



CLARIFICATION NOTE #3

Procurement procedure: GSA/OP/02/15 – “DISPATCH”

All the questions of the present Clarification Note #3 are published on GSA website: <http://www.gsa.europa.eu/gsa/procurement>.

The GSA has also published Clarification Notes #1 and #2 on GSA website. Question #5 of Clarification Note #1 could not have been published on the GSA website and therefore the answer was transmitted by email (Clarification Note #1 - addendum) by tenders@gsa.europa.eu to all potential tenderers which provided the duly-completed annex I.B with the relevant supporting documents, and to whom access to the tender package was granted.

Question #9: In the frame of another Invitation to Tender published by the GSA, our company has provided the requested administrative information according to the tender specification. Hence, we would like to query whether the previously prepared forms (as for instance Identification Sheet of the Tenderer, Declaration of Honour etc.) can be submitted in the call for the DISPATCH proposal. However, these documents refer to the ITT reference number. Please be informed that this would fasten and facilitate the tender preparation. Alternatively we would like to propose to provide WORD files or templates which do not necessarily refer to the specific ITT. Thus it would be possible to reuse these forms.

Answer:

Tenderers are kindly requested to provide all the requested forms, duly completed, dated, stamped and signed by their duly-authorised legal representative, and to strictly comply with the templates provided in the Invitation to Tender, without exception. As a consequence, templates used for other tenders will not be accepted should they refer to another tender or not correspond exactly to the templates provided together with the Invitation to Tender.

Question #10: We would like to ask for an extension of the deadline of 4 weeks. Furthermore the last date on which clarifications will be issued by GSA has been extended to 19 June 2015, which would allow the tenderers only a few days to include the clarifications into their proposal.

Answer:

The GSA does not intend to grant extension of deadline for the submission of tenders as the period of preparation of offers is deemed sufficient for this type of procurement and being already much longer than the minimum requirements of the EU Financial Regulation¹ and its rules of application². The deadlines for requests and submission of clarifications by the GSA were extended in order to give tenderers the possibility to have access to potential clarifications for a longer period. Clarifications are not meant to alter the specifications and shall not generate substantial changes to the content of the proposals that are being prepared by tenderers.

Question #11: Pre-financing guarantee/ performance guarantee: Please clarify whether both a pre-financing guarantee and a performance guarantee will be required?

Answer:

As part of the contract, a pre-financing guarantee will be required. However a performance guarantee will not be requested.

Question #12: Pre-financing guarantee:

¹ Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002.

² Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union.



- a) Please clarify whether the pre-financing guarantee has to be provided with the proposal or till contract signature;**
- b) Please clarify whether the pre-financing guarantee has to be provided by the lead-contractor or by all members of the consortium.**

Answer:

a)

A pre-financing guarantee will be requested after the signature of the direct service contract between the GSA and the contractor to whom the contract will be awarded, as stated in section I.4.1 of the draft contract:

"I.4.1 Pre-financing

Following signature of the contract by the last party and its receipt by the GSA, a pre-financing payment of EUR [amount in figures and in words] equal to 10% (ten per cent) of the total amount referred to in Article I.3.1 shall be made within 30 days of the receipt of an invoice and the receipt by the GSA of a duly constituted financial guarantee equal to at least EUR [amount in figures and in words], as per the template of financial guarantee provided in Annex VIII. The GSA may refuse to make payments where the award procedure or the performance of the contract prove to have been subject to substantial errors, irregularities or fraud attributable to the contractor."

b)

Such guarantee shall be provided by the lead-tenderer, on behalf of the consortium, where all members of the consortium shall give power of attorney authorising the relevant leading legal entity to make a proposal – and confirm acceptance of all the terms and conditions of the Invitation to Tender - on their behalf.

Question #13: Performance guarantee:

- a) Please clarify whether the performance guarantee has to be provided with the proposal or till contract signature;**
- b) Please clarify whether the performance guarantee has to be provided by the lead-contractor or by all members of the consortium.**

Answer:

Please refer to the answer of question #11.

Question #14: Article II.14.3: Please confirm that the following sentence "The contracting authority may claim compensation for any damage suffered in the event of termination" refers to Article I.11 and therefore the liability will be limited to the total value of the contract.

Answer:

The assumption is correct – as stated on page 2 of the draft contract- the terms set out in the special conditions shall take precedence over those in the other parts of the contract. Therefore- limited to this particular procurement, the liability cap specifically inserted with clause Article I.11 shall also apply to Article II.14.3 except in case a damage or loss "is caused by the gross negligence or wilful misconduct of the contractor or of its personnel or subcontractors, the contractor shall have unlimited liability for the amount of the damage or loss", as stated in section II.3.3 of the contract.



Question #15: We plan to bid with a consortium and a NDA was signed with potential partners. Do we need to sign an NDA together with the GSA? Will the NDA allow having access to more information than the information contained in the tender package?

Answer:

Reference is made to section 2.2.3 of the tender specifications:

*"In case the NDAs are not signed between the tenderer and the GSA before the deadline above specified and the NDAs duly signed by the tenderers are submitted to the GSA together with the submission of tenders, Non PRS information and PRS information shall be disclosed by the GSA to the successful tenderers only upon Contract Award Notice. It is therefore not required to have received the non-PRS and PRS information before the deadline indicated in section **Error! Reference source not found.** to be eligible to this tender."*

In this respect, please be informed that the deadline to submit requests to enter into an NDA and have access to (non) PRS information is past due, as shown in section 1.2 of the tender specifications. In this respect, the GSA does not foresee to disclose (non) PRS information at this stage. Attention of the tenderers is drawn to the fact that access to (non) PRS information is not mandatory to submit a proposal.

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