Products since February 2008. Plant Protection Products have to be authorized by the Competent Authority prior to their placing on the market.

A plant protection product is not to be authorized unless:

(a) its active substances are listed in Annex I and any conditions laid down therein are fulfilled, and, with regard to the following points (b), (c), (d) and (e), pursuant to the uniform principles provided for in Annex VI, of Directive 1991/414/EEC and Schedule VI of LN 358/2009 unless:

(b) it is established, in the light of current scientific and technical knowledge and shown from appraisal of the dossier provided for in Annex III of Directive 1991/414/EEC and Schedule III of LN 358/2009, that when used properly, and having regard to all normal conditions under which it may be used, and to the consequences of its use:

(i) it is sufficiently effective;

(ii) it has no unacceptable effect on plants or plant products;

(iii) it does not cause unnecessary suffering and pain to vertebrates to be controlled;

(iv) it has no harmful effect on human or animal health, directly or indirectly (e.g. through drinking water, food or feed) or on groundwater;

(v) it has no unacceptable influence on the environment, having particular regard to the following considerations:

– its fate and distribution in the environment, particularly contamination of water including drinking water and groundwater,

– its impact on non-target species;

(c) the nature and quantity of its active substances and, where appropriate, any toxicologically or ecotoxicologically significant impurities and co-formulants can be determined by appropriate methods, harmonized according to the procedure provided in Article 21 of Directive 1991/414/EEC, or, if not, agreed by the authorities responsible for the authorization;

(d) its residues, resulting from authorized uses, and which are of toxicological or environmental significance, can be determined by appropriate methods in general use;

(e) its physical and chemical properties have been determined and deemed acceptable for the purposes of the appropriate use and storage of the product;

(f) where appropriate, the MRLs for the agricultural products affected by the use referred to in the authorisation have been set or modified in accordance with Regulation (EC) No 396/2005

Duties and Responsibilities

Tendering parties are expected to satisfy the following mandatory requirements:

- The tenderer/s must have at least ten years of proved experience in the provision of evaluation services of an Annex III dossier for the authorization to place a plant protection product on the market as required by Directive 1991/414/EEC provisions for one of the Competent Authorities of Plant Protection Products in any Member State of the EU;
- The contractor/s, entrusted with handling the employer's evaluation must be contactable on working days and must be available to attend regular meetings with the employer when necessary.

- The employer should be involved in the ongoing works and informed of ongoing progress at all times
- The contractor should carry out a completeness check of the dossier within 10 working days from the date when notified in writing by the employer.
- The tenderer/s, contractor will provide a reasoned opinion on all part of the dossier within 80 working days (four months) from the date when notified in writing by the employer, unless any further relevant information is deemed necessary for the evaluation. In such case the time shall be suspended until this is received.
- The evaluation will be completed in a manner which satisfies all the requisites of Directive 1991/414/EEC and Legal Notice 358/2009 and other relevant legislations cited in the same Directive and/or Legal Notice as well as relevant Guidance Documents recognized by the Commission.

PART III

GENERAL CONDITIONS OF CONTRACT

1.0 Definitions

In the Contract (as hereinafter defined) the following words shall have the meanings hereby assigned to them, except where the context otherwise requires:

- i. 'Employer' shall be the person body or company as defined in the Preamble.
- ii. 'Contractor' means the natural or legal person/s whose tender has been accepted in whole/part by the Employer and the legal successors in title to such person, but not (except with the consent of the Employer) any assignee of such person.
- iii. "Time for completion" means 80 working days from date of award.

1.1 Interpretation and Precedence of Documents

The Several documents forming the Contract are to be taken as mutually explanatory of one another, but in case of ambiguities or discrepancies the same shall be explained and adjusted by the Malta Standards Authority who shall thereupon issue to the Contractor instructions thereon and in such event, unless otherwise provided in the Contract, the priority of the documents forming the Contract shall be as follows:

- i. The Contract Agreement, consisting of the Letter of Intent or Acceptance, if any, the Preamble; Instructions to Tender; Brief description of services to be provided; Conditions of Contract ; Delay in completion; Payment for services rendered to the employer and Arbitration;
- ii. The Covering Letter of the Tender Document;
- iii. The Tender;
- iv. Any other document forming part of the Contract.

2.0 Grounds of Adjudication

The sole award criterion will be the price. The contract will be awarded to the cheapest priced tender satisfying the administrative and technical criteria.

3.0 Conditions of Tender

1. No tender shall be considered unless :-

- i. it is received at the Malta Standards Authority on or before **10:00 am of 13th August, 2010**;
- ii. it is made on the prescribed form;
- iii. in the case of a legal person it is signed by the person/s duly authorized to act on behalf of the company;
- iv. in the case of an individual, it is signed by the party tendering;

- v. it is personally deposited in the appropriate tender box at the offices of the Malta Standards Authority, Second Floor, Evans' Building, Lower Merchants' Str., Valletta, Malta
 - vi. the postal address is stated in the prescribed form.
 - vii. Every page of the tender document is initialled by tenderer as proof of understanding
2. The tender shall also be accompanied by documentary evidence in support of the criteria requested in terms of this tender.
 3. The successful tenderer shall, where the conditions of tender so specify, be bound to sign the contract where and when required to do so. Should the tenderer fail to call either personally or by proxy to sign the contract for two consecutive times when requested to do so, his/her tender shall no longer be considered. The same shall apply should the said tenderer fail to furnish information and/or documents necessary for the drawing up of the contract.
 4. The Authority reserves the right to accept or reject, wholly or in part, any of the tenders received, or to divide the service among two or more contractors.

PART IV

DELAY IN COMPLETION

1.0 Failure to complete obligations

If the tenderer fails to complete his/her obligations according to Part II and VI of this tender, the employer shall be entitled to apply a Penalty for delay.

The amount due as penalty shall be 5% of the contract sum per calendar day every day of delay and it shall be computed for each day between the Time for Completion and the actual date of Completion.

The Penalty shall in no case exceed the maximum percentage of 25% of contract value.

Except as provided in Clause 2.0 of Part IV of this tender, such Penalty shall be to the exclusion of any other remedy of the employer in respect of the tenderer's failure to complete within the Time for Completion.

2.0 Prolonged Delay

If the employer has become entitled to the maximum Penalty, or the tenderer's obligations are behind schedule by more than 2 weeks, whichever occurs first, the employer may by notice require the Contractor to complete the services tendered. Such notice shall fix a final time for Completion which shall be reasonable.

The employer may either:

- (a) require the tenderer to complete, or
- (b) terminate the Contract.

If the employer terminates the Contract, the Authority shall be entitled to recover from the tenderer any loss it has suffered up to the maximum amount of liquidated damages stated in Part VII, in addition to any penalty of delay that may apply.

PART V
ARBITRATION

Any dispute, controversy or claim arising out of or relating to this contract, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with Part IV (Domestic Arbitration) of the Malta Arbitration Act (Chapter 387 of the revised edition of the Laws of Malta) and the Arbitration Rules of the Malta Arbitration Centre as at present in force.

The number of arbitrators shall be three and the place of arbitration shall be Malta. The language to be used in the proceedings shall be English. The award shall be final and binding and there shall be no appeal.

PART VI

CONDITIONS OF CONTRACT – Tender No: MSA 03/2010

The provision of testing services for pesticide multi residue testing

- (a) Commencement Date: On formal notification of acceptance (or as notified by Director of Regulatory Affairs Directorate)
- (b) Delivery Date: By not later then 80 working days from the date when notified in writing by the employer (or as notified by Director of Regulatory Affairs Directorate)
- (c) Prices: Price (excluding Vat) has to be per section evaluated or per dossier and shall include any other relevant overheads.
- (d) Fiscal Charges: Successful tenderers shall be bound to conform in all respects with VAT legislation
- (e) Penalty as Liquidated Damages: At the rate of 5% of the contract sum per working day every day of delay

Signature of Tenderer: _____

Full Name of tenderer: _____

For and on behalf of: _____

Date: _____

PART VII

PENALTIES FOR DELAYS

If the Contractor shall fail to provide the services within the time prescribed, or any extended time, he/she shall become liable to pay by way of certain due and liquidated damages to the Employer, who accepts, the sum specified in time (i) hereunder per working day of delay . The Employer may, without prejudice to any other method of recovery, deduct the amount of such damages from any monies in his hands, due, or which may become due to the Contractor. The payment or deduction of such damages shall not relieve the Contractor from his obligation to complete the Works or from any other of his obligations and liabilities under the Contract.

For all intents and purposes of Law the parties hereto declare and agree that all sums due by the Contractor to the Employer under the Penalty clause shall be so due by the Contractor to the Employer in consideration of mere delay, no abatement can be made in favour of the Contractor in the manner contemplated in Article 1122 (1) of the Maltese Civil Code and it shall not be incumbent upon the Employer to prove the reason of such sums so due to him by the Contractor.

- | | |
|--|--------------------------|
| (i) Penalty per working day | 5% of value of contract |
| (ii) Maximum Penalty as percentage of Contract value | Twenty-five (25) percent |

PART VIII

TERMS OF PAYMENT

The Contractor shall be entitled to receive payment from the Employer equivalent to 20% of the value on the delivery of the completeness check as per part II when formally notified of acceptance in writing by the employer and 80% of the value upon completion of the service provided and as approved by the Employer.

The Employer may not certify such payment if s/he has not satisfied her/himself that the said service is properly provided according to this tender.

The Contractor shall not receive payment beyond the Contract Sum for any services for which he/she may consider that payment should be made as an extra, unless such services shall have been ordered as extra services in writing, or unless the Contractor, before commencing such provision of services, shall have claimed in writing that he/she should be paid for an extra, and the Employer shall have certified in writing that the claim is reasonable and proper.

PART IX

FORM OF TENDER

NAME OF CONTRACT: The provision of Evaluation Services of a dossier of a Plant Protection Product in accordance with Directive 1991/414/EEC and LN 358/2009

TO: Malta Standards Authority
Second Floor, Evans Building,
Merchant Street,
Valletta VLT 1179.

1. Having examined the Tender Documents including the Covering Letter, Preamble, Instructions to Tenderers and Conditions of Contract for the execution of the above-named Contract, we, the undersigned, hereby offer to perform the services in conformity with the said documents for the sum of (exclusive of VAT) :

(__€_____)

2. We undertake, if our Tender is accepted, to complete and deliver the whole of the services comprised in the Contract within the time or times stated in the Contract, subject to the said Conditions.
3. We agree to abide by the Tender for a period of ninety (90) days from the date fixed for receiving the same and it shall remain binding upon us and may be accepted by you any time before the expiration of that period.
4. Unless and until a formal agreement is prepared and signed, this tender, together with your written acceptance thereof shall constitute a binding Contract between us, valid from the date of your written Letter of Acceptance.
- 5.

Dated this _____ day of _____ 2010

Signature _____ in the capacity of _____

duly authorised to sign tenders for and on behalf of : _____

Vat Reg. No.: _____

Contact details to be used with regards to tender

Address : _____

Tel. : _____

Fax No. : _____

E-mail: _____

PART X

CONTRACT AGREEMENT
(to be filled in at award stage)

This Agreement made the _____ day of _____ 2010

Between: _____

for and on behalf of: _____

of (address) : _____ (hereinafter
called "the Employer") and _____

for and on behalf of: _____

of (address) _____ (hereinafter
called "the Contractor").

Whereas the Employer requires that certain services should be provided and executed by the Contractor,
namely, the:

and has accepted a Tender by the Contractor for the provision and execution of such services for the sum
of

_____ (hereinafter called "the Contract Price")

Now it is agreed as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the conditions of Contract hereinafter referred to:
2. The following Documents shall be deemed to form this Agreement
 - A. Letter of Intent or Acceptance, if any;
 - B. Preamble;
 - C. Instructions to Tender;
 - D. Brief description of services to be provided;
 - E. Conditions of Contract ;

- F. Duties and Responsibilities;
- G. Delay in completion;
- H. Payment for services rendered to the employer; and
- I. Arbitration.

3. The Contractor shall perform the services in conformity in all respects with the provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor, in consideration of the performance of the services the Contract Price or such other sum as may become payable under the provision of the Contract at the times and in the manner prescribed by the Contract.
5. The parties have entered into this Agreement in accordance with their respective laws and statutes or constitutions on the date hereof by their duly authorised signatories.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE CAUSED THEIR RESPECTIVE SIGNATURES ON THE DAY AND YEAR ABOVE WRITTEN.

FOR AND ON BEHALF OF
THE EMPLOYER

FOR AND ON BEHALF OF
THE CONTRACTOR

SIGNATURE

SIGNATURE

WITNESS:

WITNESS:

SIGNATURE

SIGNATURE

FULL NAME

FULL NAME

ADDRESS: _____

ADDRESS: _____

OCCUPATION: _____

OCCUPATION: _____
