

Call for ‘social security’ experts – ETUC project on Letterbox companies

This is a call for a subcontractor to provide expertise as part of the implementation of the ETUC project on “Letterbox companies”.

In order to ensure a large visibility of this call, the ETUC will publish the tender specifications on its website, on 09 September 2015, and keep it online for 35 calendar days (deadline for submission of bids: 14 October 2015).

1. Summary of the project and description of the objective

A letter box company can be defined as a business that establishes its domicile in a given Member State with just a mailing address while conducting its activities in other Member States for purposes of evading applicable legal obligations. Rules targeted by letterbox companies include labour law, including collective agreements, social security, and taxation. In practice, a proliferation of letterbox companies undermines national law, thereby leading to a race to the bottom with Member States competing with each other to be the most attractive. The respect of EU obligations is also at stake as in the absence of proper enforcement mechanisms, companies are able to violate instruments such as the Posted Workers Directive or the Road Transport Regulation, with a view to minimise their labour law responsibilities.

It is long standing ETUC policy that free movement in the internal market is not an end in itself, but should serve social progress in Europe. This means in particular that an appropriate response must be found to prevent businesses from picking and choosing their place of establishment solely with a view to evade applicable obligations.

However, the phenomenon of letterbox companies is difficult to apprehend. There is no systematic research at EU level on letterbox companies. The methods used by businesses to set up an artificial structure are very complex: they can rely upon a multitude of legal provisions in 28 Member States + EU law.

Laying down general principles does not address the complexity of the problem. Fully fledged and dissuasive mechanisms are needed. Also, a consistent approach throughout the Community acquis (EU rules on labour law, taxation, social security etc.) is indispensable.

The objective of the ETUC project on letterbox companies is to gather sufficient data and on this basis to elaborate policy recommendations for an ETUC position.

The project is divided into three phases.

The first phase initiated early 2015 consists in researching cross-sector case studies across Europe. The report concluding the first phase will contain concrete illustrations of the consequences of letterbox schemes upon workers. Particular attention will be paid to working conditions, taxation and social security contributions.

During the second phase of the project, expert work will take place with a view to elaborate a range of innovative solutions to tackle the challenges raised by letterbox schemes. **Three experts** will be selected by the ETUC: a **legal** expert, a **taxation** expert and a **social security** expert.

The final phase of the project will rely on the reports produced during the first two phases, with a view to discuss and finalise future ETUC policy recommendations.

2. Purpose of the call and Methodology

This call for tenders aims at finding a **social security expert** to be subcontracted by ETUC for contributing to the second phase implementation of the above-mentioned ETUC project on letterbox companies.

In order to ensure a large visibility for this tender, the ETUC will publish the tender specifications on its website. This call will be kept online for 35 (thirty five) calendar days.

The subcontractor will be asked to conduct expert analysis on the letterbox phenomenon on the basis of the concrete problems described in the first phase report. Attention should be paid to the legal mechanisms used by companies to set up letterbox structures. In particular, the subcontractor should address the two following points:

- screening of the Community acquis, and where applicable national laws, in the field of expertise of the subcontractor. The objective is to identify existing provisions affecting letterbox companies, as well as loopholes and inconsistencies;
- proposing a range of innovative solutions, legal or otherwise, with a view to tackle the letterbox phenomenon. The first phase case studies will provide concrete illustrations of the problems which the subcontractor will be asked to address in its research.

The subcontractor will be encouraged to attend a conference organised in Amsterdam on 16-17 November 2015. This conference will present the main findings of the first phase report.

Two meetings of the steering group composed of ETUC and its partners' affiliates will be held in Brussels to monitor and contribute to the progress of the project implementation. ETUC's partners' affiliates are: EFFAT (the European Federation of Food, Agriculture and Tourism Trade Unions), EFBWW (European Federation of Building and Woodworkers, ETF (European Transport Federation) and Industriall (European Industry Workers' Federation).

The first findings of the subcontractor will be presented and discussed at an expert seminar organised in Brussels. The subcontractor is then expected to process its research into a final comprehensive report.

3. Tasks to be performed by the subcontractors

The subcontractors should provide the following services for the ETUC:

- Conduct qualitative research on the letterbox phenomenon on the basis of the European case studies provided for by the ETUC
- Screen of the legislation, at EU and where relevant at national level, impacting upon letterbox companies. The research will focus mainly on social security regulations
- Clarify the methods used by companies to establish letterbox schemes for the purpose of evading or minimising their obligations towards social security regimes
- Propose a range of innovative solutions, legal or otherwise, to tackle the letterbox phenomenon
- Present and discuss intermediate results at an expert seminar
- Liaise closely with the ETUC Steering group
- Synthesize and process the research into a comprehensive report

4. Expertise, experience and skills required

Expertise required:

- Expert knowledge of social security regimes and labour law (including in particular the posting of workers Directive 96/71/EC)
- Good understanding of industrial relations (both in national and European contexts)
- Good understanding of EU internal market policies
- Sound experience in formulating and carrying out a tailored methodology in order to analyse comparative EU research

Skills required:

- Proven research skills
- Proven ability to draft documents and make presentations in English
- Ability to work within specified deadlines and to respect budgetary limits
- Evidence of problem solving skills

5. Time schedule and reporting

The subcontractor will finalise its report **by September 2016**.

The subcontractor will be encouraged to attend a two days conference on **16-17 November 2015** in Amsterdam.

The subcontractor will liaise closely and report to the ETUC steering group. The subcontractor will attend two meetings of this steering group, which will be held **between November 2015 and June 2016**.

The subcontractor is expected to lead the discussions at a two-days expert seminar which will be held between **May and September 2016** in Brussels.

6. Payment

The total maximum budget available for the fees of the subcontractor is as follows:

Contract with ETUC	
Main activities and Meetings	
➤ Social security expertise, leading the discussions at a thematic workshop, comprehensive report	
Total budget for the Expertise	Social security expert 12.500 € (all taxes included)

The subcontractor will be remunerated in various instalments (advance and final payment). This amount does not include the travel and subsistence costs incurred for attending project meetings. These will be covered by ETUC on the basis of EU rules & thresholds.

7. Selection criteria

The selection criteria are:

- Verifiable expertise, experience and skills, as required and described in part 4 of this call;
- Evidence of problem solving skills

- Proven track record of ensuring the quality of written materials produced, both in terms of content and format (i.e. previous publications), in the relevant subjects specified in this call for tenders;
- Previous research/work undertaken in the specific field of letterbox companies will be considered a plus
- Price (not exceeding the amount stated above).

8. Form, structure and content of the tender

Tenders must be written in either English or French. They must be signed by the tenderer or his duly authorised representative and perfectly legible so that there can be no doubt as to words and figures. Tenders must be clear and concise and assembled in a coherent fashion.

Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

All tenders must include at least two sections:

i) Technical proposal

The technical proposal must provide all the information needed for the purpose of awarding the contract, including:

- Specific information covering the technical and professional capacity, as required, in particular:
 - Description of relevant professional experience with emphasis on the specific fields covered by the invitation to tender;
 - Detailed curriculum vitae of key coordinator and/or possible other team members;
 - A selection of the main works and/or articles published by all the experts involved, in relation to the relevant subjects specified in this tender.
- Specific information concerning the proposed methodology for delivering the tasks listed in part 3.

ii) Financial proposal

Prices of the financial proposal must be quoted in euros, including if the sub-contractor is based in a country which is not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.

Prices must be fixed amounts and shall not include travel expenses and daily allowances for the fact-finding missions and meeting attendance (which will be covered by ETUC on the basis of EU rules & thresholds).

The maximum budget available for each of the 3 experts is EUR 12,500 (all taxes included).

Prices shall be fixed and not subject to revision during the performance of the contract.

9. Award Criteria

The contracts will be awarded to the tender offering the best value for money, taking into account the specific objectives, requirements and selection criteria of the call for tenders. The principles of transparency and equal treatment will be respected with a view to avoiding any conflicts of interest.

10. Content and selection of the bids

This call for tenders will be published on the ETUC website on 9 September 2015. Offers must be sent within 35 days of the date of publication, by 14 October 2015. Offers must be sent to ETUC, in both formats: electronic (by e-mail to amartin@etuc.org) and as a paper copy (see contact details below).

Concerning the paper copy, to ensure confidentiality, bidders must submit their offer in a double envelope. Both envelopes must be sealed and the inside envelope shall not only bear the name of the department for which it is intended (see below), but also the words "Tender ETUC Letterbox project – not to be opened by the Mail Department" (Appel d'offres – à ne pas ouvrir par le service du courrier). If self-adhesive envelopes are used, they must be sealed with adhesive tape crossed by the signature of the sender.

A committee will be formed comprising three representatives of the ETUC Secretariat. One or more members of this committee will initial the documents, confirming the date and time of each bid. The committee members will sign the report on the bids received, which will list the admissible bids and provide reasons for rejecting bids owing to their failure to comply with the stipulations of the tendering process.

This committee will also evaluate the tenders that have been deemed admissible. An evaluation report and classification of participation requests will be drawn up, dated and signed by all the members of the evaluation committee and kept for future reference.

This report will include:

1. The name and address of the contracting authority, the purpose and value of the contract or framework contract;
2. The names of any excluded candidates and the reasons for their rejection;
3. The names of candidates selected for consideration and the justification for their selection;
4. The names of candidates put forward and justification of their choice in terms of the selection or award criteria.

The contracting authorities will then make their decision.

Candidates must send their bid electronically – to the following e-mail address: amartin@etuc.org – as well as submitting a paper copy of their bid, either delivered by hand or by registered mail or special courier service to:

ETUC

Alexandre MARTIN

Head of Projects Department

International Trade Union House

Boulevard du Roi Albert II, 5

B – 1210 Brussels

BELGIUM

For bids sent by registered mail, the postmark will serve as proof of the date of dispatch.