

Terms and Conditions for RFI-RFP

Procurement | 2024

Introduction

These terms and conditions apply during Request for Information and Request for Proposal procedures of ABN AMRO, as defined below.

Content
<p>Part A covers subjects relevant for both RFI and RFP procedures, such as:</p> <ul style="list-style-type: none"> ▶ access to the e-sourcing portal (Ariba); ▶ confidentiality; ▶ publicity and communication; ▶ exchange of information.
<p>Part B contains certain specifics about the RFI procedure.</p>
<p>Part C consists of terms and conditions applicable to the RFP procedure and covers subjects such as:</p> <ul style="list-style-type: none"> ▶ the legal character of the RFP and proposal; ▶ the applicability of ABN AMRO contract templates; ▶ IP rights; ▶ e-auction; ▶ alternative proposals; and ▶ consultation during the RFP procedure.
Definitions
<p>A “Request for Information” (“RFI”) is a process with the purpose to gather information on capabilities of various one or more suppliers, (market) prices, market information, about product specifications and/or general information on products or services without resulting in an proposal being made by participant(s) to the RFI. ABN AMRO may use the outcome of the RFI to, amongst others, develop a purchasing strategy, build databases in preparation for an RFP or to seek clarification of the products or services that are available in the market. An RFI may or may not be followed by an RFP.</p>
<p>A “Request for Proposal” (“RFP”) is an invitation for one or more participants to submit a legally binding proposal for the delivery of certain products or provision of certain services. An RFP with more than one participant can be referred to as a tender. An RFP shall not necessarily be preceded by an RFI.</p>

Important note
<p>ABN AMRO is a private party and not a body governed by public law, and –as such- not subject to European or local public procurement rules and legislation. On RFI or RFP procedures only the terms and conditions as set out in this document shall apply. Although, in relation to the RFI or the RFP procedure, ABN AMRO shall act with reasonable care, in accordance with these terms and conditions, it shall not be bound by any European or local public procurement rules and legislation, including but not limited to equality or transparency principles.</p>

Part A: General

1. Applicability of conditions

A participant is deemed to have agreed to all conditions set out in these terms and conditions and/or any subsequent conditions that may be announced in the context of an RFI and/or RFP.

The RFI or RFP procedure shall be governed exclusively by Dutch law. In the event of disputes arising from this RFI or RFP procedure the courts in Amsterdam shall have exclusive jurisdiction.

2. Access to the e-sourcing portal (Ariba)

This article 2 applies only if ABN AMRO uses its e-sourcing portal (Ariba) for an RFI or RFP procedure.

2.1 Use right

ABN AMRO grants the participant a revocable, non exclusive and non assignable right to access the e-sourcing portal and to use it in accordance with the conditions as set out in this article but only within the scope of an RFI or RFP.

The participant shall not copy, decompile, alter, amend, modify, reverse engineer or translate the e-sourcing portal or parts thereof and shall not develop a program resembling the e-sourcing portal in a manner that infringes upon any intellectual property rights in the e-sourcing portal.

2.2 Designated users

The participant shall designate one or more users per RFI or RFP.

The participant shall receive from ABN AMRO a security code in respect of each user. The security code is personal and may not be assigned to third parties inside or outside of the participant. The participant shall ensure that the user is authorised to act on its behalf. All acts performed by, information provided by and statements made by a person using a security code that was provided to the participant, shall bind the participant.

If the user ceases to work for the participant or if the user will be (temporarily) no longer involved in the RFI or RFP, the participant shall immediately request that ABN AMRO cancels the relevant security code.

2.3 Access requirements

The participant shall be responsible for obtaining the correct authorisations in order to obtain and retain access to the e-sourcing portal.

The participant shall, at its own cost, be responsible for providing all equipment and software necessary to access the e-sourcing portal and shall provide for adequate virus protection. The participant will be responsible should ABN AMRO or other participants be affected by viruses or other harmful components related to the participant's use of the e-sourcing portal.

ABN AMRO shall be entitled to alter the access codes and passwords given to the participant for security reasons. ABN AMRO or a designated third party on its behalf shall inform the participant as soon as possible of the altered security codes.

2.4 Availability and security of the e-sourcing platform

ABN AMRO shall endeavour to keep the e-sourcing portal available during working days. However, the participant acknowledges that the availability of the e-sourcing platform may become interrupted. ABN AMRO shall not be liable for any loss or damage suffered by the participant or third parties as a result of the malfunctioning or unavailability of the e-sourcing platform. The participant shall regularly check to determine whether the functioning of the e-sourcing portal is uninterrupted. As soon as the participant has reasonable grounds to suspect that the e-sourcing portal is interrupted or other outages, defects or errors have occurred, he shall immediately inform ABN AMRO thereof by sending an e-mail to the contact person or persons referred to in the RFI or RFP.

Despite the fact that ABN AMRO endeavours to optimise security, it cannot warrant nor take responsibility for the security of the e-sourcing platform.

ABN AMRO shall keep the participant informed of relevant developments concerning the e-sourcing platform.

2.5 Communication via the e-sourcing portal

ABN AMRO may use the “Compose Message” function for each RFI or RFP. If the “Compose Message” function is used, questions regarding the RFI or RFP may exclusively be put forward via this function.

The participant is responsible for checking the “Event Message” regularly and ensuring this it is aware of all information published. The participant is aware that all information published via the “Event Messages” can be seen and read by all other participants in the RFI or RFP, including competitors of the participant.

3. Confidentiality

The parties acknowledge that both parties’ confidential information may be made available during an RFI and RFP procedure and that they will, if necessary, exchange this confidential information. The parties confirm that such information will be treated in the strictest confidence.

The parties acknowledge that infringement of this duty of secrecy may have considerable and irreparable consequences for the party to which the confidential information belongs.

If any provision of this article is violated, the party suffering damage as a result thereof shall be entitled:

- i. to apply for injunctive or permanent relief or for other measures to be taken which can be granted by a competent court, and/or;
- ii. to claim full compensation for all loss or damage suffered by it as a consequence of the violation.

The parties agree that for an indefinite term, unless a party has the prior, express and written consent of the other party for an exception to the following obligations, they:

- i. will not use confidential information for any purpose other than that for which it has been provided; and
- ii. will treat all confidential information as strictly confidential and will not publish, reproduce or disclose it to third parties, including other customers, suppliers, competitors, the public and the press.

Confidential information means all information disclosed by a party to the other party under these terms and conditions that is designated by the disclosing party as proprietary or confidential, or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure, including ABN AMRO Data. The fact that ABN AMRO wishes to receive certain information or to award a contract, the RFI or RFP procedure, the conditions subject to which the contract will be awarded, and the names of any other participants shall constitute confidential information for the purposes of this article for participant only.

The Parties agree that the obligations resulting from this article shall not apply to confidential information which:

- i. was already in the public domain when it was provided;
- ii. comes into the public domain after it has been provided, without the obligations of the parties under these provisions being infringed;
- iii. has been obtained by the receiving party from a third party in a demonstrably legal manner, in circumstances where this third party was not bound by any duty of secrecy in respect of the confidential information;
- iv. was demonstrably already known to the receiving party before it was provided to it for the first time by the other party;
- v. has been developed by the disclosing party demonstrably independently and

not illegally, without the disclosing party being advantaged by previous access to confidential information, subject to the proviso that this does not include confidential information developed by or for one of the parties in the context of this contract award procedure or in the context of the contract to be concluded.

The parties are permitted to disclose confidential information if there is an obligation to do so under any statutory or court order or statutory regulation, provided that (i) the interests of the party to whom the confidential information belongs are sufficiently protected in the disclosure, and (ii) the disclosing party informs the other party in good time of the obligatory disclosure, unless the disclosing party is not permitted to do this.

4. Publicity and communication

The participant is not permitted to issue press statements or other communications concerning the RFI or RFP procedure and its participation therein, even if such statements and communications are not of a substantive nature.

The participant is not permitted to mention ABN AMRO in promotional or communicative messages or presentations or to use the trade name, pictorial trademark, name, logos and house style (or parts thereof) of ABN AMRO.

5. No offer on the part of ABN AMRO

The participation (or invitation to participate) in an RFI or RFP procedure will in no way imply an offer on the part of ABN AMRO.

6. Information

None of the provisions can be interpreted as imposing a duty on ABN AMRO to check the data submitted by a participant. Nor is ABN AMRO under a duty to give participant the opportunity to supplement or correct data supplied by them.

The participant is aware of and accepts the risk connected with communications sent via the internet and shall satisfy itself that any communication sent by it has been received

by ABN AMRO in the manner which the participant intended. In the event of differences of opinion between the participant and ABN AMRO concerning acts performed or information or statements provided (either via the e-sourcing platform or otherwise) during an RFI or an RFP, the ABN AMRO log files shall be decisive.

All information concerning technical, organisational, contractual or commercial matters relating to an RFI or RFP shall be sent to the contact(s) specified in the RFI or RFP at the address referred to therein. Questions, reactions or statements which may be of importance to the information submitted by other participants may be communicated by ABN AMRO to all other participants. However, ABN AMRO shall not be obliged to do so. If ABN AMRO does make a communication as referred to above, the identity of the party originally asking the question shall not be disclosed. The communications of ABN AMRO shall form part of the RFI or RFP.

If a participant approaches a person within ABN AMRO directly in the context of an RFI or RFP (other than the designated contact persons), ABN AMRO may decide to exclude the participant from further participation.

The participant acknowledges that it may not have further access to any information regarding the RFI or RFP after closing of the RFI or RFP or if its participation discontinues. The participant shall be responsible for storing and locally filing any information within its own organisation, subject to the confidentiality obligations as set out in article 3 (Confidentiality).

Subject to the obligations under article 3 (Confidentiality) ABN AMRO may use information gathered in an RFI or RFP procedure as it deems fit. ABN AMRO may store and keep such information on its systems.

7. Terms

Unless specifically communicated otherwise by ABN AMRO, a term referred to in an RFI or

RFP shall start at the beginning of the first hour of the first day thereof and end at the end of the last hour of the last day thereof.

ABN AMRO may at all times decide to shorten or extend terms. A deadline may also be extended for the benefit of a particular participant. Shortening of a deadline will always apply to all participants.

8. Participation in the RFI or RFP procedure

The participant is responsible for checking its proper receipt of an RFI or RFP, including all the specified annexes, and for requesting documents or annexes from ABN AMRO that appear to be missing, incomplete or damaged.

If the participant decides not to participate (or not to continue participating) in the RFI or RFP procedure, it shall inform ABN AMRO thereof without undue delay. In such a case the participant shall immediately return all documents sent to it by ABN AMRO in the context of the procedure or delete all documents from its systems. Conditions imposed herein by ABN AMRO in respect of confidentiality and publicity shall remain fully into force for both parties.

An RFI or RFP procedure commences at the moment the RFI or RFP has been sent to the participant and terminates (i) if the participant is excluded by ABN AMRO from further participation or (ii) if the contract is awarded to the participant- at the signing and execution of the written contract as referred to hereafter. These terms and conditions shall apply without any restriction throughout the whole RFI or RFP procedure.

A Party shall in any event be excluded from participation (or further participation) in the RFI or RFP procedure if:

- i. it has been declared bankrupt, is in liquidation, has ceased trading, has obtained a suspension of payments or agreed a (private) composition with its creditors, or is in a similar position to any of the above;

- ii. an application has been filed for its bankruptcy or proceedings have been instituted against it for a suspension of payments or a composition with its creditors, or similar proceedings have been initiated against it;
- iii. in the opinion of ABN AMRO resources that have not been acquired legally are used in its business operations;
- iv. in the opinion of ABN AMRO it has been guilty of making or issuing false statements when providing data required of it in the context of the RFP procedure;
- v. in the opinion of ABN AMRO it has deliberately tried to create a false impression concerning the data supplied by it to ABN AMRO in the context of the RFI or RFP procedure;
- vi. in the opinion of ABN AMRO it has caused or could cause serious damage to the corporate interests of ABN AMRO, which are expressly deemed to include the reputation of ABN AMRO.

ABN AMRO may exclude from further participation any participants which belong to a single group, joint venture or cooperate in any other way in the RFI or RFP procedure and did not notify ABN AMRO of this in advance.

The participant shall send in its information or proposal ultimately within the term stipulated in the RFI or RFP respectively. ABN AMRO may disregard a proposal that is not received, or not received completely, within this term.

9. Consultation during the RFI or RFP procedure

ABN AMRO may consult with one or more participants during the RFI or RFP procedure.

The general aim of the consultation shall be to obtain information about aspects of the proposal for clarification purposes.

No communications about the consultations shall be made either by ABN AMRO or by the participant to other participants.

10. Other provisions

ABN AMRO is fully entitled to conduct negotiations with one or more of the participants or third parties not participating in an RFI or RFP procedure during or after the termination of the procedure. The other participants shall not create any obstacles to the conducting of such negotiations.

ABN AMRO has the right at all times to suspend or terminate the RFI or RFP procedure.

All costs which the participant incurs in the course of the RFI or RFP procedure shall be borne by the participant unless ABN AMRO expressly states otherwise.

The participant should specify its full name (registered name and trade name) and address as part of an RFI or RFP.

If the participant submits one or more proposals together with another participant in the context of the procedure, for example through a joint venture or consortium, this shall be stated in the proposal together with the identity of the joint participants. Participant must clearly state each party's role in such joint offering.

ABN AMRO may require the participant to submit references (or supplements or an explanation of references), as well as information regarding the financial and economic strength, skill, efficiency, reliability and technical competence of the participant within such period as it may specify. The participant will provide reasonable cooperation in the verification of information, sources and references performed by ABN AMRO.

Part B: Request for Information

11. Participation in the request for information procedure

An RFI may not be interpreted as an invitation to make a proposal on the part of the participant.

A participant shall not derive any rights from participating in an RFI procedure. More

particularly participation in an RFI procedure shall not give the participant the right to also participate in a subsequent RFP procedure.

None of the provisions in these terms and conditions or in any other documentation in connection with the RFI can be interpreted as imposing a duty on ABN AMRO to purchase any products or services from any participant.

Part C: Request for Proposal

12. Legal character of the request for proposal and the proposal

The RFP itself may be treated not as an offer within the meaning of Article 6:217 of the Dutch Civil Code, but only as an invitation to make such offer. ABN AMRO shall therefore not be bound in any way by the provisions in the RFP.

The proposal submitted by the participant shall always be deemed to be an irrevocable offer within the meaning of Article 6:217 of the Dutch Civil Code even if the proposal does not state so explicitly or

explicitly states the contrary. The proposal shall remain valid for 90 days after its receipt by ABN AMRO or, if a term or date has been expressly included for this purpose in this RFP, during such term or until such date.

13. Prices, volumes, descriptions

All descriptions or actual data concerning prices, (historic) volumes, activities and time schedules provided by ABN AMRO within the context of the RFP are purely indicative. ABN AMRO does not warrant the correctness or completeness of such descriptions or data

and no right may be derived from them by the participant either within the context of the RFP procedure or at any time thereafter.

A participant shall not invoke any claim against ABN AMRO on the basis that it has not been given sufficient opportunity to establish the correctness or completeness of the information provided by ABN AMRO, or to perform any other investigation in the broadest sense of the word.

14. Contract

If a contract template has been appended to the RFP and the participant does not, pursuant to the clauses in this article, specifically indicate that it wants to amend the text of that contract template, in part or as a whole, the text of this contract template shall be binding for the participant if the proposal of the participant is accepted by ABN AMRO.

If the participant wishes to depart from the text of the contract template, it shall explicitly indicate this no later than the time it submits its proposal. It should stipulate which part or parts of the contract template is (are) not acceptable and/or which parts of the proposed text it wishes to amend. If the participant wishes to depart from the prescribed text, it shall submit an alternative text when sending the proposal. In determining whether or not a contract will be awarded to the participant, ABN AMRO shall take into account the number and nature of the proposed amendments to the draft text of the contract template.

Without prejudice to the provisions of the previous paragraph of this article, ABN AMRO may propose amendments to the text of the contract template even after sending the RFP to the participant.

If the participant has reason to believe that provisions under competition law could impose limitations on the content of the contract, it shall state this in the proposal, specifying as much as possible the subjects and/or provisions which may possibly be limited or barred on this ground.

The participant expressly acknowledges that any legally binding contract between the parties will be concluded only if two duly authorised members of staff of ABN AMRO have signed the written contract drawn up in this respect.

15. Intellectual property rights

The parties mutually acknowledge that this procedure will not affect any intellectual property rights belonging to either of them, except in so far as specifically provided otherwise in the RFP.

16. E-auction

ABN AMRO may decide to hold an e-auction. An e-auction gives the participant the opportunity to ascertain its position in relation to other participants and enables it to improve its position by making a revised price proposal.

A participant may revise the price of its proposal as long as the e-auction is active.

ABN AMRO may attach additional or amended conditions relating to an e-auction. These shall be communicated in advance to all participants.

A participant is not obliged to participate in the e-auction. In this case its last proposal shall be treated as a final offer.

17. Criteria

Participant accepts that the following is solely up to the discretionary judgment of ABN AMRO:

- i. which proposal or proposals is (are) deemed most or equally favorable by ABN AMRO; and
- ii. which circumstances or aspects with respect to such proposal or proposals play a conclusive or decisive role in this respect.
- iii. ABN AMRO shall not be required to provide any reasons for its judgment or opinion.

18. Alternative proposals

A participant is entitled to submit, in addition to a proposal in accordance with the RFP, a maximum of two alternative proposals, unless explicitly provided otherwise subject to the limitations as set out in the RFP.

An alternative proposal shall be taken into consideration by ABN AMRO only if:

- i. it is, in the opinion of ABN AMRO, at least equal in terms of quality to that which has been prescribed, and
- ii. ABN AMRO has sufficient confidence in the feasibility of the alternative and of the associated risks and costs.

An alternative proposal must be described as such in the proposal. To be eligible for consideration, the alternative proposal should at least contain the following data:

- i. reasons why the quality of the alternative is at least equal to that which has been prescribed, and
- ii. a risk analysis showing that the risks to which the alternative is subject have been examined and explaining the measures taken by the participant to effectively control or mitigate the risks.

ABN AMRO is entitled to require further data in order to assess an alternative proposal.

An alternative proposal submitted without a valid proposal having been made in accordance with the requirements of the RFP shall be deemed not to have been submitted.

ABN AMRO shall have the right at all times to disregard alternative proposals as it sees fit.

19. Other provisions

If the proposal is not submitted through electronic means such as the Ariba e-sourcing portal the proposal shall be dated and shall bear the signature of one or more representatives of which participant hereby warrants are duly authorised person(s) and able to bind the participant. The proposal will furthermore be accompanied by a recent extract from the trade register of the Chamber of Commerce. For the purposes of the previous sentence an extract shall be deemed to include a printout of the online trade register of the Chamber of Commerce.

The proposal shall not contain any reservation(s) about future (uncertain) events. Except for a possible condition made on the basis of article 13, the proposal should not contain any conditions.

The proposal shall state to what extent the services of third parties (such as auxiliaries, subcontractors, suppliers, copyright holders and licence holders) will have to be used in performing the contract and an outline of specific arrangements with such third parties to the extent relevant to ABN AMRO.

ABN AMRO in its sole discretion has at all times the right not to award the contract and to organise an RFI or RFP on the same or similar subject.