

## Clarification Note #5

GSA internal reference: 256513

### Procurement procedure: GSA/OP/05/19

#### Development of an advanced interference detection and robustness capabilities system

**Question #10:** Article 8.5 of Draft Contract mentions that, in case of exercise of Option 1, the Contractor shall grant the European Union a licence for access and use of Background IPR, whenever this use is required for the commercial exploitation of the results with the right to sublicense. Can you confirm that Article 8.5 applies to the Background IPR of consortium members and subcontractors and not to the third-party IPRs and COTS?

**Answer #10:** As defined in the contract (see Art. 1 and Art. 8.4), the Background IPRs include as well the BIPRs owned by third parties, including COTS products. Therefore, the provisions of Art. 8.5 apply to such third party / COTS BIPRs as well.

**Question #11:** If a subcontractor uses its own COTS, can it be treated as third-party IPR COTS or does it have to be treated as Background IPR, given that it has a standard license terms and is a COTS?

**Answer #11:** As mentioned above, the COTS licenses needed for the exploitation of the Result of the Contract are considered BIPRs. For them the standard licence terms of the third-party vendor shall apply in order to grant to the EU (represented by EC and GSA) the license specified in Art. 8.5.

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