



EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR AGRICULTURE AND RURAL DEVELOPMENT

Directorate L. Economic analysis, perspectives and evaluations
L.4. Evaluation of measures applicable to agriculture; studies

Brussels, 04/08/2011 852162

AGRI L.4/MZ D (2011) / 913755

A49\DF1\SFS Q&A 7

Subject: Request for additional information related to the Open Call for Tender "Evaluation of the School Fruit Scheme ". Tender N° AGRI-2011-EVAL-06

Dear Madam, Dear Sir,

Please find enclosed the answer of the European Commission to the question raised by a potential tenderer.

In view of improving the quality of the tenders and to ensure that all additional information is evenly distributed amongst the participants in the tendering process, this letter will be made available to all interested parties.

QUESTION:

One of the identified country experts for this tender has recently been short listed for the group for technical advice on the School Fruit Scheme (call published on October 2010). He/she has been considered suitable, confirmed their interest and signed the commitment letter. Would this imply a conflict of interest in participating in our tender?

Are we allowed to include such experts in our proposal, while specifying their previous engagements with DG Agriculture in the commitment letters? Would this be acceptable?

ANSWER:

If the question refers to the call for applications published in the Official Journal of the EU on 30.10.2010 (reference: 2010/C 296/13), the situation described in the question does not seem to imply a conflict of interest. However, please note that the concrete decision about whether there is a conflict of interest is made on the basis of an analysis of the full range of documents accompanying the offer, including additional information which may eventually be requested from the Tenderer. As a result, the Commission is not in a position to provide a definite answer to your question.

In general terms, the European Commission would consider that a conflict of interest exists where:

- a) A person or company is in the wider sense evaluating his/her own work in the past, or
- b) A person or company has a contractual relationship with a company which was in the past or is currently carrying out the activities that this person or company has to judge, conclude or recommend on.

Regarding a potential conflict of interest, please note that according to section 8.2.2 of the tender specification, a Tenderer shall provide a declaration on its honour, duly signed and dated, that they are not in one of the situations defined in the exclusion criteria for participation (see Sections 9.1.1 to

9.1.6 of the tender specification) and for award (see Sections 9.1.7 to 9.1.9 of the tender specification).

For criterion 9.1.7 (“no conflict of interests”) and criterion 9.1.8 (“not guilty of misrepresentation in supplying information or failure to supply this information”) an example of the declaration to be made is attached as Document N° 3 F to the letter of invitation to tender. These declarations also apply to all “service providers” of a consortium (Sections 7.3.1 and 7.3.2 of the tender specification) and to any possible subcontractors (Section 7.3.3 of the tender specification) named in the offer or who might be proposed to be used during the time period of the expected contract. With respect to external experts, an example of the declaration to be made is attached as Document N° 3 G to the letter of invitation to tender.

Where a Tenderer is unable to complete any of the declarations in Document N° 3 F and/or N° 3 G, the situation(s) should be described in detail allowing the European Commission to examine the situation(s).

The fact that this statement contains a mention of possible conflict of interests will not necessarily constitute automatic exclusion during the evaluation procedure. The situation for each Tenderer will be separately examined during the evaluation stages of the offers.

Please note that any information, questions or observations, of whatever kind, contained in this correspondence can in no way be regarded as a commitment on the part of the Commission. No binding commitment will be entered into until after completion of the procurement procedure, with the signing of the relevant contract.

[signed]

Leo MAIER
Head of Unit