Clarification Note #2

EUSPA internal reference: **327497**

Procurement procedure: EUSPA/CP/08/26 (EUSPA/PRG/2026/CPN/0006)

Title: 'Multi-Component Security Monitoring System'

Question #1:

Would EUSPA consider eligible a scenario where a fully eligible EU Prime Contractor (e.g. a French company) subcontracts specific technical activities to an EU-established subsidiary of a US-headquartered group, provided that the subcontractor is established in an EU Member State, performs the activities within the EU, and complies with all applicable security requirements? If not, could EUSPA clarify which specific participation conditions would prevent such participation?

Answer #1:
The participation conditions applicable to this procurement are set out in section 7.1 of the Tender Specifications, together with the available waivers and the conditions for granting such waivers.

Compliance with the participation conditions will be assessed for each entity on a case-by-case basis during the evaluation stage, based on the documentation submitted with the request to participate. Accordingly, EUSPA cannot pre-assess the eligibility of a specific participation structure outside the context of the evaluation of a request to participate.

Question #2:

Good afternoon, 1) 3.2.6 is calling the draft contract: "The Draft Contract contains specific principles that the Contractor will have to comply with when concluding subcontracts." I did not find the draft contract in the Data package.could you provide us witht the draft contract? 2) Sahll we declare all the subcontractors we plan to consult for competitive tendering at the stage 1? 3) Can you confirm that the expected level of competitive subcontracting activities is minimum 30% the total price of the baseline? Or as per previous contract it might be 15% in competition + 15% on a mutual agreement?

Answer #2:

1. As indicated in Sections 2.5.1 of the Tender Specifications, the Draft Contract, including the applicable subcontracting provisions, will be made available to the Candidates invited to Phase II of the procurement procedure.
2. At Phase I, Candidates must identify their proposed industrial organisation, including the Core Team and any subcontractors already identified, in accordance with Sections 4.2 and 15.7.1

of the Tender Specifications. There is no requirement to identify all economic operators that may subsequently be consulted in the context of competitive subcontracting procedures. The detailed subcontracting plan shall be submitted in Phase II, as provided under Section 5.2.

3. As indicated in Section 5.2, the target is a minimum of 30% of the Total Tender Price to be subcontracted through competitive tendering outside the Undertaking. Nevertheless, Tenderers may submit a duly justified derogation from the 30% target, which will be assessed under award criterion Q5.1.

Question #3:

Good Morning, 1) How the build of MC SECMON impact on the former SoCs (GALILEO SECMON and GovSatCom Hub SoC) are manged to be updated to take into account the evolutions needed by MC SECMON? 2) We wonder how the obsolecences treatment and the evolutions of the former SoC are managed regarding the possible impact on the MC SOC? Thank you.

Answer #3:

As indicated in Sections 1.2 and 2.2–2.3 of the Tender Specifications, Tenderers may propose an MC SECMON solution based on the adaptation and evolution of either the existing Galileo SECMON or the Secured Communications (SC) SECMON, or propose an independent solution.

The maintenance, obsolescence management and evolution of those existing systems, as such, are outside the scope of the present procurement procedure and are managed separately.

Tenderers remain responsible for assessing the implications of their selected technical approach and ensuring compliance with the MC SECMON requirements. Additional technical and reference documentation will be made available during Phase II of the procurement procedure.

Question #4:

Regarding the 30% competitive subcontracting target, which must be awarded to entities outside the Undertaking, please clarify: If Company A is the Prime Contractor, Company B is a direct subcontractor in A's offer, and Company C is a separate legal entity controlled by B, could C access to the minimum 30% share of sub-contracting to be awarded in competitive tendering outside the Undertaking by A? Please note that we were not able to find the precise definition of Undertaking because we were not able to identify Table 9 in Section 7 of the tender's specifications document.

Answer #4:

As regards the definition of "Undertaking" referred to in Section 5.2 of the Tender Specifications, the following definition applies:

The term "Undertaking" encompasses all entities belonging to the same "single economic unit", i.e. directly or indirectly controlling, controlled by or under common control of the tenderer or any of the members of the group acting as tenderer, provided that (i) an entity shall be considered part of the Undertaking only for the time during which such control exists, and (ii) for the purpose of this

definition, “control” shall be constituted in case any of the following applies to either the legal entity on one side or the tenderer or any of the members of the group acting as tenderer on the other side in relation to each other: (a) holding, whether directly or indirectly, a majority of the voting rights, (b) holding, whether directly or indirectly, more than 50% (fifty per cent) of the share capital, (c) having the right to appoint or remove a majority of the members of the board of directors or other management body, (d) having, by agreement, the right to exercise a majority of the voting rights. Entities which are directly or indirectly controlled by the same entity (as described in points (a), (b), (c) and (d) above are also considered being part of the same Undertaking.

This definition will also be incorporated into the Tender Specifications by means of a corrigendum.

Compliance with the competitive subcontracting requirements, including whether the relevant entities fall outside the Undertaking, will be assessed during the evaluation stage, on the basis of the applicable provisions of Section 5.2 of the Tender Specifications and the documentation submitted by the Tenderers.

Question #5:

Good evening tender team, The Tender specifies a minimum of 30% of contracting activities, shall this competitive subcontracting activities could be shared by the core team members? For example the Prime subcontract by a competitive tendering 10% the 2 other core members could share the remaining 20%? One takes 15% the other one 5%?

Answer #5:

Consortium (Group) members are not subcontractors. The repartition of work among consortium members is not relevant for the achievement of the 30% subcontracting in competitive tendering outside the group.

Subcontractors which are part of the core team members (i.e. those subcontractors whose technical and/or economic capacity is necessary to fulfil selection exclusion criteria) are instead relevant for the achievement of the above mentioned threshold, to the extent that the contract between the tenderer and the subcontractors part of the core team is awarded following competition and the subcontractor part of the core team is not belonging to the group of the tenderer.