

Call for tenders for subcontracting legal expertise – ETUC project on New trade union strategies for new forms of employment

This is a call for a subcontractor to provide legal expertise as part of the implementation of the ETUC project on “New trade union strategies for new forms of employment”.

In order to ensure a large visibility of this call for tender, the ETUC will publish the tender specifications on its website, on Thursday 1 June 2017, and keep it online for 28 calendar days (deadline for submission of bids: Thursday 29 June 2017).

1. Summary of the project and description of the objective

Atypical workers, and in particular the so-called own-account workers are at the growing margin of the labour market in particular in the digital economy. They are not entitled to proper social protection, and even not covered by collective agreements.

With this project, the ETUC aims to pursue the following objectives:

- To work on building a relevant legislative framework proposal to protect them and guarantee them the same level of social rights as for employees.
- To tackle the barriers that prevent the unions to protect and represent atypical workers.

The main dimensions of the project will be as follows:

- Collective bargaining, as a prominent mean to cover workers, will be at the core of ETUC work. Innovative approaches at national or sectorial level will be highlighted. A European trade union approach will be defined by looking at some recent achievements of the trade union movement and by identifying best practices and important case law such as the case “FNV-Kiem against the Dutch Government”.
- Legal obstacles that prevent atypical workers from either joining a trade union or from enjoying the right to collective bargaining will be identified. The ETUC will tackle the issue of the EU competition law (articles 101 to 109 of the TFUE), which has been interpreted by some Member States Competition Authorities as restricting the right to organise and to collectively bargain, which is contrary to the EU Charter of Fundamental Rights and Core ILO Conventions.
- Working towards establishing a European framework to protect workers under self-employment relationships and atypical forms of job. Special attention will be paid to guarantee the following for these workers: social security, health assistance, and other important rights such as training rights, parental leave, etc. Minimum remuneration standards must be set by collective agreement if not by law for self-employed, freelancers and platform workers. This

framework should come as European legislation, directly through legislative processes or as an outcome of European Social Dialogue.

- Working towards a possible extended definition of companies as a way to establish a clear social responsibility of entrepreneurs on workers, whether they are employees or contractors, whether they are linked to the company by labour law or commercial law (i.e. conditions of use on the digital platform). This updated definition of companies could lead to set up new “economical entities” that should be covered by comprehensive collective agreements covering all categories of workers

2. Methodology

The subcontractor will be asked to undertake a research on the development on the mapping of the existing legislation at EU level regulating the conditions and protection of the rights of these categories.

The report, including the above-mentioned recommendation will consist of a 50 pages’ document, which will be written in English by the expert and then translated into French. The methodology to be followed by the expert for collecting and processing the information will be desk research and on-line/telephone interviews.

The expert will be requested to participate in the workshop which will take place the workshop which will take place in Paris in September 2017, the Steering committee which will take place in Brussels in February 2018, the workshop which will take place in Amsterdam in May 2018, and the launching event which will take place in Brussels in September 2018.

The expert will provide advice on the choice of guest speakers to be invited to the workshops and the launching event. The expert will also contribute to the moderation of the discussions in order to ensure an interactive nature of this exercise, including receiving questions from the audience.

3. Tasks to be performed by the subcontractor

The specific tasks of this researcher will be:

- Desk research and on-line interviews to study the following issues:
 - National legislation regulating the conditions and protection of self-employed workers, with a special focus on freelance workers;
 - Mapping of different European and International legal definitions of self-employed workers;
 - To put forward a potential EU definition of self-employed workers;
 - Identification of sectorial and company-based collective agreements encompassing these categories of workers.
- Completing the 50-page research based on the above-mentioned guidelines.
- To participate in a kick-off half-day meeting which will take place in Brussels in the second week of July.
- To give advice on the choice of guest speakers to be invited to the workshops and the launching

event (above mentioned).

- The expert will also be requested to present the main findings of the research in these events and to contribute to the moderation of the discussions in order to ensure an interactive nature of this exercise, including receiving questions from the audience.

4. Expertise, experience and skills required

Expertise required:

- Degree in law, with expertise in EU labour legislation;
- Expertise in relevant European level policies and legislation with a special focus on self-employed workers;
- Experience in working on European level projects;
- Experience in working with trade unions at both European and national level;

Skills required:

- Proven ability to carry out in-depth legal research on EU issues and understanding links between European and national level
- Proven research skills, including identifying stakeholders and conducting interviews
- High proficiency in English: ability to draft documents and make presentations in English.
- Ability to work within specified deadlines and to respect budgetary limits
- Availability to participate to the two meetings of the Steering Committee, the final conference and the launching event.

5. Time schedule and reporting

The subcontractor will be asked to present the preliminary findings or the methodology of the research study by **September 2017** in the workshop which will take place in Paris.

The research should be completed by **May 2018** and the main findings will be presented in the workshop which will take place in Amsterdam.

The subcontractor will liaise closely and report to the Steering Committee. The subcontractor will attend 1 kick-off meeting in the second week of July 2017 and a meeting of the Steering Committee which will be held in Brussels in February 2018.

Please note that the above-mentioned dates may be subjected to slight change.

6. Payment

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

Contract with ETUC
Main activities and Meetings

<ul style="list-style-type: none"> ▪ Desk research and interviews ▪ Drafting research study ▪ Participating in the kick-off meeting and the meeting of the Steering Committee, in the launching event and in the Final Conference. 	
Total budget for the Expertise	€
	16.500 € (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 Steering Committee meetings and the workshops. 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;
- 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;
- Price not exceeding the amount stated above;
- Previous research/work undertaken in the field of industrial relations.
- Previous research/work undertaken in the field of EU labour market policies and legislation, with specific focus on self-employed workers.

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 be 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 attendance to the Steering Committee meetings and the Final Conference (which will be covered by ETUC on the basis of EU rules & thresholds).

The maximum amount available for this contract is EUR 16,500 (all taxes included).

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

9. Award Criteria

The contract will be awarded to the tender offering the best value for money, taking into account the specific objectives, requirements and selection criteria of the tender. 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 Thursday 1 June 2017. Offers must be sent within 24 days of the date of publication, by Thursday 29 June 2017. Offers must be sent to ETUC, in both formats: electronic (by e-mail to lmartin@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 New Trade Union Strategies 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 of representatives of the ETUC and the European Trade Union Federations involved in the project. 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: lmartin@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

Thiébaut WEBER

Confederal Secretary

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.