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| **TENDER REGULATIONS (TR)**  **DYNAMIC PURCHASING SYSTEM (DPS)**  **Provision of advice and services**  **France Télévisions reference: AC221-178** |

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| **Deadline (time and date) for the delivery of applications (period of validity of the DPS):**  **- Period closes: 17 January 2024 at 5.30 p.m. (Paris, France time)**  **- If renewal no. 1: 17 January 2025 at 5.30 p.m. (Paris, France time)**  **- If renewal no. 2: 17 January 2026 at 5.30 p.m. (Paris, France time)** |

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| **Deadline (time and date) for the delivery of applications before the launch of the first specific contract in categories 1 to 14: 17 January 2022 at 5.30 p.m. (Paris, France time)**  **Deadline (time and date) for the delivery of applications before the launch of the first specific contract in categories 15 and 16: 7 April 2022 at 5.30 p.m. (Paris, France time)** |

**Throughout its period of validity, the dynamic purchasing system is open to any operator satisfying the requirements and admission criteria.**

The tender procedure used is the **dynamic purchasing system** procedurepursuant to the French Public Procurement Code.

Applicants are advised that a version of the tender documentation is also available in English and German.

In the event of any contradiction between the translated versions and the original French version or in the event of any mistranslation or inaccuracy, only the original French version of the tender documentation will be authentic. In other words, the English and German versions are provided for information purposes only and the members of the Grouping cannot be held liable for their contents.

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1. **IDENTIFICATION OF THE CONTRACTING AUTHORITIES**

**FRANCE TELEVISIONS**

A *Société Anonyme* (public limited company) with capital of €378,340,000.00, registered at the Paris Commercial and Companies Registry under the number 432 766 947, the registered office of which is at 7 Esplanade Henri de France, 75907 Paris Cedex 15 – Telephone: 01 56 22 60 00, represented by Ms Delphine Ernotte-Cunci, Chairman and Chief Executive Officer,

Hereinafter referred to as “FRANCE TELEVISIONS” or “FTV”,

**ARTE GEIE**

A European economic interest grouping registered at the Strasbourg Commercial and Companies Registry under the number 382 865 624, the registered office of which is at 4 quai du Chanoine Winterer, 67000 Strasbourg – Telephone: 03 90 14 22 22, represented by Mr Bruno Patino, President,

Hereinafter referred to as “ARTE GEIE”,

1. **ORDER GROUPING**
   1. **Members of the order grouping**

This procedure is being conducted in the context of an order grouping referred to as the “Grouping” consisting of two contracting authorities from the French public broadcasting sector, namely France Télévisions and ARTE GEIE.

France Télévisions is the coordinator of the Grouping.

* 1. **Division of roles between the coordinator and the members**

France Télévisions is the procurement and administrative implementation coordinator of the dynamic purchasing system. On the other hand, each member will be responsible for the procurement, performance and direction of each specific contract in its area and for operational and day-to-day management, and invoicing will take place directly between the contract holder and the members of the Grouping concerned based on their purchase orders and actual consumption, as the case may be.

1. **PRESENTATION OF THE DYNAMIC PURCHASING SYSTEM (DPS)**
   1. **The purpose of the DPS**

This tender procedure is being conducted in accordance with the provisions of the French Public Procurement Code (Articles L. 2125-1 and R. 2121-8 to R. 2162-51) for the purpose of establishing a dynamic purchasing system (DPS) for the Grouping.

The purpose of the specific contracts that may be concluded in the context of this dynamic purchasing system is the provision of advice and services for digital products.

The digital products of the members of the Grouping include websites, mobile services and applications and all other broadcasting media other than terrestrial broadcasting such as connected objects.

These services are described in the Technical Terms and Conditions (TTC) attached to the application pack, and may be further detailed when each of the specific contracts is concluded.

The DPS does not have a minimum or a maximum amount, whether during its initial period or any renewal periods.

This DPS has been published in the OJEU, and this notice was sent on 14 December 2021.

* 1. **Type of DPS**

DPS for: Services

* 1. **Period of validity of the DPS**

The dynamic purchasing system is open for a period of 2 years renewable twice for periods of 1 year with effect from the day after the receipt of applications on 17 January 2022, namely from 18 January 2022.

* 1. **The DPS categories**

This DPS is subdivided into categories that may be likened to the concept of lots and the award of lots in the other procedures and contracts defined in the French Public Procurement Code.

* Category 1: Web development and integration services
* Category 2: Engineering services for Information Systems, Cloud and web infrastructures
* Category 3: iOS and Android mobile development services
* Category 4: Technical expertise in web development, web performance and infrastructure
* Category 5: Agile coaching and Scrum mastering services
* Category 6: Technical project management services
* Category 7: Application development services for the TV universe (including Smart TV, iPTV and HbbTV)
* Category 8: Product management and product ops services
* Category 9: Functional project management and project management assistance services
* Category 10: Product design and design ops services
* Category 11: Artistic and graphic design services – artwork
* Category 12: Content editing services on video platforms
* Category 13: Technological expertise in broadcast and video streaming systems
* Category 14: Functional and technical support services for users and quality assurance
* Category 15: Information Systems security services
* Category 16: Technical and organisational Cybersecurity services

Unless expressly stated by the Grouping, all the provisions of the tender regulations and more generally all the documents constituting the tender documentation of the DPS apply to all the aforementioned categories.

1. **THE OPERATION OF THE DPS** 
   1. **Dynamic Purchasing System**

A dynamic purchasing system is an **entirely electronic process** for the placing of public procurement contracts for commonly used purchases, whereby the purchaser, after a competitive tender procedure, awards one or more specific contracts to one of the economic operators previously selected and listed within the category.

Throughout its period of validity, the system is open to any economic operator satisfying the requirements and selection criteria defined in these tender regulations (TR).

All candidates satisfying the requirements and minimum capacity for the category concerned are admitted to the DPS, and their number is not limited.

**The DPS is implemented in the following way:**

* A notice of advertisement is published, and the tender documentation is available online throughout the duration of the system;
* The tender documentation specifies the nature of the envisaged purchases and the estimated quantities, as the case may be;
* Throughout its period of validity, the system is open to any economic operator satisfying the requirements and selection criteria for applications\*;
* Any operator can apply to join the system during its period of validity\*;
* When a member of the grouping launches a specific contract, it invites all the candidates present in the system to respond. The deadline for receipt of bids is set by the Grouping, and is at least 10 calendar days, however a shorter deadline may be set by agreement with all the candidates consulted;
* The period of validity of the system originally announced may be amended by the Grouping, in which case operators will be informed by the publication of an amended notice.

\**Companies can therefore send in their application throughout the period of validity of the DPS. However,* ***it is advisable to send in applications during the initial application phase in order to be listed for all the specific contracts that will be concluded by the Grouping****.*

**At any time during the period of validity of the dynamic purchasing system, the Grouping may ask candidates admitted to the system to update their application file within five business days from the date that request is sent. Applicants that no longer satisfy the requirements and admission criteria are excluded from the DPS.**

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| **If a candidate admitted to a category of the DPS fails to submit a bid for at least 10 specific contracts awarded by France Télévisions and/or ARTE GEIE, the coordinator of the Grouping reserves the right, after seeking the opinion of ARTE GEIE, to exclude that candidate for that reason in the category concerned, without the payment of any compensation.** |

* 1. **Competitive tender for specific contracts**

For each specific contract, a member of the Grouping will invite all the candidates admitted to the category of the system concerned to submit a bid via its electronic purchasing platform.

The deadlines for the receipt of bids are specified in the invitation to bid. The minimum deadline for the receipt of bids is ten days from the date the invitation to bid is sent. However, the member of the Grouping can set a shorter deadline for the receipt of bids by agreement with the candidates invited to bid, provided that this deadline is the same for all of them. In the absence of agreement, the deadline cannot be less than ten days from the date on which the invitation to bid is sent.

The specific contract is awarded to the bidder that submitted the most economically advantageous bid based on the award criteria defined in these tender regulations. These criteria may be specified for each of the specific contracts in the invitation to bid. The weighting of the criteria may vary within the range set by these tender regulations.

The members of the Grouping reserve the right, as the case may be:

- to define and authorise variants on the initiative of the candidates or of the purchaser;

- to organise interviews (pitches) and negotiations in the context of the competitive tender procedure.

These elements will be specified in the tender documentation for each specific contract concerned.

* 1. **Form and division into lots of the specific contracts**

Each specific contract will take the form of a single contractor or multi-contractor contract, and may be divided into lots, if appropriate. The tender documentation for each specific contract will specify the contract’s form and division into lots.

* 1. **Form of the price of the specific contracts**

Unit price  All-inclusive

Fixed price  Updatable  Reviewable

France Télévisions and ARTE GEIE reserve the right to review the price annually for certain specific contracts where this is justified by the duration of those contracts.

Notice of this specific feature will be given upon the launch of each specific contract.

If applicable, the formula for review of the specific contract will be as follows:

P = oP x rS/oS

P = reviewed price

oP = original price

oS = original SYNTEC index published on the date of submission of the bid or previous review

rS = revised SYNTEC index published on the review date

It will be the responsibility of the holder of the specific contract to provide a list of unit prices every year.

Each price review will be capped at 1.5% for France Télévisions and at 2% for ARTE GEIE in terms of the increase in the original reference price for the specific contract or in terms of the increase in the last reviewed reference price, as the case may be.

* 1. **The period of the specific contracts**

The tender documentation for each specific contract will specify the fixed period, renewal periods and renewal procedures, as the case may be, consistent with the period of the DPS.

1. **CONTENT AND AVAILABILITY OF THE TENDER DOCUMENTATION FOR THE DPS**
   1. **The content of the tender documentation**

The tender documentation made available to candidates comprises the following documents:

* These tender regulations;
* The technical terms and conditions (TTC);
* The administrative terms and conditions (ATC) common to all the specific contracts and their annexes;
* The application response framework (ARF).
  1. **Availability of the tender documentation**

The tender documentation may be consulted and downloaded at any time and free of charge from the electronic contract platform of France Télévisions, the coordinator of the Grouping, at the following address: <https://www.francetelevisions.fr/appels_d_offres>

**The tender regulations will be freely accessible throughout the period of validity of the system** without prior registration. To download all the tender documentation, candidates are asked to register**.**

**The attention of candidates is drawn to the fact that if they do not register and provide their identity and contact details, they may not receive any additional information placed online afterwards by the members of the Grouping. That information is sent directly, via the platform, to all candidates that have downloaded the tender documentation.**

* 1. **Conditions of participation of candidates**

Under the conditions defined in the French Public Procurement Code, candidates can present applications:

- in the capacity of individual candidates; or

- as temporary groupings of economic operators (co-contracting); or

- with subcontractors for part of the services the subject of the DPS or of a specific contract (subcontracting).

1. **PROCEDURE FOR SENDING APPLICATIONS**

**Candidates must send their applications electronically.**

* 1. **Response in electronic format (cf. electronic contracts annex)**

**Applications are sent electronically using the electronic contracts platform of France Télévisions at the following address:** <https://www.francetelevisions.fr/appels_d_offres>

The date and time taken into account will be the date and time recorded by the platform.

No other electronic applications will be accepted (for example, by e-mail). Physical (paper) applications will also not be accepted.

**Please refer to the attached annex for details of the electronic transmission procedure.**

**You can contact the electronic platform’s support service for guidance on how to use the platform.**

* 1. **Details of the technical limitations concerning the filing of documents**

The Grouping draws the attention of all candidates to the fact that applications for the DPS or bids for a specific contract, as the case may be, must be filed in ZIP archive file format.

This archive must be smaller than **1 GB**. If this limit is exceeded even to a minimal extent, the file will be rejected by the platform automatically and immediately, resulting in no application being made for the DPS or no bid being submitted for a specific contract, as the case may be.

This rule will apply throughout the DPS procedure and its performance, including when competitive tenders are reopened for the purposes of specific contracts, as the case may be.

1. **APPLICABLE LAW AND JURISDICTION**

The applicable law is French law.

The remedies available in the context of private contracts in the context of public procurement are:

* A precontract referral before the signature of the contract;
* A contractual referral no later than the 31st day following publication of the notice of award of the contract, or, in the absence of a published notice, until the expiry of a period of six months from the day after the contract was concluded, under the conditions provided by Articles 1441-1 to 144-3-1 of the French Code of Civil Procedure, and pursuant to Order no. 2009-515 of 7 May 2009 relating to review procedures applicable to public procurement contracts.

1. **CONFIDENTIALITY**

Candidate companies must observe the secret or confidential nature of information of which they become aware, even fortuitously, in the context of this tender procedure. They also vouch for their personnel’s, suppliers’, subcontractors’ and co-contractors’ observance of the secret or confidential nature of such information, as the case may be.

Such information cannot be disclosed to any persons other than those authorised to receive it, without the Grouping’s authorisation.

1. **APPLICATIONS FOR THE DPS**

All candidates wishing to take part in the listing procedure associated with the DPS must comply with the following requirements.

* 1. **COMPOSITION OF APPLICATIONS**

**The “Application Package” must be delivered electronically.**

**“Application Package” comprising:**

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| **To be provided** | **DOCUMENTS** | **To be signed** |
| X | Form DC1 \* duly completed, dated - *Application letter stating whether the candidate is presented alone or in a grouping, and the nature of the grouping.* |  |
| X | Form DC2 \* duly completed – *Candidate’s declaration* |  |
| X | Documents relating to the powers of the person authorised to bind the candidate, including, in the case of a grouping, the authorisations necessary to represent the co-contractors | x |
| X | Proof of currently valid insurance against civil and professional risks |  |
| X | Tax and social security supporting documents (URSSAF for candidates whose establishment is located in France, or the equivalent for candidates whose registered office or establishment is located abroad) for the year preceding the year of the application, issued by the organisations concerned, and dated and signed by the candidate. |  |
| X | When the candidate has employees, a DC6 (old form) or a solemn declaration certifying that the work will be done by regularly employed staff. |  |
| X | When registration at the Commercial and Companies Registry is compulsory or when a regulated profession is involved: A *K* or *K* *bis* extract or equivalent (such as an identify card, an estimate or an advertising document mentioning the name or corporate name, full address and registration number) dated within the last 3 months |  |
| X | **The application response framework** to be completed using the framework prepared by the Grouping.  **Fill in each response box corresponding to each category applied for.**  **Any application received that does not contain this response framework will be ruled incomplete.**  **N.B: It is specified that a pre-admission table is attached to allow you to check if your application meets all the criteria and thus to apply for entry into the dynamic acquisition system;** |  |

**\* These forms can be downloaded free of charge at the following address:**

<https://www.economie.gouv.fr/daj/formulaires-declaration-du-candidat>

**Candidates may replace the above documents with the ESPD (European single procurement document) in accordance with article R. 2143-4 of the French Public Procurement Code.**

*Candidates must demonstrate that they have the financial capacity to carry out the services the subject of this DPS, and particularly that the performance of one or more specific contracts will not undermine the financial balance of their structure having regard to their financial base.*

*If a candidate objectively finds it impossible to produce one of the items of information or documents required above to prove its financial capacity, it may prove its capacity by producing any other document regarded as equivalent (for example, an appropriate statement from a bank, etc.).*

*Candidates must prove that they have the technical and professional capacity (material and human resources) to perform the services the subject of the DPS.*

*Evidence of a company’s capacity may be provided by any means, and particularly by professional certificates or references certifying the company’s competence to carry out the service for which it is applying.*

**N.B.:** To prove professional, technical and financial capacities, candidates can ask for the professional, technical and financial capacities of the other economic operators (subcontractors, co-contractors, etc.) on which it relies, to be taken into account. In this case, the candidate must produce the same documents concerning this economic operator as are required of it by the Grouping. In addition, to prove that the capacities of that economic operator are available to it for the performance of the services, the candidate must produce a written undertaking from the economic operator. Capacities will be assessed globally.

**In cases of co-contracting and subcontracting, these documents must be delivered by each member of the grouping or by each subcontractor.**

* 1. **EXAMINATION OF APPLICATIONS**

France Télévisions will open the applications and check candidates’ admissibility having regard to the administrative documents and its capacity to satisfy the expressed needs.

If France Télévisions finds that documents relating to the application that were required to be produced are absent or incomplete, the candidate may be required to complete its application at France Télévisions’ request, within a maximum period of 4 calendar days from the date on which the request is sent by e-mail via the France Télévisions electronic platform. If, after this period, the application is not complete, France Télévisions will eliminate it. This right to regularise applications is solely in the discretion of France Télévisions and in no circumstances constitutes an obligation on its part.

In the event that certain documents are absent or missing, France Télévisions may ask the candidate to complete its application **within a maximum period of 4 calendar days from the date on which the request is sent by e-mail via the France Télévisions electronic platform.** If, after this period, the application is not complete, France Télévisions will eliminate it. This right to regularise applications is solely in the discretion of France Télévisions and in no circumstances constitutes an obligation on its part.

**Thus, the following will be eliminated:**

* Candidates that cannot bid for a contract pursuant to the provisions of the French Public Procurement Code.
* Candidates whose applications are incomplete or who have not provided the required information after potential implementation of the provisions of the French Public Procurement Code.
* Candidates that obviously lack adequate capacity to perform a specific contract, that is to say whose professional, technical and financial capacities are obviously inadequate to ensure the performance of the services the subject of the DPS, without it being necessary to carry out a detailed examination of the application.
* Candidates that do not reach the minimum capacity levels set by the Grouping, as the case may be.

**Minimum levels of ability of candidates for categories 1 to 12 and 14:**

|  |  |
| --- | --- |
| **Capacity** | **Minimum level of capacity required** |
| **Professional and technical ability:** | **The candidate’s deployable workforce must have at least 2 experiences over the last 3 years in connection with the category** |
| **Financial capacity:** | **Minimum financial capacity: average annual global turnover of €150,000 in the last year** |

**Minimum levels of ability of candidates for category 13:**

|  |  |
| --- | --- |
| **Capacity** | **Minimum level of capacity required** |
| **Financial capacity:** | **The candidate must have average annual turnover of more than €160,000 over the last 3 years** |
| **The candidate must have made a minimum of 50% of its global turnover over the last 3 years in connection with the object of the category referred to in category 13** |
| **Professional and technical abilities:** | **The candidate must have employed a minimum of 50% of its workforce over the last 3 years in connection with the object of the category referred to in category 13** |
| **The candidate’s deployable workforce must have a minimum of 2 experiences in connection with the object of the category referred to in the last 3 years** |

**Minimum levels of ability of candidates for category 15:**

|  |  |
| --- | --- |
| **Capacity** | **Minimum level of capacity required** |
| **Professional and technical abilities:** | **The candidate’s deployable workforce must have a minimum of 2 experiences in connection with the object of the category referred to in the last 3 years.** |
| **Financial capacity:** | **The candidate must have a minimum turnover of 300 k€ in cyber security activities. This turnover is estimated on the average of the last 3 closed accounting years.** |

**Minimum levels of ability of candidates for category 16:**

|  |  |
| --- | --- |
| **Capacity** | **Minimum level of capacity required** |
| **Financial capacity:** | **The candidate must have a minimum turnover of 300 k€ in cyber security activities. This turnover is estimated on the average of the last 3 closed accounting years.** |
| **Professional and technical abilities:** | **The candidate must already hold at least a PASSI qualification from ANSSI or equivalent, or have started a qualification procedure with ANSSI and have reached the J0 milestone (Acceptance of the qualification request)** |
| **The candidate’s deployable workforce must have a minimum of 2 experiences in connection with the object of the category referred to in the last 3 years** |

Candidates admitted to the DPS undertake to make regular, acceptable and appropriate bids when asked to do so for specific contracts by France Télévisions and/or ARTE GEIE. If they fail to do so, the coordinator of the Grouping reserves the right to terminate their admission to the DPS, and the Contract Holder will be liable for such termination if it has failed to make a bid in the context of a specific contract in accordance with the TTC and the Special TTC after France Télévisions and/or ARTE GEIE requested it to do so, or if it has not submitted a bid for a period of one year in the category concerned.

In addition, if a candidate admitted to a category of the DPS fails to submit a bid for a period of one year in the category concerned, the coordinator of the Grouping reserves the right, after seeking the opinion of ARTE GEIE, to exclude that candidate for that reason, without the payment of any compensation.

1. **CRITERIA FOR THE AWARD OF SPECIFIC CONTRACTS**

***In categories 1 to 12:***

|  |  |
| --- | --- |
| **Criterion** | **Weighting** |
| Financial offer | 40 to 70 |
| Adequacy of the human resources proposed to perform the contract in relation to the expressed need | 30 to 60 |

**For categories 13, 14, 15 and 16:**

|  |  |  |
| --- | --- | --- |
| **Criterion** | **Sub-criterion** | **Weighting** |
| Price |  | Between 40-60 |
| Technique | Level of expertise in the relevant field. | Between 30-50 |
|  | Quality of professional experience in the audiovisual sector and/or in online media. | Between 10 – 30. |
|  |  |  |

The criteria and their weighting will be communicated in the tender procedure document for each specific contract. The total weighting for each specific contract must equal 100.

In accordance with the provisions of the French Public Procurement Code, the Contracting Authority reserves the right to specify all or part of the financial and non-financial criteria in the tender procedure letter, if applicable.