



Brussels, sending date  
B/OS D(2010)

**Framework contract for translation of notifications and Commission decisions under Article 7 of Framework Directive 2002/21/EC (as amended by Directive 2009/140/EC)**

**SMART 2010/0102**

**CONTRACT NOTICE published in  
OJ 2010/S 157-242014 of 14-08-2010<sup>1</sup>**

**Questions and Answers**

1. QUESTION : WORKING SCHEDULE AND DEADLINES.....	1
2. QUESTION : COSTING SCENARIOS .....	3
3. QUESTION : PROOF OF ELIGIBILITY .....	3
4. QUESTION : ELIGIBILITY REQUIREMENTS FOR SUB- CONTRACTORS.....	4

**1. QUESTION : WORKING SCHEDULE AND DEADLINES**

- (1) According to the point 1.2 Tender Specifications the deadlines for translations are stated in calendar days. Does it mean that the Contractor has to work 7 days per week?

Furthermore if the Commission will send an order on Friday at 15.30 and the deadline for the delivery will be 2 calendar days and “All deadlines for delivery [...] include the day of reception and submission by the Contractor. The delivery must be made at the latest by 16.00 Brussels time on the date specified.”, when the Contractor has to send the translated text back? Would it be on Saturday until 16.00 Brussels time?

---

<sup>1</sup> <http://ted.europa.eu/udl?uri=TED:NOTICE:242014-2010:TEXT:EN:HTML&src=0>

In the analogical situation (the order being sent in the afternoon on Friday) and the deadline is 3 calendar days, would the Contractor has to send the translated text back until Sunday, 16.00 Brussels time?

- (2) Will the Commission send the orders for translation on public holidays and weekends, too?
  - (3) What are the official opening hours of the European Commission Information Society and Media Directorate-General?
  - (4) We suggest that the day of the reception of the source text should be included into the delivery time only if the Commission send the order until 14.00 Brussels time. After this hour the deadline for the delivery should be counted starting from the next calendar day.
    - (a) According to the point 1.4.2. Model Framework Contract an order form will be sent to the Contractor by email as advanced copy. Within four hours of the order form being sent by the Commission, the Contractor shall return it by email, duly signed and dated as advanced copy. As our company normally works from 9.00 am to 5.00 pm Brussels time, if the Commission send us the order at 5.30 pm Brussels time and we will return it the next day at 9.00, we will not meet the agreed time-around for the returning. In reality it means that we have to work 24 hours per day.
2. We suggest that the Commission has to state clearly the hours and days for ordering translations. It might be that the “calendar days” should be exchange for “working days” defining the working days for the Commission in the whole year.

### Answer 1:

- As a general rule we consider that all **translations** must be delivered within deadlines counted in calendar days<sup>2</sup>.
- Standard Commission's working days<sup>3</sup> and hours are the following:

Monday – Thursday: from 8.45 to 17.30 Brussels time

Friday: from 8.45 to 16.30 Brussels time

- The period allowed for the execution of tasks shall start to run upon the Commission's electronic transmission, on the same day if the transmission falls within standard Commission's working hours and on the next Commission's working day if the transmission falls out of Commission's working hours.

---

<sup>2</sup> Calendars days = 365 days/year

<sup>3</sup> Working days are from Monday to Friday excluding the following dates: 1<sup>st</sup> of January, Good Friday, Easter Monday, Ascension Day, 9<sup>th</sup> of May, Whit Monday, 21<sup>st</sup> of July, 15<sup>th</sup> of August, 1<sup>st</sup> and 2<sup>nd</sup> of November, 25<sup>th</sup> of December. The before mentioned flexible public holidays are granted on the basis of Roman Catholic calendar. If one of them falls within a weekend it will not be compensated.

- When the deadline of delivery falls out of Commission working days and/or hours, the translation is expected at the opening of the following Commission's working day.
- **Order forms** must be returned within 4 hours considering Commission's working days and hours.
- In some specific cases, the deadline for return of both translations and order forms may be extended upon prior Commission's notification.

## 2. QUESTION : COSTING SCENARIOS

In Annexe 9 it mentions the following:

- 2) a Bulgarian notification containing a high number of tables (figures);
- 3) A reply to a rest for information in Dutch;

There is no number of pages in none of them. How are we supposed to calculate the rate for those two batches?

### Answer 2:

Page 36 should read :

- 2) a Bulgarian notification of 3 pages containing a high number of tables (figures);
- 3) A reply to a request for information of 9,5 pages in Dutch;

For historical data, see <http://circa.europa.eu/Public/irc/info/ecctf/library>

For more information on words and pages count, see page 8.

No specific treatment for tables.

## 3. QUESTION : PROOF OF ELIGIBILITY

I'm contacting you to request more information regarding the financial and economic capacity criteria for the eligibility of the company I represent, "XXXXX", to tender for the aforementioned framework contract. Among the documentary evidence required in support of our tender would be the annual income statements and balance sheets of the last 3 financial years. "XXXXX." was founded on May, 2007, has operated continuously to date and has successfully completed three full years of operation. However, according to Greek National Tax Law (Presidential Decree 186/1992), any company that has not operated throughout the previous full twelvemonth, from January till December, is not eligible to file a tax statement in the end of said financial year. Consequently, the company can present only 2 documents at the moment, one of which is the combined income statement for years 2007 and 2008 and a second one which is the income statement for year 2009.

Please advise as to whether the documents mentioned above would suffice as documentary evidence to fulfil the specific part of the Financial and economic capacity Criterion referred to in paragraph 6.2.2 Financial and economic capacity, Tender Specifications, Framework contract for translation of notifications and Commission decisions under Article 7 of the Framework Directive 2002/21/EC (as amended by Directive 2009/140/EC).

### **Answer 3 :**

As stated in section 6.2.2 on financial and economic capacity:

*"If, for some exceptional reason which the Commission considers justified, a tenderer is unable to provide one or other of the above documents, he or she may prove his or her economic and financial capacity by any other document which the Commission considers appropriate. In any case, the Commission must at least be notified of the exceptional reason and its justification in the tender. The Commission reserves the right to request any other document enabling it to verify the tenderer's economic and financial capacity."*

As pointed out, the tenderer would have to notify the Commission of this exceptional reason in the tender and provide justification (in this case in the form of providing evidence on the date of the foundation of the company). The situation described by the potential tenderer would be one of those cases where we can accept the provision of the specific evidences from only two years (instead of 3 as specified in the TS). However, the Commission reserves the right to request further information/documents if considered needed for the evaluation of the economic and financial capacity.

### **4. QUESTION : ELIGIBILITY REQUIREMENTS FOR SUB-CONTRACTORS**

**Do the same eligibility requirements for contractors apply to potential sub-contractors as well (section 2.1)?** I have read the tender specifications and have not come across this information. Should I have omitted a certain part where this is clearly stated, I do apologize and I thank you in advance for your prompt reply.

As the Republic of Macedonia is neither an EU member state nor a party to the WTO Plurilateral Agreement on Government Procurement, I would like to know whether our company can still participate as a sub-contractor if the lead partner is an economic operator which fulfils the eligibility criteria.

### **Answer 4 :**

FYROM has been granted access to tendering procedures of the Union under the Stabilisation and Association Agreements (SAA).

In accordance with Articles 106 and 107 of the Financial Regulation applicable to the general budget of the European Communities and section 2.1. of the Tender Specifications, participation in the tendering procedure is open on equal terms to all natural and legal persons from one of the EU Member States and to all natural and legal persons in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement.

The relevant international agreements in the field of public procurement are, at this moment:

- - the plurilateral Government Procurement Agreement (GPA) within the WTO,
- - the Stabilisation and Association Agreements (SAA) Croatia, FYROM and
- Albania,
- - The EEA Agreement,

- - The bilateral agreements with Mexico and Chile, and
- - the bilateral agreements with Israel and Switzerland