

**INVITATION TO TENDER**

**BME EOS 09-2022**

## **Competitive Procedure with Negotiation**

Casting of bronze fountain, Nygaardsparken Bergen



**BERGEN  
KOMMUNE**

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# **1 GENERAL DESCRIPTION**

## **1.1 Introduction**

Bergen Municipality is a city and municipality in Vestland county on the west coast of Norway.

The municipality of Bergen invites Prospective tenderers to a negotiated procedure for reconstruction/casting of a large 1880s fountain in solid bronze. The fountain will consist of three tiers with ornate sculptures and internal pipework.

## **1.2 Purpose and Scope**

As part of the ongoing restoration of the landscape Park of Nygaardsparken, The Municipality of Bergen (hereafter the Client) are reinstating a large bronze fountain that stood in the park between the 1880s until the 1960s. The fountain depicts sculptures of the four seasons, four mermen in a large basin and two cherubim.

For more information and details about the project; Appendix 1 Clients specifications.  
The total cost is estimated to be around 2,7MNOK.

## **1.3 The Procurement Documents**

The invitation to tender consists of:

### **Part I Procurement process**

- Announcement on Doffin and TED via competitive basis tools Merccell.
- Part 1 Invitation to Tender – Casting of bronze fountain (this document)
- Part 1 Annex A Qualification requirements and documentation requirements
- Part 1 Annex B Award criteria and document requirements
- Part 1 Attachment 1 - Template Qualification letter
- Part 1 Attachment 2 - Template tender letter
- Part 1 Attachment 3 - Template for references
- Part 1 Attachment 4 - Declaration of commitment

It is mandatory to fill in the ESPD-form in the competitive basis tools Merccell.

Prospective tenderers deliver their response to Annex A with their own document if not explicitly specified in Annex A.

All qualification requirements must in addition be documented in the tender.

### **Part II Draft Contract**

The contractual relationship is regulated by Bergen Municipality's Standard Contract for purchase of goods with accompanying appendices.

- Part 2 Agreement document\_Standard contract for purchase of goods
- Part 2 Appendix 1 Clients specification
- Part 2 Appendix 3 Prices and price provisions 20221

# **2 TIMETABLE AND DEADLINES**

This procurement is planned to be conducted according to the following progress plan. Please note that the schedule may be changed.

Description	Deadline
Tender sendt for announcement in Doffin/TED	02.02.23
<b>Deadline for questions in the qualification phase</b>  Prospective tenderers may submit questions regarding the Invitation for qualification within the deadline. The questions must be uploaded in Mercell.  Bergen kommune will anonymize the questions and upload the questions and corresponding replies in the procurement portal, so they are available to all prospective tenderers simultaneously.	30.01.23, at 12:00 (GMT +1)
<b>Deadline for submission of Request for Qualification Letter</b>	<b>07.02.23, at 12:00 (GMT +1)</b>
Issue of Invitation to Tender by Bergen kommune	10.02.23
Questions to the Invitation to Tender  Prospective tenderers may submit questions regarding the Invitation to Tender within the deadline. The questions must be uploaded in Mercell.  Bergen kommune will anonymize the questions and upload the questions and corresponding replies in the procurement portal, so that they are available to all prospective tenderers simultaneously.	21.02.23 at 12:00 (GMT +1)
<b>Tender due date</b>	<b>28.02.23 at 12:00 (GMT +1)</b>
Evaluation and negotiations	Weeks 9-11
Estimated final tender due date	17.03.23
Estimated Contract Award	Week 12
Standstill period	10 days
Estimated start up	Week 14
Validity date for tender	31.05.2023

Dates after the deadline for the submission of the qualification application may be subject to change.

### 3 PROCUREMENT PROCEDURE

#### 3.1 Procurement Procedure

The procurement is conducted in accordance with lov 17. juni 2016 nr. 73 om offentlige anskaffelser (Act on Public Procurement dated 17th June 2016 no. 73 - Procurement Act) and forskrift 12. august 2016 nr. 974 om offentlige anskaffelser part 1 and III (Regulations on Public Procurement - Procurement Regulations). The Norwegian Procurement Act and Procurement Regulations are in accordance with Directive 2014/24/EU.

The competition is conducted as a negotiated procedure.

Bergen kommune reserves the right to award the contract without conducting negotiations.

The negotiations will take place in various phases, and Bergen kommune reserves the right to reduce the number of tenders to be negotiated. The first reduction of prospective tenderers can be done prior to the negotiations. The reduction will be based upon the given award criteria.

Commencement of negotiations with shortlisted prospective tenderers (hereafter tenderers) must not be regarded as rejection of other tenders. Bergen municipality reserves the right to revert to the initial tenders if negotiations are not successful. This also applies to tenders that have not been subject to negotiation.

### **3.2 Variants**

The tenderer is not allowed to submit variants.

### **3.3 Division of contracts into lots**

Tender must submit a tender for all lots

### **3.4 Electronic catalogues and electronic auctions**

Bergen municipality will not use electronic auctions.

### **3.5 Update of Procurement Documents**

Bergen municipality has the right to make corrections, additions and changes that are not substantial. Corrections, additions, and changes will be uploaded in the procurement portal, so they are available for all Prospective tenderers simultaneously.

### **3.6 Tendering Costs**

Bergen municipality will not reimburse costs incurred by the Tenderer in connection with preparation, delivery, or follow-up of qualification application for the tender.

### **3.7 Errors or vagueness in the procurement documents**

If the Tenderer finds errors or vagueness in the procurement documents, the Tenderer should give an immediate notice to Bergen municipality.

### **3.8 Tender due date**

The Request for Qualification Letter and final Tender must be received by Bergen municipality no later than the Final due date as given in section 2. Applications and tenders received after the Tender due date and time will be rejected

Prospective tenderers must upload the tender in the procurement portal within the due date. Prospective tenderers must calculate some time for uploading the tender in the procurement portal and should familiarize themselves with how the portal system works well ahead of the due dates.

## **4 COMMUNICATION AND PROCUREMENT PORTAL**

### **4.1 Procurement Portal**

The procurement will take place in Bergen kommunes procurement portal MerCell ([www.mercell.com](http://www.mercell.com)). The Invitation to Tender, all communication, and submission of tender must be done electronically through the portal.

### **4.2 Bergen kommune Single Point of Contact**

All communication must, as a general principle go through the procurement portal. Any questions regarding procurement portal must be made to the single point of contact, who is:

<b>Name:</b>	Torstein Fjeldet Lunde
<b>Email:</b>	<a href="mailto:torstein.lunde@odinadvokat.no">torstein.lunde@odinadvokat.no</a>

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## 5 QUALIFICATION REQUIREMENTS

### 5.1 General terms regarding qualification requirements

Qualification requirements are basic requirements relating to the prospective tenderers ability to fulfil the contract requirements. The qualification requirements are minimum requirements, and the prospective tenderers must comply with all requirements to participate in the competition. Bergen kommunes qualification requirements with accompanying documentation requirements are stated in Annex A - Qualification requirements and documentation requirements.

Only qualified prospective tenderers will be invited to tender. Prospective tenderers who do not meet the eligibility requirements will be rejected.

### 5.2 Qualification of prospective tenderers

The prospective tenderers are responsible for answering all the qualification requirements by submitting all required documentation.

Bergen kommune emphasizes that all prospective tenderers must document that the qualification requirements are fulfilled in accordance with Annex A Qualification requirements and documentation requirements, and that completion of the European Single Procurement Document (ESPD) does not suffice as proof that the qualification requirements are fulfilled. This is necessary to ensure that the procurement process is carried out correctly. This documentation must be submitted together with the application for qualification.

Requirements on language and file format are the same as for the qualification application otherwise. Bergen commune has the right, but not the duty, to ask the prospective tenderer to further clarify their application, including forwarding missing documentation.

After completion of the qualification, 3 – 5 of the best qualified prospective Tenderers will be invited to submit a tender. The 3 – 5 best qualified will be chosen based on the qualification criteria in accordance with appendix A Qualification criteria and Documentation criteria **No I. Relevant Experience.**

When the qualification is completed, Invitation to submit a tender will be sent to the qualified prospective tenderers via Bergen Municipality's procurement portal. The qualified prospective tenderers will receive an e-mail invitation.

### 5.3 Right to rely on other companies' capacity

The prospective tenderers may rely on the capacity of other companies to fulfil the requirements on economic and financial capacity as well as technical and professional qualifications. This applies regardless of the judicial relation between the companies. In such a case, the prospective tenderer must document that they will have at their disposal the relevant resources, for example by submitting a declaration of commitment from the companies on which they rely.

If a prospective tenderer relies on the capacity of other companies to fulfil qualification requirements, the prospective tenderer must document that the companies on which they rely are fulfilling the relevant qualification criteria. Reference is made to qualification criteria together with documentation criteria in Annex A Qualification requirements and documentation requirements. We emphasize that the company on which the prospective tenderer relies also must submit a completed European Single Procurement Document (ESPD) parts II and III to document the absence of grounds for rejection, cf. item 6.5.

If a prospective tenderer relies on the capacity of other companies to fulfil requirements on education and professional qualifications or relevant professional experience, these companies must perform the services that require these qualifications.

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If a prospective tenderer relies on the capacity of other companies to fulfil requirements on economic and financial capacity, the prospective tenderer and the other company must be jointly responsible for the performance of the contract.

Prospective tenderers jointly delivering an Invitation for qualification, cf. item 5.4, may rely on the capacity of the participants in the collaboration, as well as other companies.

## **5.4 Co-operating Companies**

Companies / units (groups of suppliers) can unite to apply for qualification, cf. the Utility regulation § 12-6. In such co-operating constellation, will the constellation be the subject for qualification. The same documentation must be submitted for all the companies / units that co-operate to submit a qualification application. It will not be possible to change the constellation after the qualification is completed. With the application for qualification, it is sufficient to include a declaration of commitment or letter of intent between the co-operating companies. A signed partnership agreement must be included in the tendering phase. Important; one of the companies must be responsible for a single point of contact within the competition.

## **6 SUBMISSION OF APPLICATION FOR QUALIFICATION**

### **6.1 Deadline for submission of application for qualification**

The application for qualification must be received by Bergen kommune no later than the deadline for submission of the application set out in section 2.

The prospective tenderer must upload the documentation of the fulfilment of the qualification requirements, in the procurement portal within the deadline. Prospective tenderers must calculate sufficient time on submission of the application in the procurement portal and should start the submission procedure days before the deadline for submission of the application.

### **6.2 Language**

The application for qualification must be submitted in Norwegian or English language.

### **6.3 Documentation on fulfilment of the qualification requirements**

The documentation on fulfilment of the qualification requirements must be organized in accordance with Annex A Qualification requirements and documentation requirements.

### **6.4 File format**

The file formats must be MS Office, XML, or PDF. Any other file formats must be approved by Bergen kommune in advance.

### **6.5 European Single Procurement Document (ESPD)**

The prospective tenderers must submit the electronic declaration form (ESPD) part II and III, as documentation for absence of rejection grounds described in ESPD part III.

Please note that the national Norwegian rules for rejection of tender set out in the §24-2(2) will apply for this competition.

The prospective tenderers must fill out the ESPD-form in Bergen kommunes procurement portal, Mercell.

Please note that the company on which the prospective tenderers rely must also submit a completed European Single Procurement Document (ESPD), parts II and III. The same applies for co-operating constellations.

General information on completion of the ESPD is available on DFØ's website (Norwegian only).



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Application for qualification may be withdrawn or changed prior to the submission deadline. Changing the application is considered as a new application and must be structured in accordance with the Invitation for qualification documents.

## **6.6 Amendment and withdrawals of the application**

Application for qualification may be withdrawn or changed prior to the submission deadline. Changing the application is considered as a new application and must be structured in accordance with the Invitation for qualification documents.

## **6.7 Copy with Censored Confidential Information**

Prospective tenderers must submit a complete application where information, which may be exempt for public disclosure under the Procurement Regulations section 7- 4, cf. the Public Administration Act section 13 relating to public access to documents in the public administration, is censored.

In the event of a demand for access being made, Bergen kommune must make an independent appraisal of whether the information in question is such that Bergen kommune is obliged to refuse access, cf. offentlegglova (Freedom of Information Act) § 13. An English translation of the Freedom of Information Act is available her: <https://lovdata.no/dokument/NLE/lov/2006-05-19-16>

# **7 REQUIREMENTS TO THE TENDER**

This point is only relevant for those prospective tenderers who have been qualified and selected to submit tenders. All prospective tenderers must first submit a Request for Qualification Letter, in accordance with the point above, and then await any invitation to submit a tender. Suppliers who submit a request but are not invited to submit a tender will be notified of this.

## **7.1 Language**

The tender must be submitted in Norwegian or English language.

## **7.2 Deviations from the procurement documents**

Deviations from the procurement documents must be specified in the tender letter. Any deviations must be precise and clear. Deviations, which are not stated in the tender letter are invalid.

Tenderer must clearly specify the consequences any deviations have on the performance, price and/or any other elements of the tender.

Please note that Bergen kommune is not bound by this assessment but is free to make its own assessment of the deviation's significance and consequences.

Please also note that deviations from the procurement documents may entail Bergen kommune the right and/or duty to reject the tender from the competition.

## **7.3 Copy with Censored Confidential Information**

The Tenderer must submit a complete application where information, which may be exempt for public disclosure under the Procurement Regulations section 7- 4, cf. the Public Administration Act section 13 relating to public access to documents in the public administration, is censored.

In the event of a demand for access being made, Bergen kommune must make an independent appraisal of whether the information in question is such that Bergen kommune is obliged to refuse access, cf. offentlegglova (Freedom of Information Act) § 13. An English translation of the Freedom of Information Act is available her: <https://lovdata.no/dokument/NLE/lov/2006-05-19-16>

## **7.4 Structure and Content of the tender**

The tender structure and content must be in accordance with the index for tender content in Annex B Award criteria and tender content using the following outline of the requested documentation.

## **7.5 Template Tender Letter**

A scanned and signed Tender letter must be provided by the prospective tenderers. The Tender letter must be completed and signed by the person(s) authorised to sign the tender.

## **8 AWARD CRITERIA**

Bergen kommune will award the contract to the tender with the best price-quality ratio, based on the award criteria listed in Annex B Award criteria and documentation requirements.

## **9 MANAGEMENT OF TENDERS**

### **9.1 Opening of tenders**

There will be no public opening of the tenders.

### **9.2 Amendment and withdrawals of the tender**

A tender may be withdrawn or changed prior to the tender due date. Changing the tender is considered as a new tender and must be structured in accordance with the tender document.

### **9.3 Cancellation of the Competition**

Bergen kommune reserves the right to cancel the tender competition if there is just cause for a cancellation. Contract award is dependent on an investment decision/granted concession.

### **9.4 Award of Contract**

Prior to signing the contract, Bergen kommune will notify all tenderers in writing which tenderer has been awarded the contract, together with a justification.

The standstill period is set to minimum ten days after the Award Decision Notice has been issued, counting from the day after the Notice has been issued.

### **9.5 Confidentiality**

Both the Tenderer and Bergen kommune have a duty to prevent others from gaining access to knowledge or information concerning the project which is not strictly shared in order to prepare a tender.

### **9.6 Freedom of Information and transparency**

In accordance with the Freedom of Information Act 2000 § 23, the procurement process is subject to public scrutiny. The tender, contract and procurement protocol are public documents after the award of the contract.

### **9.7 Deadline for validity**

The supplier must ensure that the Tender is valid until the time specified in section 2. Above (see validity date for Tender).

### **9.8 Complaints**

A supplier who disagrees with the client's decision can complain directly to the client. This can, for example, be a complaint against the client's decisions regarding rejection of the supplier or tender, cancellation of the competition or award of the contract.