



**ENGAGEMENT OF A REALTOR FOR THE  
ACQUISITION OF OFFICE SPACES IN  
MANHATTAN NEW YORK**

---

**Date Published:** Monday 16<sup>th</sup> December 2019

---

**Deadline for Submission:** Monday 20<sup>th</sup> January 2020

**at 12:00pm  
CET/CEST**

---

**Tender Opening:** Monday 20<sup>th</sup> January 2020

**at 12:30pm  
CET/CEST**

---

**IMPORTANT:**

- No Bid Bond is requested for this tender.

**Ministry for Foreign Affairs & Trade Promotion**

Contact details Palazzo Parisio, Merchant Street, Valletta, Malta +356 21242191 [procurement.mftp@gov.mt](mailto:procurement.mftp@gov.mt)

	<b>SECTION 1 – INSTRUCTIONS TO TENDERERS</b>
	<b><i>In submitting their tenders, tenderers must respect all instructions, forms, Terms of reference, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified may lead to the rejection of the tender.</i></b>
	<b>1. General Instructions</b>
1.1	<p>In submitting a tender, the tenderer accepts in full and in its entirety, the content of this tender document, including subsequent Clarifications issued by the Contracting Authority (CA), whatever the economic operator's own corresponding conditions may be, which through the submission of the tender is waived. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender documentation.</p> <p><b>No account can be taken of any reservation in the tender in respect of the procurement documents; any disagreement, contradiction, alteration or deviation shall lead to the tender offer not being considered any further.</b></p> <p><b>Prospective tenderers must submit their response to this tender by completing the necessary documentation and by submitting to the prescribed e-mail address.</b></p>
	<b>Note:</b>
	<p>Where in this tender document a standard is quoted, it is to be understood that the Contracting Authority will accept equivalent standards. However, it will be the responsibility of the respective bidders to prove that the standards they quoted are equivalent to the standards requested by the Contracting Authority.</p>
1.2	The subject of this call is Engagement of a Realtor for the Acquisition of Office Space in Manhattan, New York.
1.3	The Contracting Authority (CA) for this tender is Ministry for Foreign Affairs and Trade Promotion, Malta.



In order to be considered eligible for the award of the contract, economic operators must provide evidence that they meet or exceed certain minimum criteria described hereunder.

### **(A) Eligibility Criteria**

- (i) No Bid Bond is required. <sup>(Note 1)</sup>
- (ii) Power of Attorney (if applicable). <sup>(Note 2)</sup>
- (iii) Exclusion and Blacklisting Criteria <sup>(Note 2)</sup>

As part of the selection criteria requirements the following can be requested:

*The bidder is to furnish, a title report covering the proposed office space showing the condition of title as of the date of such certificate*

*A. Include any particular Licenses attached to premises when applicable;*

### **(C) Technical Specifications**

- (i) Tenderer's Technical Offer in response to specifications to be submitted. <sup>(Note 3)</sup>
- (ii) **Literature** as per Form marked 'Literature List' to be submitted with the Technical offer at tendering stage. <sup>(Note 2)</sup>

### **(D) Financial Offer**

- (i) A financial offer as per the financial bid form. <sup>(Note 3)</sup>

**Notes to Clause 6:**

1. Tenderers will be requested to clarify/rectify, within five (5) working days from notification, the tender guarantee only in the following four circumstances: incorrect validity date, and/or incorrect value, and/or incorrect addressee and incorrect name of the bidder. Rectification in respect of the Tender Guarantee (Bid Bond) is free of charge.

2. Tenderers will be requested to either clarify/rectify any incorrect and/or incomplete Central Government documentation, and/or submit any missing documents within five (5) working days from notification.

*All Rectifications are free of charge.*

3. No rectification shall be allowed. Only clarifications on the submitted information may be requested.

---

**7. Tender Guarantee (Bid Bond)**

7.1 *No tender guarantee (bid bond) is required.*

7.1

**8. Period during which tenders are binding**

Tenderers are bound by their tenders for 30 days after the deadline for the submission of tenders. In exceptional cases and prior to the expiry of the original tender validity period, the Contracting Authority may ask tenderers in writing to extend this period. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the tender procedure will be terminated.

The selected tenderer must maintain its tender for a further 30 days from the date of notification that its tender has been recommended for the award.

**9. Costs for preparing tenders**

No costs incurred by the tenderer in preparing and submitting the tender shall

be reimbursable. All such costs shall be borne by the tenderer.

#### **10. Ownership of tenders**

The Contracting Authority retains ownership of all tenders received under this tendering procedure. Consequently, tenderers have no right to have their tenders returned to them.

#### **11. Ethics clauses / Corruptive practices**

- a) Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the Evaluation Committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties.
- b) The tenderer must not be affected by any potential conflict of interest and shall have no particular link with other tenderers or parties involved in the project.
- c) The Director of Contracts reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the implementation of a contract. For the purposes of this provision, "corrupt practices" are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or implementation of a contract already concluded with the Republic of Malta.

#### **12. Notification of award and signing of contract(s)**

Before the period of validity of tenders expires, the Contracting Authority will notify the successful tenderer in writing that its tender has been successful as well simultaneously in writing informing the unsuccessful tenderers.

The notification to the successful tenderer implies that the validity of its tender is extended for a period of 30 days from the date of notification of award of the contract. Unless there is challenge of the award decision by any of the unsuccessful tenderers within 10 calendar days from the date of the award notification, the Contracting Authority will send the contract to the tenderer for signature.

Within 15 calendar days of receipt of the Representation Agreement (contract) the Bidder shall return the signed contract to the Contracting Authority. The Bidder is to submit proposed Office Space that is/are backed up by a copy of the declaration by an Architect that the building is built up to the standards and regulations in place. Failure of the selected tenderer to comply with this requirement may constitute grounds for the annulment of the Representation Agreement. In such a case, the Contracting Authority may award the tender to another tenderer.

The unsuccessful tenderers will be informed in detail on the grounds by which

their tenders were not accepted, by means of a standard letter, which includes an indication of the relative shortcomings of their tender – which could not be rectified.

### **13. Criteria subject to negotiations and Criteria for Award**

- 13.1 The contract will be awarded to the tenderer submitting the best offer in line with the following criteria:

Each technical offer will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid of this procurement document. No other award criteria will be used. The award criteria will be examined in accordance with the requirements as indicated in the Technical Specifications.

- 13.2 The evaluation process

At this step of the evaluation process, the Evaluation Committee will analyse the administratively-compliant tenders' technical conformity in relation to the published Specifications.

Tenderers must achieve an average technical score of 80%. The average technical score is arrived at by adding the individual weighted scores of each evaluator divided by the number of evaluators. Those tenderers that do not obtain the minimum set average technical score will be eliminated.

The offer achieving the highest technical score will be awarded 100% of the technical weight. The other offers will be awarded scores in proportion to the offer with the highest technical score as per below formula;

Technical score =

$$\frac{\text{Average Technical Score of the Respective Offer} \times \text{Technical Weight}}{\text{Highest Average Technical Score}}$$

The financial offers for tenders which were not eliminated during the technical evaluation (i.e., those which have achieved an average technical score of 80% or more and/or those which have achieved the set threshold for individual criterion/sub-criterion) will be evaluated. The Evaluation Committee will also check that the financial offers contain no arithmetical errors.

The offer with the lowest price will be awarded 100% of the financial weight. The

other offers will be awarded scores in proportion to the offer with the lowest price as per below formula;

$$\text{Financial score} = \frac{\text{Lowest Priced Offer}}{\text{Financial Offer of the Tender Being Considered}} \times \text{Financial Weight}$$

The tender will be awarded to the offer that has obtained the highest score after adding the respective technical and financial scores as visualized below;

Conclusion of tender evaluation under BPQR:

$$\text{Score}_i = \left( \left( \frac{\text{Tech}_i}{\text{Tech}_{\max}} \times W_{\text{Tech}} \right) + \left( \frac{\text{Fin}_{\min}}{\text{Fin}_i} \times W_{\text{Fin}} \right) \right)$$

Where:

- ♦  $\text{Tech}_i$  is the technical score of the supplier
- ♦  $\text{Tech}_{\max}$  is the maximum technical score achieved amongst all suppliers
- ♦  $\text{Fin}_{\min}$  is the minimum financial price offered amongst all suppliers
- ♦  $\text{Fin}_i$  is the financial price of the supplier
- ♦  $W_{\text{Tech}}$  is the weight of the technical envelope
- ♦  $W_{\text{Fin}}$  is the weight of the financial envelope

After determining the ranking of the bidders (by the term ranking it is being understood that the bidder has been found to be administratively compliant and his offer has been evaluated in accordance to the above), the contracting authority shall proceed to start negotiations with the highest ranking bidder.

If the negotiations with the highest ranking bidder are not successful he shall be disqualified and the contracting authority shall start negotiations with the second highest ranking bidder. This process may be repeated with any bidder in accordance with his respective ranking.

Provided that these negotiations shall be carried out within 10 calendar days from their commencement.

Further provided where the negotiations are successful with a bidder who has a higher ranking, he will be awarded the tender, and the contracting authority shall not be obliged to carry out further negotiations with bidders who rank below this bidder.

The ranking of the bidders shall not be rendered public before the negotiations have taken place.

Evaluation Grid

<b>Criteria/Sub-criteria</b>	<b>Weighting (%)</b>	<b>Threshold (%) *</b>
Walking distance of proposed Office Space to United Nations Head Quarters main door. (Shortest distances get higher scores)	30	
Services offered within the building that enhance security and access control	5	
Size of floor area	20	
Number of parking spaces available	5	
Suitability of proposed office space to meet our requirements	30	
Lead time required to move in	10	
<b>Total Criteria Weight</b>	<b>100</b>	

## **Section 2 – Extracts from the Public Procurement Regulations**

### *Part IX of the Public Procurement Regulations*

#### **Appeals from decisions taken after the closing date for the submissions of an offer**

**270.** Where the estimated value of the public contract meets or exceeds five thousand euro (€5,000) any tenderer or candidate concerned, or any person, having or having had an interest or who has been harmed or risks being harmed by an alleged infringement or by any decision taken including a proposed award in obtaining a contract, a rejection of a tender or a cancellation of a call for tender after the lapse of the publication period, may file an appeal by means of an objection before the Public Contracts Review Board, which shall contain in a very clear manner the reasons for their complaints.

**271.** The objection shall be filed within ten (10) calendar days following the date on which the Central Government Authority/Contracting Authority or the authority responsible for the tendering process has by fax or other electronic means sent its proposed award decision or the rejection of a tender or the cancellation of the call for tenders after the lapse of the publication period.

**272.** The communication to each tenderer or candidate concerned of the proposed award or of the cancellation of the call for tenders shall be accompanied by a summary of the relevant reasons relating to the rejection of the tender as set out in regulation 242 or the reasons why the call for tenders is being cancelled after the lapse of the publication period, and by a precise statement of the exact standstill period.

**273.** The objection shall only be valid if accompanied by a deposit equivalent to 0.50 per cent of the estimated value set by the Central Government Authority/Contracting Authority of the whole tender or if the tender is divided into lots according to the estimated value of the tender set by the Central Government Authority/Contracting Authority for each lot submitted by the tenderer, provided that in no case shall the deposit be less than four hundred euro (€400) or more than fifty thousand euro (€50,000) which may be refunded as the Public Contracts Review Board may decide in its decision.

**274.** The Secretary of the Public Contracts Review Board shall immediately notify the Director, the Ministerial Procurement Unit and, or the Central Government Authority/Contracting Authority, as the case may be, that an objection had been filed with his authority thereby immediately suspending the award procedure.

**275.** The Department of Contracts or the Contracting Authority involved, as the case may be, shall be precluded from concluding the contract during the period of ten (10) calendar days allowed for the submission of appeals. The award process shall be completely suspended if an appeal is eventually submitted.

**276.** The procedure to be followed in submitting and determining appeals as well as the conditions under which such appeals may be filed shall be the following:

(a) any decision by the General Contracts Committee, or the Special Contracts Committee or by the Central Government Authority/Contracting Authority, shall be made public by affixing it to the notice-board of the Department of Contracts or of the office of the Contracting Authority, as the case may be, or by uploading it on government's e-procurement platform prior to the award of the contract if the call for tenders is administered by the Department of Contracts;

(b) the appeal of the complainant shall also be affixed to the notice-board of the Public Contracts Review Board and shall be communicated by fax or by other electronic means to all participating tenderers;

(c) the Central Government Authority/Contracting Authority and any interested party may, within ten (10) calendar days from the day on which the appeal is affixed to the notice board of the Review Board and uploaded where applicable on the government's e-procurement platform, file a written reply to the appeal. These replies shall also be affixed to the notice board of the Review Board and where applicable they shall also be uploaded on the government's eProcurement platform;

(d) the authority responsible for the tendering process shall within ten (10) days forward to the chairman of the Public Contracts Review Board all Central Government Authority documentation pertaining to the call for tenders in question including files and tenders submitted;

(e) the secretary of the Review Board shall inform all the participants of the call for tenders, the Department of Contracts and the Contracting Authority of the date or dates, as the case may be, when the appeal will be heard;

(f) when the oral hearing is concluded, the Public Contracts Review Board, if it does not deliver the decision on the same day, shall reserve decision for the earliest possible date to be fixed for the purpose, but not later than six (6) weeks from the day of the oral hearing:

Provided that for serious and justified reasons expressed in writing by means of an order notified to all the parties, the Public Contracts Review Board may postpone the judgment for a later period;

(g) the secretary of the Review Board shall keep a record of the grounds of each adjournment and of everything done in each sitting;

(h) after evaluating all the evidence and after considering all submissions put forward by the parties, the Public Contracts Review Board shall decide whether to accede or reject the appeal or even cancel the call if it appears to it that this is best in the circumstances of the case.

## **Section 3: Specifications**

### **A. Scope**

Through this tender, the Contracting Authority (CA) on behalf of the Government of the Republic of Malta expresses its interest in engaging a Realtor with the ultimate aim to purchase office space in the Manhattan area of New York (United States of America), suitable to accommodate its Permanent Representation to the United Nations.

The following are the specifications that the premises must abide with in order to be considered eligible for use by the CA.

- 1) The following conditions shall apply:
  - a) The Realtor is to propose Office Space in accordance with all the requirements.
  - b) Architect's condition report of property offered as part of the technical offer.
  
- 2) The proposed office space is to have a floor area of around 5,000 square feet (ft<sup>2</sup>) which can be used as office space and other related office amenities.

### **Specifications of the Proposed Area:**

- 1) All property types will be considered; however, if property type is an apartment within a shared block/tower, it should ideally be located on the third floor of the building or higher. Standalone properties on multiple floors may also be considered.
- 2) If the property is within a shared building, the building should preferably have a reception area at ground floor, ideally run by a receptionist and have security personnel.
- 3) Provide the possibility to erect the Maltese and EU flag where practical
- 4) Have a working lift that must be certified by a warranted engineer.
- 5) It should have two entrances
- 6) It should ideally have day parking spaces, or a garage for at least 2 vehicles;
- 7) Internal space requirements are as follows (open plan properties will be considered):
  - a) 1 office (including lounge) for Head of Mission
  - b) 1 office for Deputy
  - c) 1 large meeting room to accommodate 34 persons
  - d) 1 medium meeting room to accommodate 12 persons
  - e) Office space to accommodate 30 persons (partitioning to be created as necessary)
  - f) Toilet facilities
  - g) Kitchen
  - h) Pantry
  - i) Secure Registry

- j) Lounge/reception area
- 8) Should have heating and air-conditioning installed and fully functional hence must be certified by a warranted engineer.
- 9) The property should be immediately available upon conclusion of contract.
- 10) The property must be located in Mid-town, Manhattan, New York.

Bidders will be required to indicate the floor in which the proposed office space is located within the building

11) The premises must also feature the following mandatory key characteristics:

- a) Two entrances
- b) Conform to local building regulations and standards and any other applicable laws and regulations. This is to be accompanied by a written statement signed by a warranted Architect

## **Section 4: General Rules Governing Tendering**

### **A. Clarification meeting**

Not applicable.

### **B. Terms of Payment**

Bidders are requested to submit their terms of payment in full.

### **C. Proposal Format**

Bidders are to submit their proposal using the format defined in Appendix I of this request for Tenders.

Full specifications of the proposed office space and illustrated literature are to accompany the proposal. All documents must be in the English language.

### **D. Request for Clarifications**

Bidders are urged to promptly notify the CA of any ambiguity in or discrepancy between any of the Central Government Authority. Documents of this Request for Tenders which may be discovered upon examination of the documents.

Bidders may submit any written requests for clarification concerning this request for Tenders through the email provided in the procurement document (Article 2 of the ITT) until the deadline stipulated in the timetable, specifying the publication reference and the title of this request. Any requests after this date will not be accepted.

Any clarifications from the CA in response to any requests for clarification will be addressed and sent before the deadline stipulated in the timetable.

Bidders are advised that any interpretations, correction or changes to the Request for Tenders will be notified via the CA website. It is the responsibility of the bidders to visit the CA's website and be aware of the latest information published on the Central Government Authority/CA website prior to submitting the offer. Interpretations, corrections or changes made in any other manner will not be valid, and prospective bidders shall not rely upon such interpretations, corrections and changes.

### **E. Submission of Tenders**

All tenders must be submitted via e-mail at [offers.mftp@gov.mt](mailto:offers.mftp@gov.mt) by not later than 2<sup>nd</sup> December 2019 at 12.00pm CET/CEST.

The price(s) offered shall be quoted in American Dollars which for sake of evaluation shall be converted into Euro using the rate of Exchange quoted by the Central Bank of the European Union at time of closing of offers.

In submitting their tenders, bidders will be submitting their final offer. Bidders are deemed to have taken account of all that is required for the submission, including its correctness and completeness and that they have included all charges in their price offer. Tenders must comply with the requirements as stated in this request.

**F. Validity of Tenders**

Tenders shall remain valid for a period of 30 days from the closing date for the submission of the tenders stipulated in the timetable as stipulated in the ITT section.

**G. Cancellation of the Request for Tenders Procedure**

The CA shall have the option to cancel any published request for Tenders prior to its closing date stipulated in the timetable.

Bidders are advised that any cancellation to the request for Tenders will be notified via an e-mail sent to the bidders as well as a recommendation for cancellation on the notice board of the CA. It is the responsibility of the bidders to visit the website of the CA and be aware of the latest information published on prior to submitting the proposal.

**H. Evaluation of Tenders**

The entire evaluation procedure is confidential. The Evaluation Committee's decisions are collective and its deliberations are held in closed session. The members of the Evaluation Committee are bound to secrecy.

In the interest of transparency and equal treatment and without being able to modify the submitted proposal, the bidder may be required, at the sole written request of the CA to provide clarifications.

The CA will be conducting an inspection on premises, where this is deemed necessary, as part of the evaluation process.

The CA is not bound to accept any of the submitted offers and has the right to refuse in part or in full any or all the submissions, even the most advantageous.

**I. Data Protection and Freedom of Information**

Any personal data submitted in the tenders shall be processed pursuant to the Data Protection Act (laws of Malta). It shall be processed solely for the purposes of the performance, management and follow-up by the Contracting Authority without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in conformity with National and/or Community law.

The provisions of this proposal are without prejudice to the obligations of the Contracting Authority in terms of the Freedom of Information Act (Laws of Malta). The Contracting Authority, prior to disclosure of any information to a third party in relation to any provisions of this proposal which have not yet been made public, shall consult the bidder in accordance with the provisions of the said Act, pertinent subsidiary legislation and the Code of Practice issued pursuant to the Act. Such consultation shall in no way prejudice the obligations of the Contracting Authority in terms of the Act.

**Appendix 1: (to be filled by the bidder)**

<b>A- Documentation to be provided as part of the offer (this checklist comprises of both administrative and technical requirements)</b>	
	<b>Compliant: Yes / No</b>
A - Copies of respective permits and compliance certificates in relation of the proposed office space showing compliance with pertaining building regulations and that such premises can be utilized as offices for the said scope.	
B – Proof of title or proof that the bidder can dispose of the property	
C – The latest plans of the office space, approved and stamped by pertaining authorities/ Architect	
D – Colour photographs of the premises interior covering roofs and flooring; a colour photograph of the entire façade; colour photographs of the street in both directions. A digital copy of the photographs is enough.	
E - Information on ownership of the premises and proof of legal title thereon.	
F – Condition certificate by a warranted Architect	
G – Portfolio of the Realtor	

<b>B- Financial Offer</b>			
<b>Item</b>	<b>Description of Service</b>	<b>Rate Excluding TAXES, &amp; all Other Charges PER MONTH (\$)</b>	<b>Total including all Other Charges &amp; Excluding Taxes (\$)</b>
A	Realtor Fee		
B	Selling Price of proposed Office Space		
C	Condomium Charges		
D	Maintenance Charges		
E	Administrative selling charges (such as notary fees, agency fees..etc and any other charges in relation to passing on title to the Government of the Republic of Malta)		
F	Any other costs		
<b>GRAND TOTAL Excluding Taxes but including all other charges</b>			

1. The rates will cover all taxes duties, levies, charges, other liabilities, inclusive of all extra costs or additions which are not stated separately in the Schedule of Rates
2. Any errors will be corrected as follows:
  - (a) where there is a discrepancy between amounts in figures and in words, the amount in words will prevail; and
  - (b) where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit price and the quantity, the unit rate as quoted will prevail.