

Questions received on the tender on the independent expert team (TREN/G/3/318-2008)

Question: Would a company we be qualified to be the prime, even if it could not provide financial statements for the last 10 years?

Answer: Yes. According to Chapter IV.2.1, '*Tenderers must provide proof of their financial and economic capacity by means of the following documents: the balance sheets or extracts from balance sheets for **the last three financial years**, and a statement of overall turnover and turnover relating to the relevant services for **the last three financial years***'.

In addition, the references required for technical and professional capacity (see chapter IV.2.1) should provide evidence '*of at least 10 years of experience in high-level strategy analysis and management of large infrastructure project. Knowledge of the space sector is an asset*'.

Question: Are Swiss companies / organisations be eligible to participate?

Answer: Yes.

Question: Who are the evaluators of the proposals? How much influence will you (your department) have in evaluating and ranking the proposals?

Answer: Evaluation rules do not allow divulging the names of the evaluators. The proposals will be evaluated in full respect of the Commission standard evaluation procedures.

Question: Since the language French is very important, would non-fluent French skills exclude experienced industry experts from participating?

Answer: No. If they are fluent in English it will not exclude them from participating. Chapter III.1 clearly states that it is recalled that the working languages of the contract will be English and French and that reports may be required in any of both languages. This means that experts should be fluent in English or in French or in both English and French.

Question: The expert participants need to be neutral. The highest ranking experts in this field tend to have ties to one or more companies / organisations in the Space business. To us "pure neutrality" it a very tough criterion to me. Any thoughts on how we can best comply with neutrality is appreciated.

Answer:

It is clearly stated that '*It is expected that the pool of high profile experts or expert organisations proposed by the Contractor shall be independent from the various industrial actors. Furthermore, demonstration shall be provided that there are no conflicts of interest with the GNSS programmes and with the developments of radionavigation applications*'.

Independence from industrial actors means that the entity should abstain from providing advisory services to operators involved in the procurement activities in the frame of the Galileo project.

It may not participate in one of the bidding consortia for the building of the Galileo infrastructure, it may not act as councillor or advisor or consultant for one of the bidding consortia, does not have cooperation agreement with one of the bidders, can therefore take positions which could be against the interests of the industrial partners building any of the six segments.

It may not have one of the industrial partners involved in the bids for the infrastructure as share holder in its financial scheme.

Question: Nous avons compris que le memorandum technique doit être rédigé en format word ; nous comprenons aussi que les CV doivent être présentés en format word, selon la pratique habituelle de la Commission et selon le modèle recommandé par celle-ci ; mais **l'annexe** dans laquelle nous présentons de manière détaillée sous forme de "**case studies**" certains de nos travaux et références **doit-elle être en format word** ou bien peut-elle être **en format power point** ? Pardon du caractère très ancillaire de cette question, mais nous ne voudrions pas être d'emblée disqualifiés pour une raison de cette nature ...

Answer:

The tender specifications do not stipulate in which format documents must be submitted. They only indicate that tenders must be submitted in triplicate and sent by registered mail, by private courier or delivered by hand. A power point presentation will therefore not lead to exclusion.

Question: We have looked at the terms and conditions of the contract.

To what extent are these negotiable?

Answer: This is an open tender. The specifications are mandatory and not negotiable. All interested tenderers dispose of the same information to submit their bids.

Question: With regard to limitation of liability of the project manager / adviser (successful bidder to this contract) – we would like to agree a sensible 'cap'. If appointed, we would expect to agree a limitation to our liability to the EC as we are unable to work with unlimited liability. We would also expect to agree that any liability is determined in accordance with the principles of recovery of damages (we are unable to provide contractual guarantees or penalties) and that we are only liable to our client, not to third parties.

Answer: In accordance with Article II.2.2 and Art.II.2.3 of the Special Conditions which stipulate that the *'the contractor shall provide compensation in the event of any action, claim or proceeding brought against the Commission by a third party as a result of damage caused by the contractor in performance of the Contract'*, there is no capped liability.

It must be underlined that this tender's special conditions, including Article II.2 on liability, are standard conditions which are stipulated in all (or the greater majority of) the tenders the Commission publishes.

Question: We are currently unaware of what is needed to fulfil the security requirement (REQ1-REQ3, CON1 in section IV.2.3 in the tender specification). What

are the steps needed to comply with the requirements? Especially: which national entity can confirm that we comply? Is there an EU form or a specific wording that should be used? Is there a EU regulation that makes sure that the responsible entity actually gives certification about our security status within the timeline given by the tender?

Answer: As indicated, it is the NSA (National Security Authority) of each State which is responsible for delivering the clearances.

Question: Could you please confirm what constitutes 'independence from the industrial actors'.

Answer:

It is clearly stated that 'It is expected that the pool of high profile experts or expert organisations proposed by the Contractor shall be independent from the various industrial actors. Furthermore, demonstration shall be provided that there are no conflicts of interest with the GNSS programmes and with the developments of radionavigation applications.'

Independence from industrial actors means that the entity should abstain from providing advisory services to operators involved in the procurement activities in the frame of the European GNSS Programme.

It may not participate in one of the bidding consortia for the building of the GNSS infrastructure, it may not act as councillor or advisor or consultant for one of the bidding consortia, does not have cooperation agreement with one of the bidders, can therefore take positions which could be against the interests of the industrial partners building any of the six segments.

It may not have one of the industrial partners involved in the bids for the infrastructure as share holder in its financial scheme.

Question: Are you looking for an entirely independent Contractor such as a research / transportation organisation with no control from industrial organisations?

Answer: Yes, but the contractor must have a strong and broad experience, including industrial experience.

Question: Is a list of the industrial actors available?

Answer: No. The call for the infrastructure has been launched 1st of July. One can expect that most companies working in the space industry will participate.

Question: Similarly, what involvement represents a conflict of interest in the GNSS programmes / radio navigation development?

Answer: See first question above.

Question: Does involvement in any EC GNSS projects preclude becoming a Contractor under this ITT?

Answer: No.

Question: The tender dossier gives detailed indications for the drafting of the financial proposal (pag 17); among other aspects, there is a specific indication to the fact that "**for each category of staff involved in this work package, the tender must specify the total labour costs**", therefore we would like to kindly ask you to

specify what exactly is intended by "labour costs", ie what are the financial items that we should specifically indicate in relation to the categories of staff that we intend to propose.

Answer: As spelled out on page 17, you have to indicate the total labour costs which are composed, for each labour category, of the person price per day and the number of person days.

In addition you have to indicate the travel and subsistence expenses and other categories of costs, if any.

As indicated on page 25, you have to give the total price for workpackage 1 + price for 500 mandays of minimal performance under workpackage 2.

Question :

Some of the members of our partnership, especially those with expertise on IPR, large infrastructure projects, cost analyses, etc. are commercial or even industrial organisations.

Does this mean that participation in the expert team by one or more industrial organisation would make the proposal invalid?

Answer: No. Chapter I.2 stipulates that *'this call concerns a Contractor that has extensive experience with the project management of large projects , in particular public sector procurements...He shall be able to propose experts with demonstrated experience in strategic decision making, in finance, in satellite navigation technology, in risk management, in legal matters, security and in space programmes, as well as in market development'*.

As a result, experts coming from commercial or industrial organisations are not excluded.

Question :

Could you please explain what 'independent from the various industrial actors' means.

Answer:

It is clearly stated that *'It is expected that the pool of high profile experts or expert organisations proposed by the Contractor shall be independent from the various industrial actors. Furthermore, demonstration shall be provided that there are no conflicts of interest with the GNSS programmes and with the developments of radionavigation applications.'*

Independence from industrial actors means that the entity should abstain from providing advisory services to operators involved in the procurement activities in the frame of the European GNSS Programme.

It may not participate in one of the bidding consortia for the building of the GNSS infrastructure, it may not act as councillor or advisor or consultant for one of the bidding consortia, does not have cooperation agreement with one of the bidders, can therefore take positions which could be against the interests of the industrial partners building any of the six segments.

It may not have one of the industrial partners involved in the bids for the infrastructure as share holder in its financial scheme.

Question: We understand that the deadline is 4th August 2008 and that the bids will be opened on 14th August 2008. What is the timing of announcing the European Commission's decision of successful bidder?

Answer: As soon as possible after the evaluation is finished, the successful bidder will be announced. We want to do this before the end of the year.

Question: Will there be an opportunity for presentations alongside the written submissions?

Answer: No. This is an open tender which does not include any negotiation steps. All eligible bids will be evaluated based on the paper documents received.

Question: When is it anticipated that the successful bidder will begin to work?

Answer: We would like the successful bidder to start working around the end of this year.

Question: May we have a list of potential contractors subject to oversight, so that we may perform the appropriate conflicts checks?

Answer: No, there is no list of potential contractors.

Question: How will you deal with any conflicts of interest we discover in doing our checks i.e. do we just have to disclose it or will this exclude us from the bid (depending on the nature of the conflict)?

Answer: Contracts will not be awarded in case of conflict of interest, either in case the bidder discloses it or the Commission discovers it.

In case of doubt and in any situation that could give rise to a conflict of interest, the bidders should inform the Commission who will take a decision.

Question : Is it absolutely mandatory to get the clearances before August 4?

Answer: You have to have at least one person in the team who disposes of the necessary clearance.

Question: Is it enough to get the process ongoing to be a valid applicant to the invitation to tender?

Answer: No, because under chapter I.2. it is asked that '*the Contractor shall be able to propose experts with demonstrated experience in...risk management, in legal matters, security...*'.

In addition, chapter IV.2 deals with the **selection criteria**: '*To be **eligible**, tenderers must have the economic and financial capacity as well as the technical and professional capacity to perform the tasks. They must also comply with the security requirements presented in section IV.2.3.'*

This is further developed in chapter IV.2.3 where it is asked that '*Candidates must provide evidence of their experience and ability to comply with security instructions, as described in the draft ...PSI attached to this invitation to tender.'*

Question: who can a company get those (security) licences from?

Answer:

From the NSA (National Security Authority) of the country where they are established.

Question: The total value of the offering for WP II; need travel costs be included and will they be part of the evaluation criteria? (Since the tasks are ad hoc, it is difficult to estimate travel budgets)

Answer:

For WP1, you have to give detailed and total prices for staff costs and travel costs.

For WP2, for staff costs, you have to give one price per person per day multiplied by 500.

As regards the travel and subsistence costs for WP2, since the exact details of the tasks as well as their duration and frequency are not yet known, you have to give indicative prices e.g. for a given trip. The indicative list of tasks of WP2 (p.13) can give guidance.

Question: The document INVITATION TO TENDER NO. TREN/G3/318-2008 (open procedure) mentions on page 18 '.....specific order forms linked to this workpackage...' Where can these forms be obtained / downloaded?

Answer: The model of the specific contracts is Annex III to the Draft Framework Service Contract. They will only be filled in once the tasks are known and can be spelled out in detail.

Question: Is it valid to consider that not all the companies part of the bidding consortium need to get clearances, and that only the ones designated as part of the security organisation of the consortium do?

Answer:

Yes.

Not all members of the candidate consortium need to have clearances.

Only the member(s) with a need to handle classified information need to have clearances.

At least one member of the consortium should have the clearances, in order for the consortium (to pretend) to be able to deal with classified information.

Question: How is the evaluation criteria of the price factored in? The specification mention that the proposal with the best price / quality ratio wins.....is that a given formula? For example; the consortia which scores 80 points and offers a total value of Euro 2 Mio has a lower chance by definition than the consortium which scores 70 points to a price of Euro 1.5 Mio...Is that correct?

Answer: Yes.

Question: My NSA told me that any clearance had to be asked directly by the Commission to them. I was a little surprised by this answer but the person confirmed that the process was always the same for all types of clearances.

Answer:

No, this is not correct. The Commission will not apply to obtain the clearance but can apply to any NSA for the confirmation that a given person or facility has the necessary clearance.

Likewise, NSAs will normally confirm to the Commission the existence of a clearance if and when the Commission asks so and explains in which context it is necessary.

Question: Does the EU consider US accreditations as valid and can they lead to the obtention of an EU clearance equivalence?

Answer: The clearances must be issued by the respective NSA of the EU Member State where the persons and the facilities are established.

It is equally up to the NSAs (and not to the Commission) to decide whether or not to deliver a national clearance equivalence for a US or other foreign accreditation.

Question: Due to the fact the total price has a very important role we would like to know what the definition of the total price sum is that will be taken into consideration as the evaluation criteria.

Our assumption therefore is the following:

The total comparable price offered is defined as

A. WP1 (staff cost plus travel cost)

plus

B. WP2 (500 mandays x by the price per person)

(A) + (B) = Total Price in the Offer (=

comparable evaluation basis)

Answer:

Yes.

As indicated on page 25, you have to give the total price for workpackage 1 + price for 500 mandays of minimal performance under workpackage 2.

Consequently, the travel and subsistence costs of WP2 will not be part of the evaluation process.

Question: In our consortium structure, the security organisation for the management of classified information will be managed by one of our sub contractors, who has a lot of experience in the management of security issues and has all the necessary accreditations. Is this possible ?

Answer: Yes. If they fulfil all the necessary requirements, subcontractors may manage Security sensitive issues .
