



## Clarification Note #2

GSA internal reference: 260258

**Procurement procedure: GSA/IP/10/20**

### European Union Governmental Satellite Communications (EU GOVSATCOM) Hubs

**Question #12: Can UK-based subcontractors apply for a waiver under section 3.1(II) of the Tender Specifications, if they have exceptional circumstances, rather than using the specific mechanism for UK companies under section 3.2 that require them to assign the contract by 1 January 2021?**

**Answer #12:** The mitigation plan set out under section 3.2 of the Tender Specifications is a mandatory requirement for the UK economic operators participating in this tender as prime contractors (Candidates/Tenderers according to section 3.2 of the Tender Specifications), since, according to section 3.1(II) of the Tender Specifications, the establishment of prime contractors in an EU Member State is a participation condition which cannot be waived. As far as subcontractors are concerned, one or more of the requirements set out under section 3.1(I)(a), (b) and (c) may exceptionally be waived, given that the conditions for granting such a waiver have been met as per section 3.1(II). Candidates are reminded that the granting of a waiver is subject to:

- i) the existence of exceptional circumstances related to the nature, cost or availability of goods/services
- ii) the demonstration of the implementation of sufficient measures in order to guarantee the protection of the essential interest of the security of the European Union or public security, including the security of the EU Member States. It is for the candidates to establish and demonstrate the existence of such measures, which may include, the measures under section 3.2 of the Tender Specifications.

**Please also note the modifications in section 3.2 of the Tender Specifications implemented by way of Corrigendum no.1 published in the Official Journal of the European Union and in the GSA website.**

**Question #13: In Annex I.D 'Letter of Intent', it is written "[...] further declares hereby accepting the terms and conditions set out in the draft Contract applying to subcontracting by returning this form filled in and signed". However, in section 2.2.2 of the Tender Specifications it is clearly mentioned that the draft Innovation Partnership Contract will be available at the Invitation to Phase II. Consequently, how can a subcontractor / member of the Core Team can declare accepting the terms and conditions set out in the draft Contract while the draft Innovation Partnership Contract is not yet available? Shall we modify the text of the Letter of Intent?**

**Answer #13:** Please refer to Corrigendum no.1 published in the Official Journal of the European Union and available at in the GSA website.



**Question #14: What is the difference between a core team subcontractor and a non-core team subcontractor?**

**Answer #14:** As per section 3.3 of the Tender Specifications, only subcontractors which are essential in order for a Candidate to meet the selection criteria under section 4.2 of the Tender Specifications are considered to be members of the core team (i.e. "core team subcontractor").

**Question #15: Can an essential (core team) subcontractor participate in different consortia for the current Phase I for the selection of consortia by the GSA?**

**Answer #15:** Please refer to the GSA's reply to question #6 published in the Clarification Note no.1 (ref. 260196), which is available on the GSA website.

**Question #16: Could the GSA clarify if the EU Security Classification level expected for the study phase and implementation of the EU GOVSATCOM Hubs will be up to EU Confidential or up to EU Secret?**

**Answer #16:** Please refer to Annex III to the Invitation to Participate 'GOVSATCOM Hub Project Security Instructions' and, specifically, to its Annex H 'GOVSATCOM Hub Security Classification Guide' which stipulates the classification level which is expected. The information included therein applies to all Contract Stages and may be classified up to level SECRET UE/EU SECRET (section 2(b) of Annex H).

**Question #17: Pursuant to section 2.2.2(g) of the Tender Specifications, the Contracting Authority allows the award of an Innovation Partnership(s) without further negotiation. Can the contracting authority specify under which conditions or under the fulfillment of which criteria this situation may occur?**

**Answer #17:** The GSA has reserved the right to award the contract(s) on the basis of the Initial Tender(s) submitted in Phase II of the procurement procedure; such right may be exercised depending on the quality of the Initial Tender(s) received and their compliance with the detailed technical specifications of Phase II of the procurement procedure.

**Question #18: Legal Entity File (template available at: [http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities_en.cfm)); the aforementioned link does not exist anymore. Can you please provide the correct link?**

**Answer #18:** The correct link is hereby provided [https://ec.europa.eu/info/publications/legal-entities\\_en](https://ec.europa.eu/info/publications/legal-entities_en)

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