
Construction procurement —

Part 4:

**Standard conditions for the calling for
expressions of interest**

Marchés de construction —

*Partie 4: Conditions-types normalisées pour appel aux parties
intéressées*

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ISO 10845-4:2011

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Foreword

ISO (the International Organization for Standardization) is a worldwide federation of national standards bodies (ISO member bodies). The work of preparing International Standards is normally carried out through ISO technical committees. Each member body interested in a subject for which a technical committee has been established has the right to be represented on that committee. International organizations, governmental and non-governmental, in liaison with ISO, also take part in the work. ISO collaborates closely with the International Electrotechnical Commission (IEC) on all matters of electrotechnical standardization.

International Standards are drafted in accordance with the rules given in the ISO/IEC Directives, Part 2.

The main task of technical committees is to prepare International Standards. Draft International Standards adopted by the technical committees are circulated to the member bodies for voting. Publication as an International Standard requires approval by at least 75 % of the member bodies casting a vote.

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ISO shall not be held responsible for identifying any or all such patent rights.

ISO 10845-4 was prepared by Technical Committee ISO/TC 59, *Buildings and civil engineering works*.

ISO 10845 consists of the following parts, under the general title *Construction procurement*:

— *Part 1: Processes, methods and procedures*

— *Part 2: Formatting and compilation of procurement documentation*

— *Part 3: Standard conditions of tender*

— *Part 4: Standard conditions for the calling for expressions of interest*

— *Part 5: Participation of targeted enterprises in contracts*

— *Part 6: Participation of targeted partners in joint ventures in contracts*

— *Part 7: Participation of local enterprises and labour in contracts*

— *Part 8: Participation of targeted labour in contracts*

Introduction

Procurement is the process which creates, manages and fulfils contracts. Procurement can, as such, be described as a succession of logically related actions occurring or performed in a definite manner and which culminate in the completion of a major deliverable or the attainment of a milestone. Processes, in turn, are underpinned by methods (i.e. a documented, systematically-ordered collection of rules or approaches) and procedures (i.e. the formal steps to be taken in the performance of a specific task), which are informed and shaped by the policy of an organization. Methods and procedures can likewise be documented and linked to processes.

Expressions of interest request potential tenderers to register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials so that they can be invited to submit a tender offer should they qualify or be selected to do so. Conditions for the calling for expressions of interest are required to establish procedures from the time that expressions of interest are called for to the time that respondents are invited to submit tender offers or are admitted to a database. Such conditions document the procedures, the manner in which those engaged in these processes are to behave, the obligations of the respondent, and the undertakings of the employer.

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Construction procurement —

Part 4:

Standard conditions for the calling for expressions of interest

1 Scope

This part of ISO 10845 sets out standard conditions for the calling for expressions of interest which

- a) bind the employer and respondent to behave in a particular manner,
- b) establish what is required for a respondent to submit a compliant submission,
- c) make known to respondents the evaluation criteria, and
- d) establish the manner in which the employer conducts the process of calling for expressions of interest.

This part of ISO 10845 is intended for use in procurements relating to goods, services and construction works and certain disposals other than by auction.

NOTE 1 Annex A contains commentary on the clauses in this part of ISO 10845. Annex B provides guidance on how to develop the submission data for a call for expressions of interest using this part of ISO 10845.

NOTE 2 ISO 10845-2 establishes the manner in which calls for expressions of interest should be formatted and compiled. The standard conditions contained in this part of ISO 10845 can, by reference, be incorporated in procurement documents formatted and compiled in accordance with the provisions of ISO 10845-2.

2 Terms and definitions

For the purposes of this document, the following terms and definitions apply.

2.1

conflict of interest

any situation in which someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially, an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or incompatibility or contradictory interests exist between an employee and the organization which employs that employee

[ISO 10845-1:2010, definition 3.8]

2.2

corrupt practice

offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the tender process

NOTE Adapted from ISO 10845-1:2010, definition 3.13.

2.3 employer
person or organization intending to or entering into the contract with the contractor for the provision of goods, services, or engineering and construction works

[ISO 10845-1:2010, definition 3.17]

2.4 expression of interest
request for respondents to register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials so they may, in terms of the organization's procurement procedures, be invited to submit a tender offer should they qualify or be selected to do so

[ISO 10845-1:2010, definition 3.18]

2.5 fraudulent practice
misrepresentation of the facts in order to influence the tender process, or the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels

NOTE Adapted from ISO 10845-1:2010, definition 3.20.

2.6 organization
company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body

[ISO 10845-1:2010, definition 3.23]

2.7 quality
totality of features and characteristics of a product or service that bears on the ability of the product or service to satisfy stated or implied needs

[ISO 10845-1:2010, definition 3.35]

2.8 respondent
person or organization that submits an expression of interest in response to an invitation to do so

[ISO 10845-1:2010, definition 3.36]

2.9 submission data
document that establishes the respondent's obligations in responding to a call for an expression of interest and the employer's undertakings in administering the process of calling for and receiving expressions of interest

[ISO 10845-1:2010, definition 3.39]

3 General requirements

3.1 Actions

The employer and each respondent submitting an expression of interest shall comply with the standard conditions for calling for an expression of interest in this part of ISO 10845. In their dealings with each other, they shall discharge their duties and obligations, as set out in Clauses 4 and 5, in a timely manner and with integrity, behave equitably, honestly and transparently, comply with all legal obligations and not engage in anti-competitive practices.

The employer and the respondent and all their agents and employees involved in the submission process shall avoid conflicts of interest and where a conflict of interest is perceived or known, declare any such conflict of interest, indicating the nature of such conflict. Respondents shall declare any potential conflict of interest in their submissions. Employees, agents and advisors of the employer shall declare any conflict of interest to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to the procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

The respondent shall not make a submission without having a firm intention and the capacity to proceed with the next stage of the procurement process.

NOTE 1 A conflict of interest can exist even if there are no improper acts as a result of it. This can arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances or positions. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in said circumstance or position.

NOTE 2 Conflicts of interest with respect to those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process and any personal bias, inclination, obligation, allegiance or loyalty which can in any way affect any decisions taken.

3.2 Supporting documents

The documents issued by the employer for the purpose of obtaining expressions of interest are listed in the submission data.

3.3 Interpretation

The submission data and additional requirements contained in the submission schedules that are included in the returnable documents are deemed to be part of the conditions for the calling for expressions of interest.

3.4 Communication and employer's agent

Each communication between the employer and a respondent shall be to or from the employer's agent only, and in a form that can be readily read, copied and recorded, and in the language stated in the submission data. The employer shall not take any responsibility for non-receipt of communications from or by a respondent. The name and contact details of the employer's agent are stated in the submission data.

4 Respondent's obligations

Respondents shall comply with the following obligations.

4.1 Eligibility

Submit an expression of interest only if the respondent satisfies the eligibility criteria stated in the submission data and if the respondent or any of the respondent's principals is not under any restriction to do business with the employer.

4.2 Cost of submissions

Accept that the employer does not compensate respondents for any costs incurred in the preparation and delivery of a submission.

4.3 Checking documents

Check the submission documents on receipt and notify the employer of any discrepancy or omission.

4.4 Acknowledging addenda

Acknowledge receipt of addenda to the submission documents, which the employer may issue, and, if necessary, apply for an extension to the closing time stated in the submission data, in order to take the addenda into account.

4.5 Clarification meetings

Attend, where required, clarification meetings, the details of which are stated in the submission data, at which respondents may familiarize themselves with the proposed work, services or supply (and location, etc.) and raise questions.

4.6 Seeking clarification

Request clarification of the submission documents, if necessary, by notifying the employer at least five working days before the closing time stated in the submission data.

4.7 Making a submission

Return all returnable documents and the number of copies of such documents stated in the submission data to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

Seal the original and each copy of the submission as separate packages, marking the packages as "ORIGINAL" and "COPY". Each package shall state, on the outside, the employer's address and identification details stated in the submission data, as well as the respondent's name and contact address.

Accept that the employer does not assume any responsibility for the misplacement or premature opening of the submission if the outer package is not sealed and marked as stated.

4.8 Information and data to be completed

Accept that submissions which do not provide all the data or information requested, completely and in the form required, may be regarded by the employer as being non-responsive.

4.9 Closing time

Ensure that the employer receives the submissions at the address specified in the submission data not later than the closing time stated in the submission data. Proof of posting shall not be accepted as proof of delivery. The employer shall not accept submissions submitted by telegraph, telex, facsimile or e-mail, unless otherwise stated in the submission data.

Accept that, if the employer extends the closing time stated in the submission data for any reason, the requirements of the conditions for expressions of interest apply equally to the extended deadline.

4.10 Clarification of submission

Provide clarification of a submission in response to a request to do so from the employer during the evaluation of submissions.

5 Employer's undertakings

The employer shall carry out the following undertakings.

5.1 Responding to clarification

Respond to a request for clarification received up to five working days before the submission closing time stated in the submission data and notify all respondents who attended the clarification meetings, if any, of those responses.

5.2 Issuing addenda

If necessary, issue addenda that may amend or amplify the submission documents to each respondent during the period from the date of the calling for expressions of interest until three days before the closing time for submissions stated in the submission data. If, as a result of the issuing of addenda, it is necessary to extend the closing time stated in the submission data, grant such extension and notify all respondents accordingly.

5.3 Late submissions

Unless otherwise stated in the submission data, return submissions received after the closing time stated in the submission data unopened, unless it is necessary to open a submission to obtain a forwarding address, to the respondent concerned.

5.4 Opening of submissions

Record the name of each respondent whose submission is opened and acknowledge receipt of each submission.

Make available the names of the respondents that made submissions before the closing time for submissions to all interested persons upon request.

5.5 Non-disclosure

Do not disclose to respondents, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of submissions until after the evaluation process is complete.

5.6 Grounds for rejection and disqualification

Determine whether there has been any effort by a respondent to influence the process and instantly disqualify a respondent if it is established that he engaged in corrupt or fraudulent practices.

5.7 Test for responsiveness

Determine, upon opening and before detailed evaluation, whether each submission received

- a) complies with the requirements of the conditions for the calling for expressions of interest,
- b) has all the substantive provisions properly and fully completed and signed, and
- c) is responsive to the other requirements of the call for expressions of interest.