

## Clarification Note #4

GSA internal reference: 219780

### Procurement procedure: GSA/OP/21/15 – EGNOS V3 Site Surveys

**Question #22: The requirements for the Specific Contract #1 state, that Task #2 is applicable only to the sites retained at Task #1. So presently the number of these sites is unknown. Could GSA please confirm, that in the Specific Contract #1 proposal for Task #2 only firm fixed unit prices are to be given, and that no firm fixed total price is required?**

Answer: The Specific Contract #1 will be priced based on the prices provided by the contractor in Annex I.8 – Model Financial Offer. The price of Specific Contract #1 shall be a maximum total price, comprising the maximum total price for all sites under Task 1 and the maximum total price for all sites under Task 2. Would not all the sites from Task 1 be retained for Task 2, the final amount paid under Specific Contract #1 shall be less than the maximum total amount foreseen in the contract, reflecting only services really performed.

**Question #23: The question concerns the regulations for the procedures to select subcontractors. For our organisation the rules for public entities apply. For competitive selection of a subcontractor in the intended volume this requires a European-wide call, with a completion of the procedure to be expected in some 3 months only. This is definitely much too long and can neither be done in the proposal period, nor within the period required for the actual project execution. However it seems, that we have already identified a potential subcontractor with specific capabilities that optimally fit in our task distribution for such a tender.**

GSA's tender document states:

*"If the identity of the intended subcontractor(s) is already known at the time of submitting the tender, tenderer shall submit the required evidence demonstrating the eligibility of the subcontractor and its compliance with the requirements set in the tender specifications".* The required eligibility and compliance of the potential subcontractor is given and the requested evidence will be provided.

**Could GSA please confirm that in such situation it is acceptable to select the subcontractor without a competitive tender procedure.**

Answer: At least 10% of the value of the contract shall be subcontracted through competitive tendering outside the Group, as defined in the tender documents.

Competitive tendering outside the tenderer's Group<sup>1</sup> is intended to have taken place when more than one offer from an entity outside the Group has been required.

Each tenderer is responsible for organising its own competitive tender(s) aimed at finding necessary subcontracting respecting the following procurement principles:

- Fair competition & equality of treatment
- Transparency
- Proportionality
- Best value for money

Tenderers shall clearly indicate in their tenders which part of the services they intend to subcontract, demonstrating compliance with the above mentioned requirements. A proof of competitive subcontracting tender(s), including thorough visibility of technical and financial offer of consulted entities outside the Group (envisaged subcontractors) shall be provided together with the offer.

If the tenderer does not manage to complete the competitive tender(s) required by the time of tender submission, it shall submit a signed undertaking presenting credible tendering plan it intends to carry out.

If the competitive tenders are completed only during contract execution, the concluded subcontracts shall not lead to a change of the contract unless it is in favour of the GSA as contracting authority.

The contractor shall request GSA prior written authorisation to introduce any newly selected subcontractor(s) according to contract provisions. In case of failure to respect the undertaking of subcontracting or obtaining the said authorisation, the contract may be terminated for contractor's default.

In case where no competitive tendering is planned to be undertaken, tenderer shall submit a justification of the non-compliance with the above mentioned requirement. Failure to provide such justification may lead to exclusion from the tender.

Tenderers may at any time after tender submission or during contract execution be requested to submit supporting evidences of their application of competitive tendering for the selection of subcontractors and their compliance with the principles established above. Contractors can be subject to possible auditing according to contractual provisions.

**Clarification #24: Tenderers are expected to provide in their Technical Proposal information on the different profiles of expertise they intend for Tasks 3A, 3B and 3C (their designation according to the tenderers organisation, hourly rate), having in mind that:**

- **the profiles are to be compliant with the requirements set in the tender specifications;**

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<sup>1</sup> The expression Group is meant to encompass i) the entity or the group of entities acting as a candidate/tenderer, ii) the entity /entities to which the candidate/tenderer or any of the members of the Group acting as candidate/tenderer is affiliated, iii) the entities affiliated to the candidate/tenderer or to any of the members of the Group acting as candidate/tenderer. An entity shall be deemed affiliated to the candidate/tenderer or any of the members of the Group acting as candidate/tenderer if their links fall within the scope of Article 22 of Directive 2013/34/EU.



- the services delivered under Tasks 3A, 3B and 3C shall be paid according to the prices offered in Annex I.8 – Model Financial Offer which will be the prices applicable for the contract.

**Clarification #25:** In the last sentence of Tender Specifications chapter 3.3.1, there is a clerical error. The sentence shall read “Tenders scoring below the minimum score in any given quality award criterion and/or below 60 (sixty) of the total minimum score will be excluded from the following assessment procedure.”

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