

Clarification Note #2

EUSPA internal reference: 271154

Procurement procedure: EUSPA/OP/21/21

Question #15: With reference to the "Technical and professional capacity" criteria listed in chapter 3.2.3 of the Tender Specifications, could you please confirm that criteria from "T.2 LOT 1-6" to "T.7 LOT 2-6" are applicable to a consortium as a whole, i.e. can be satisfied by all economics operators within a Consortium cumulatively? "

Answer #15: As per section 3.2.3 of the Tender Specifications, the tenderer "may rely on the capacities of other entities to fulfil the technical and professional selection criteria, regardless of the legal nature of the links which it has with them". Therefore, it is confirmed that the technical and professional capacity criteria are to be satisfied cumulatively.

Question #16: On page 20 of Annex I_EUSPA-OP-21-21_TS is written that a "declaration of full compliance with the requirements detailed in the security aspects letter (referred to as "SAL" – Annex II.VII of the draft FWC)" is required along with "evidence of compliance where requested".

- Is there any form to be filled in or would a simple declaration from the tenderers/ a signed copy of Annex I.G suffice?

- In case no form is provided, which is the "evidence of compliance" to be provided?

Answer #16: There is no specific template for the statement of compliance to SAL provided by EUSPA, the tenderers are therefore free to follow their preferred document structure, as long as it is duly signed by the tenderer's authorised representative.

Question #17: Should all Lot 6 administrative documents (Annex I.H, LSO appointment, Full compliance with SAL, SAB authorisation, PIMP), be included in Envelope 1?

Answer #17: We confirm that the above-mentioned documents shall be included in Envelope 1 – Administrative documents, as per the table of section 4.6.1 of the Tender Specifications – points 6 and 8.

Question #18: In the document "Annex I.I_Lot 2", page 3, paragraph "Simulation exercise proposal content", it is stated "Within the simulation exercise the contractor shall select one innovation area or identified technology gap in the market and provide support to design and launch a dedicated R&I-call supporting space downstream innovation". Could you please confirm if the scope of the simulation exercise is to provide a "technical specification" or a "statement of work" document for a research and innovation activities?

Answer #18: We confirm that the bidder can take as reference a call example on the EUSPA website (*Opportunities* → *Grant or Procurement sections*) and based on its experience, propose a Statement of Work, a technical specification or other documentation needed to launch a call.

Question #19: In the document “Annex I.I_Lot 6”, page 1, it is stated "In the implementation of the framework contract a close coordination is assumed between lot 1 "Market and technology monitoring", and Lot 6 "Governmental" for what concerns market and technology monitoring of governmental applications and production of the Governmental Market Report and of the User Technology Report". Could you please clarify if it is needed to estimate in the simulation exercise an activity of cross coordination within Lot 1 and Lot 6?

Answer #19: We confirm that, when it comes to the governmental market, Lot 6 will build content on the basis of the necessary analyses, while Lot 1 is intended to make any market data, including that generated in the frame of Lot 6, fit for the purpose for a relevant report. For the specific scope of the simulation exercise, please refer to Annex I.I_Lot 6.

Question #20: In the document “Annex I.I_Lot 5”, page 3, paragraph "Simulation exercise proposal content", it is stated "Propose a demonstration case to showcase the benefits of EU Space services and data, including: how to involve key players, KPIs to measure impact, dissemination actions". Could you please confirm that the "demonstration case" is referred to an existing case (including a project already performed by the bidding company) or a new one to be proposed?

Answer #20: The bidder shall propose the best demonstration case in its view, based on its experience and knowledge of space services and users, either an existing case or a new proposal.

Question #21: With regard to the section "Simulation exercise proposal content" of the document “Annex I.I_Lot 5”, it is stated the following: "Assess the main challenges of the segments, gaps, and opportunities to develop new space services and increase access of data to meet the identified needs, including: (1) Approach to support the definition of new services concept to meet new user's needs; (2) Definition of a pilot project to validate the proposal". Could you please specify if such pilot project should be one for each segment (car, drone, maritime, rail) or a single comprehensive one?

Answer #21: The demonstration case shall cover all target segments described in the terms of reference. The bidder shall propose an implementation scheme, either combining segments, or targeting them in different activities.

Question #22: In the document “Annex I.I_Lot 5”, page 3, paragraph "Simulation exercise proposal content", it is stated "Propose a list of practical tools to include space data and services into the user segment, foster application development and increase adoption of all space components, leveraging their synergies, with timeline for implementation and KPIs to measure impact". Could

you please elaborate more on the meaning of "practical tools" in this specific context, providing some examples?

Answer #22: The bidder shall propose solutions that consider appropriate to accelerate the use of space services, and can be implemented by EUSPA. This includes, but does not limit to, user guidelines, software and hardware resources, user standardisation, testing campaigns, cost benefit analysis, etc.

Question #23: Is it possible to use the same CV for different lots, foreseeing an effort distributed among the different lots until 100% effort is reached?

Answer #23: Yes, as long as such is compliant with the requirements of the Invitation to Tender and its annexes (see for example article 1.6.3 - Rejection of double financing across lots, of the draft Contract).

Question #24: Could you please confirm that there is not a page limit for the technical offer for all of the lots, excluding lot 1?

Answer #24: Unless otherwise indicated in the Tender Specifications and its annexes, there is no page limit in the technical offer.

Question #25: Should the PIMP be filled in also by a tenderer with a SAB authorisation in place or in this case it will not be needed?

Answer #25: Yes, the tenderer is requested to submit a PIMP as per Annex I.J of the Invitation to Tender, in addition to requesting a SAB authorisation for the relevant PRS category ('PRS support').

Question #26: Will it be related to the FWC or to the scenario exercise?

Answer #26: The PIMP shall be submitted as part of the tender.

Question #27: If the latter is the correct answer, should the PIMP be included in Envelope 1 or in Envelope 2?

Answer #27: Envelope 1.

Question #28: The Terms of Specification and the FAQ released stated that both originally hand signed and QES are allowed. Nevertheless, while the legal representative has QES, not all team has the QES to sign ACOIs (Absence of conflict of interest). In this sense, we are kindly asking you if it is possible to provide you some of the ACOIs hand signed as original documents, besides to others ACOIs and documents which will be signed through QES.

Answer #28: Yes, this is possible.

Question #28: 3. On page 48 of Annex I_EUSPA-OP-21-21_TS, it is stated: "If it is submitted on electronic media, it shall contain 3 (three) CD-ROM, DVD or USB sticks with the full set of documents. [...] The electronic versions of the tender are considered as originals"

A. Does this imply that if documents are submitted ONLY in electronic format:

A1. The 3 electronic media should ALL contain the documents of the 3 envelopes and all of them be put in the outer envelope, or

A2. Each medium should contain 1 envelope each and that each medium must be included in its relative inner envelope?

B. Are copies needed as well and to be included in the outer envelope (A1) or in each inner envelope (A2)?

Answer #28: The inner envelopes shall contain 3 CD-ROM, DVD or USB sticks with the full set of documents. These medias must be inserted in the outer envelope as described in the tender specifications. They shall contain the folders described in the Tender Specifications. All the documents/media shall be included in the inner envelopes.

Question #29: 4. On page 48 of Annex I_EUSPA-OP-21-21_TS, reference is made to Section 2.2.4.2.

A. Should it be read 2.2.5.2 instead?

B. Since 2.2.5.2 analysis may require to provide several documents, can these documents be included in Envelope 1 (as opposed to being included in the cover letter itself)?

Answer #29: A. Yes, correct.

B. Yes, as long as it is clear (e.g. labelled accordingly) where these additional documents are referring to.

Question #30: Could you please clarify on the status of UK and its eligibility. Is it possible to include both in the consortium and in the team people and company coming from UK? Is there any restriction and/or documentation needed?

Answer #30: Please refer to section 2.2.1 for the participation conditions.

Question #31: Since EUSPA requires a paper delivery for this proposal, but the consortium team is geographically dispersed and do not all have access to QES tools, we would like to clarify the requirements around document signatures. Are original signatures required on all documents that are not QeS signed, including individually signed CVs and Absence of Conflict of Interest Forms, or will EUSPA accept alternatives such as printed scanned signed versions?

Answer #31: The documents which according to the Tender Specifications shall be signed (and therefore not documents such as CVs), shall be either signed with QES or with blue-ink signature. Please further refer to the Q&A #28 above.

Question #32: The tender states in section 3.4.3 of the invitation to tender: Tenderers must be aware of Article 23 of Annex I of the Financial Regulation on abnormally low tenders. In order to make a consistency check of each tenderer's financial offer towards the level of service required, tenderers are requested to provide their pricing methodology in a separate price structure document attached to the Financial Table of Answers. The price structure document must explain in detail how tenderers establish their all-inclusive daily prices for the services. The document should demonstrate the compliance of the daily prices with the laws of the country in which the services are to be performed, for minimum levels of staff remuneration, contributions to the social security, occupational safety and health standards, and/or other applicable schemes and standards. Calculation of final score and ranking of tenders...(sentence not completed)

1. can the agency clarify what form of "compliance" they expect for the quoted fees and whether this should be done for each member of the consortium (since they are from different countries)?

2. can the agency provide revised text with the final sentence being complete?

Answer #32: (1) It is up to the tenderers to demonstrate such compliance, requested by the evaluation committee. (2) Please note that this is not an incomplete sentence, it is rather an unformatted section title.

Question #33: One of the partners in our consortium has been established in 2020. Thus, according to its national laws this partner does not have closed accounts. Are they still eligible to participate and how should they fill in the financial statement in such case?

Answer #33: Please refer to F1 and F2 under section 3.2.2 of the Tender Specifications: "If, for some exceptional reason which the EUSPA considers justified, the tenderer is unable to provide the requested documents, the tenderer may prove its capacity by other documents which the EUSPA considers appropriate. In any case, EUSPA must, as a minimum, be notified of any exceptional reason and its justification in the tender. The EUSPA reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity before award."

Question #34a: Articles I.4.1.4 and 1.4.1.5 of the draft FWC: We fully understand that the prices are fixed throughout the FWC. However, due to the current situation, completely unforeseen at the proposal time, would it be possible to amend the FWC contract to include a yearly/ bi-yearly full/ partial indexation of prices e.g. to CPI? This would reduce uncertainty on the contractor's side and hence likely reduce overall pricing.

Answer #34a: There is no such possibility foreseen for the present procurement procedure.

Question #34b: Question 1 - clause I.3.7 of the FWC: Will the Contracting Authority impose liquidated damages according to clause I.3.10 of the FWC also in situations when the Contractor answers to the request for Services by providing explanation according to lit. (b) I.3.7 of the FWC and the explanation for non-submission is acceptable to the Contracting authority?

Answer #34b: No, liquidated damages are not to be implemented in such case.

Question #34c: Question 2 - clause I.14.2 of the FWC: In clause I.14.2 of the FWC (first sentence), the introduction indicates that the provision on liquidated damages may change in a Specific Contract.

Does that mean that the liquidated damages may be stipulated at a higher rate than indicated in the FWC? If yes, does this also apply to the extension of the cap on the liquidated damages (set at 5% of a Specific contract)? If this would be possible, is the Contractor entitled to reject the conclusion of a specific contract without sanctions?

Answer #34c: The sentence “unless otherwise agreed in the Specific Contract” in article 1.14.2 of the draft FWC, refers to any changes in the said article EUSPA may decide to make, depending on the nature of services of the relevant specific contract.

Question #34d: Question 3 - clause I.14.2 of the FWC: Does the cap on the liquidated damages set in the last sentence of clause I.14.2 (5% of the Specific Contract value) apply to all of the liquidated damages under that specific contract (i.e. not only those stipulated under clause I.14.2, but also other provisions of FWC)?

Answer #34d: The limit of 5% refers to the total value of the relevant specific contract and it refers to any liquidated damages to be applied under it (“The overall aggregate amount of liquidated damages which may be imposed per Specific Contract shall not exceed 5% of the price of the relevant Specific Contract”). Please look at the answer to question 34c also.

Question #35: We would need more clarifications on the PIMP aspects as mentioned in § 2.2.9 of the ITT.

Does the attached Annex I.J need to be filled in or shall we provide the current PIMP of our company?

The PIMP is a requested proposal document, but its scope is unclear to us (is it related to the FWC, to the scenario, for what activities, ...)?

Answer #35: The PIMP should be provided in the provided EUSPA/GSA template. The scope is related to the overall FWC lot 6 scope.

Question #36: Lot 6: Please let us know, how to transmit the “PRS Information Management Plan” directly to EUSPA, as this document is classified EU-RESTRICTED when filled in.

Answer #36: RESTREINT UE/EU RESTRICTED document can be sent on paper or in electronic format, however due to GRUE2 restrictions need to be on CD or DVD. External USB cannot be used on our system.

In any case, paper or CD, it needs to be sent via commercial courier, packed in double envelope. Inner envelope bares a classification marking, outer should not show indications that the classified content is inside.

Question #37: Is it correct that NDU has to be signed when tenderer applicates for Lot 6 only? Means, if we applicate for example within Lot 2, there is not mandatory to sign NDU?

Answer #37: Yes, it is correct.

Question #38: In what form all documents shall be presented: are documents sufficient (such as an extract from commercial register downloaded from the court's official website) or a verified commercial register extract is needed?

Answer #38: There is not specific requirement regarding the form of the evidence, as long as the document is an official document in the respective Member State.

Question #39: As is proposed we would like to submit proposal in one language (English is recommended) but some formal document (such as extract from commercial register) we will have in the original language, which is not the English. Is it necessary to translate these documents too into English? If it is necessary, when they need to be translated in what form shall all documents be presented: are simple translations of documents sufficient or sworn translation is needed?

Answer #39: The supporting documents can be submitted in their original language and thus there is no need for translation of the documents.

Question #40: Regarding to content of simulation exercercise, eg. in Lot 1 is defined that response to the simulation exercercise should have maximum of 20 pages and what should be included (defined in Annex I.I_Lot 1). For Lot 3 it is not defined. Could you define it for this lot as well, please?

Answer #40: Please refer to the Q&A #24.

Question #41: The current wording implies that each economic operator must have the required experience (T3-T7) individually.

"Applicable to all economic operators participating in this procurement, i.e. primes, each consortium member and any proposed subcontractors on which the prime relies for fulfilling this criterion."

However, if that statement is true, the segment "[...]on which the prime relies for fulfilling this criterion" contradicts the intended meaning.

Answer #41: It is not stated that the criterion should be met individually. Instead, the criterion should be fulfilled cumulatively.

Question #42: In the DoH (Annex I.B) in the "Selection criteria" section (a), (b), (c) subcontractors and joint tenderers (in the case of consortia) may not fulfil INDIVIDUALLY each of the criteria, with the team leader ONLY having the overall picture of the entire consortium. Can you please advice on how to proceed?

Answer #42: Each economic operator shall declare its own status (which can be "NO" as an answer).

Question #43: As already anticipated in one of our previous clarification requests, the tender contains several broken links ("Section 0"; "Error! Reference source not found."). Can you please fix them as in some cases guessing may lead to wrong interpretations of the requirements and hence impact on the evaluation of the proposal itself?

Answer #43: Please refer to Corrigendum #1.

Question #44: Lot 6: in order to effectively manage the contract and manage information up to EU SECRET from the contractor's premises, a secure communication system (COMSEC) and a communication and information system (CIS) are mandatory to be put in place. However, there is no requirement of such sort in the tender specification, apart from a reference in the GNSS-PSI.

Can you please clarify how the contractor is intended to manage such information in case of award without a COMSEC and a CIS system already in place?

A. Should we assume that activities up to EU Secret will be done in EUSPA?

B. Should we assume that only activities up to EU Restricted will be requested under this FWC?

C. Should the contractor guarantee COMSEC and/ or CIS after the tender?

D. Should contractors without COMSEC and/ or CIS already in place initiate the process to have it during the proposal phase and provide formal documentation of the initiated process (and hence EUSPA release the formal request to initiate the process towards the relevant national authorities during this tendering process already)?

Answer #44: As specified in the Tender Specifications, section 2.2.5.3 *“The activities under the contract may require the handling and production of documents classified up to RESTREINT UE/EU RESTRICTED. Any classified information should be treated according to the instructions set out in the security aspects letter”*. For what concerns Secure Communication System (COMSEC) and Communication and Information Systems (CIS) for handling such EU Classified Information, the tenderer shall refer to the applicable regulations.

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