

QUESTIONS AND ANSWERS

INVITATION TO TENDER NO. SRD MOVE/ENER/SRD.1./2012-409
Framework contracts for the provision of services of legal, economic and technical assistance in the fields of energy and transport policies

- Lot 1: legal assistance in the field of energy
- Lot 2: economic assistance in the field of energy
- Lot 3: technical assistance in the field of energy
- Lot 4: legal assistance in the field of mobility and transport
- Lot 5: economic assistance in the field of mobility and transport
- Lot 6: technical assistance in the field of mobility and transport

Contract notice: OJEU S 2012/S 11-015912 of 18/01/2012

Last update: 20/03/2012

Question 1: The **English version** of the contract notice includes the following information regarding the lots: II.1.8)Lots

This contract is divided into lots: yes

Tenders *may* be submitted for all lots

However the **Spanish version** includes the following information:

II.1.8)Lotes

El contrato está dividido en lotes: sí

Las ofertas *deberán* presentarse para todos los lotes

Could you confirm which of these versions is the correct one?

Answer 1: **The English version of the contract notice is the correct one. As specified in the invitation to tender and in the technical specifications, tenderers can bid for one or several lots by separate tenders.**

Question 2: Under Section *IV.2.2 Technical and professional capacity - Criteria and references required*, paragraph 1), it is specified that “The tenderer shall have successfully completed, as contractor, at least 2 studies in the field(s) related to the lot(s) concerned in the past 3 years representing together a total budget of at least 200.000 €”

Please indicate the years you are referring to?

Answer 2: **"The past 3 years" refer to the years 2009, 2010 and 2011. However, the evaluation committee will also take into consideration the studies for which the tenderers can submit a proof that the assignment has been successfully completed in 2012 before the deadline for the submission of offers mentioned in the tender documents.**

Question 3: Selection criteria. Technical and professional capacity: Criterion n°1) - *Tenderers are required to have successfully completed at least 2 studies in the field(s) related to the lot(s) concerned in the past 3 years representing together a total budget of at least 200.000€.*

Could this total budget be represented by more than 2 studies, for example 3 studies of 70.000€each? Is the amount of 200.000€inclusive of VAT?

Answer 3: **Yes, the total budget of at least 200.000€VAT included can be represented by more than 2 studies, for example, 3 studies of 70.000€each.**

Question 4: Selection criteria. Technical and professional capacity: Criterion n°3) – *For all lots, the tenderer shall have access to a multidisciplinary pool of experts (with legal, economic, technical education).*

If a tenderer is going to apply for a technical assistance lot only (Lot 3 or 6 for example), is it in any case required to include in the staff resources available, personnel with legal and/or economic background?

Answer 4: **Yes, for all lots the tenderer must have access (can be in-house expertise but also with a partner in a consortium or with sub-contractors) to a multidisciplinary pool of experts. This pool of experts must include minimum:**

- for lots 1 and 4: experts with economic and technical backgrounds.

- for lots 2 and 5: experts with legal and technical backgrounds.

- for lots 3 and 6: experts with legal and economic backgrounds.

Question 5: Under I.3.3., the specifications are listing the services which may be required. Could a conflict of interest rise with a bid for the tender, while having signed another framework contract with the European Commission? One potential service mentioned in the specifications is part of this existing contract.

Answer 5: **The simple fact of having signed with the Commission another framework contract with a scope of the activities which might have some common points with the present call does not constitute a conflict of interest if submitting a bid. As mentioned under II.3. of the technical specifications, for each specific contract the contractor and, if applicable, the member of the group carrying out the task under the specific contract, will have to sign a declaration stating that there is no conflict of interest. Conflicts of interest linked to a particular request for services will therefore be examined under that context.**

Question 6: Does the Commission expect that the tenderer is able to cover all the topics defined in the call, including, for example, nuclear energy?

Answer 6: **The tenderer (possibly in consortium and/or with its sub-contractors) must have the technical and professional capacity to carry out the tasks listed in the technical specifications and by submitting an offer accepts the terms and conditions of the contract. The Commission therefore expects that the futur contractor shall be able to cover all the topics defined in the call. For the award of the framework contract, the evaluation of the tenderer's offer shall be based on the exclusion, selection and award criteria set in the technical specifications.**

Question 7: For lots 1 and 4, the call mentions the study of national legislations. Does the Commission expect the tenderer to cover as much as possible countries by itself? In other words, will the capacity of the tenderer to cover as many countries as possible by itself an advantage as regards the award criteria?

Answer 7: The composition of the teams of experts made available by the tenderer (possibly in consortium and/or with its sub-contractors) to deal with the different type of tasks defined in the technical specifications as well as the mechanisms to cover the languages required will be assessed under award criterion n°3. A good coverage will be positively assessed.

Question 8: For the countries we cannot cover ourselves (or specific competences), does the Commission request to already provide in the tender the list of national experts that will assist us in the performance of the contract when it is required

Answer 8: The Commission does not expect that the tenderer's offer for the present call identifies all experts that could be needed to carry out all the tasks listed under the technical specifications. Nevertheless, the Commission will evaluate under award criterion n°3 the pool of experts presented in the offer as well as the tenderer's work organisation to mobilize the necessary expertise following a request for services sent by the Contracting Authority.

Question 9: On paragraph III.2.2 of the TENDER SPECIFICATIONS (page 16), it is written:

*“The technical proposal should address **all matters** [emphasis added] laid down in the specifications and should include **models, examples, and technical** [emphasis added] solutions to address problems raised in the specifications. Tenderers must present in their bids a proposal on the general methodology and the organization of the work they will apply to the possible tasks under the specific contracts. The level of detail of the tender will be important for the evaluation of the tender.”*

On paragraph IV.3 of the same document (page 22), under the table describing the technical award criteria, and precisely under N° 2, Methodology, it is written: *“Quality of the methodologies and multidisciplinary approaches for undertaking the different tasks defined in the Terms of reference, methodology to collect and analyse data as demonstrated by **two examples per lot concerned** [emphasis added] (based on previous experience or fictive example)”*

Based on the above, we would like to ask you whether these requirements imply that the tender should include:

- The individual methodologies, models, proposed to perform *every single* service listed under a specific Lot on Chapter I.3 (as indicated in the description of services, page 5),
- *Plus* two experience-based or fictive examples **per service/specification** (or **per lot?**) describing the combination of approach and methodologies we would use to perform a specific contract

Answer 9: As mentioned under III.2.2., the award criteria as set out in chapter IV.3. will be the ground for the evaluation of the quality of the proposal. It is expected that, the offer from a tenderer for one lot includes, in terms of methodology:

- a general presentation of the different methodologies applied by the tenderer for the main categories of tasks described and
- two experience-based or fictive detailed examples describing the methodology you would use to perform a specific contract under that lot.

Question 10: It is stated under the Award Criteria, that the methodology to collect and analyse data should be demonstrated by two examples per lot concerned (based on previous experience or fictive example)'. Could you perhaps explain what is meant exactly by the latter as soon as possible, as we have to plan time for the preparation of fictive examples / case studies if this is required?

Answer 10: We refer to answer 9. The examples can be based on the methodology used for a service contract carried out in the past by the tenderer for a service similar to one of those listed under section I.3. and/or on a case study. The tenderer has the choice to provide two real examples, two case studies or one of each.

Question 11: The questions concerns Section III.2.3 of the Contact notice and in particular requirement NO 1 “The tenderer shall have successfully completed, as contractor, at least 2 studies in the field(s) related to the lot(s) concerned in the past 3 years representing together a total budget of at least 200 000 EUR”.

Sub a) We were wondering how we should intend the notion of study and in particular if this includes, as far as lot 1 and lot 4 are concerned, legal assistance to private clients as well as public administrations in the field of Transport and Mobility and in the field of Energy, or if by study you intend works of legal research awarded by a public body to a contractor.

Sub b) Are studies commissioned by private clients relevant or will the Commission take into account only studies commissioned by public entities”?

Sub c) I would ask you if the selection committee will take into account only studies carried out by the tenderer (lead tenderer and members of the grouping or of the consortium) or also studies carried out by entities that would be willing to participate as sub-contractors of the tenderer.

Answer 11:

Sub a) the notion of study, as far as lot 1 and lot 4 are concerned, includes legal assistance in the sense of section I.3.1. of the technical specifications to private clients as well as public administrations in the field of Transport and Mobility and in the field of Energy.

Sub b) As mentioned under sub a) studies carried out for by private clients are also relevant.

Sub c) The selection criteria for technical and professional capacity will be assessed in relation to the combined capacities of the tenderer and the sub-contractor, as a whole, to the extent that the sub-contractor puts its resources at the disposal of the tenderer for the performance of the contract. If a tenderer relies on the resources of a sub-contractor to meet the selection criteria, an unambiguous undertaking on the part of the sub-contractor to place those resources at the disposal of the tenderer for the performance of the contract shall have to be provided with the offer.

Question 12: My question concerns requirement III.2.3 (“Technical capacity”. Requirement 3 “For all lots, the tenderer must also have access to a multidisciplinary pool of experts (with legal, economic, technical education)”. We interpret it as meaning that the team proposed by the tenderer should include also experts with experience that is relevant also for other lots. We were wondering in this respect if, in order to fulfill such requirement, a tenderer for lot 1 could cooperate with a tenderer for lot 2 and 3. Notably, we are asking if tenderers for lot 2 and 3 can be proposed as subcontractors for lot 1 (and of course viceversa).

Answer 12: Yes, an operator can participate in different offers in different quality.

Question 13: The “Annexes” have to be put in appendix with a reference to the administrative part of the proposal or is it required to put the Annex information inside the administrative part of the proposal?

Answer 13: As mentioned under section III.2.1. of the technical specifications, the administrative part of the offer shall include all the filled in annexes and the supporting documents for the purpose of checking the selection criteria.

Question 14: (a) On page 21 of the Tender Specifications, IV.2.2. it is stated that “*the tenderer shall have successfully completed, as contractor, at least 2 studies in the field(s) related to the lot(s) concerned in the past 3 years representing together a total budget of at least 200,000E*”. Does the “total budget” relate to the total resources set aside by the client for the work in question or the amount of the professional fees the tenderer was paid for its contribution to the work? Finally, we assume that the 200,000E value is cumulative across all of the “studies” cited by the tenderer, please confirm

(b) On the same page of the Tender Specifications it is stated that, “*For all lots, the tenderer shall also have access to a multidisciplinary pool of experts (with legal, economic, technical education)*”. Please confirm what is meant by such “access” in the context of a tender by a legal provider in respect of Lot 1 and what evidence is required to demonstrate “access”.

Answer 14 (a): the “total budget” relates to the total financial resources set aside by the client for the work in question. The tenderer can cumulate several experiences to reach the total amount of 200.000€

(b): the tenderer must present CV's of experts available to carry out missions in the framework of the Contract. Experts can be employees of the tenderer (of a single contractor or of a member of a consortium) but they can also be sub-contractors or employed by sub-contractors. In the latter case, as mentioned under the last paragraph of section IV.2.2., a declaration stating that the expert is willing to participate in the execution of the tasks defined in the framework contract in the team of the tenderer must be provided.

Question 15: Regarding the criterion for the financial and economic capacity, would our company, established later than 2008, be excluded in case we tender alone although we can prove that we have more than enough turnover?

Answer 15: In case the tenderer cannot provide profit and loss accounts for some reference years because it was not established yet, the period of reference that will be used to check whether the minimum requested average annual turnover is reached will be shorter (i.e. it will start with the financial year the company was established).

Question 16: Could you specify what the EC recognizes as a degree in economics? Respectively how broadly is the term interpreted?

Answer 16: Degree refers to completed university studies of at least 3 years attested by a diploma. See examples under:
http://europa.eu/epso/discover/selection_proced/admission/index_en.htm

The Contracting Authority does not determine which qualifications are acceptable for each particular field. This role is reserved for the Evaluation Committee appointed for the tender. Each evaluation committee includes experts in the relevant field who will have a broad appreciation of the various qualifications in that field. Their decision is based on the information provided in the CV. Due to the wide range of academic and professional qualifications available throughout Europe (and the world) it is not possible for the Commission to provide a comprehensive list which would help tenderer establish whether their qualifications meet the specific selection criteria specified in a Contract Notice.

Question 17: With reference to answer 4 published on your website, a pool of experts with legal and economic background is required for Lots 3 or 6 too (Technical assistance). Could you please clarify us if a minimum number of CVs of experts with the required legal and economic background has to be provided (additionally to the minimum number of 10 with university science or technology degree)?

Answer 17: There is no minimum number of experts specified to constitute the pool of experts for the purpose of the evaluation of the selection criteria.

Question 18: Experts proposed at this stage (framework contract), must be the same indicated to carry out the work for a Specific Contract or could the tenderer, once awarded

the framework contract, propose also other and new experts (not indicated in the framework contract) identified according to the needs of the specific contract?

Answer 18: It is expected that the experts presented in the tenderer's offer are those who will carry out in first place the request for services. After the signature of the framework contract, the Contractors will nevertheless be allowed to propose other experts than those indicated in the framework contract to cover the specific needs of the specific contract. These experts shall have an expertise meeting the requirements of the selection criteria. We draw your attention to the provisions on sub-contracting (see section II.5. of the Technical Specifications). In the course of the implementation of a specific contract, Article III.7. of the Contract shall apply.

Question 19: As in some Member States it might require too long to get new original certificates attesting that the tenderer is not in a situation falling under Article 93 Financial Regulation, we were wondering whether it is possible to submit recent copies of such certificates.

Answer 19: With reference to section IV.1.3. of the tender specifications evidence is only to be provided by the tenderer to whom the contract is awarded. We draw also your attention to the remark inserted on page 20. At the tendering stage, only signed declarations have to be submitted.

Question 20: Can the lead tenderer rely on the financial and technical capacity of a parent law firm if also the parent law firm participates in the tender as joint tenderer?

Answer 20: Yes.

Question 21: Selection criteria. Technical and professional capacity:
We have signed a contract for a consulting service that is still in course (ending period at the end of 2012) even if it started in 2009. Can we include in the references the part of service that has already been provided according to payments already received?

Answer 21: Point IV.2.2 1) of the tender specifications states that the tenderer shall have successfully completed, as contractor, at least two studies. Therefore, parts of a service are not accepted.

Question 22: Selection criteria. Technical and professional capacity: we are required to provide a report of the average annual staff of last 3 years at senior and junior level, divided by managerial level, data handling, surveying, research, economic, legal and statistical analyst staff.

1. Since we are a research center we are divided in different departments each one with its own research topics. Should we include only staff working on topics related to this framework contract (i.e. energy and/or transport) or total staff in general even if involved on other research topics like genetic medicine, remote sensing, rural development or other?

2. Our internal employees have a contract of definite/indefinite time and others have a contract valid for some months/years for working on a specific project (Project contract). Can they both be considered as staff?
3. External experts can be considered as staff?

Answer 22: **1. You should include only staff working on topics related to the framework contract**
2. Yes
3. No, external experts cannot be considered as staff.

Question 23: Can two institutes belonging to the same legal entity submit each of one a proposal under the call?

Answer 23: Yes, it is possible.

Question 24: Regarding section IV.2.2 p. 21 of the Technical Specifications:
(a) Is it sufficient to provide the proof of successful completion for the selected studies amounting to a total budget of Euro 200, 000, and provide references only, without proof of completion, for all the other references?
(b) If the answer is yes to the above, can we provide on-going references (i.e. projects not completed yet) for all the other references for which no proof of completion is required (i.e. beyond the euro 200, 000- threshold)? Or must ALL references provided be completed as of March 2012?

Answer 24: (a) yes.
(b) **you can provide references for projects that have not been completed yet but they will not be taken into consideration for assessing if the criterion 1) for technical and professional capacity is met.**

Question 25: At page 14 of the tender specifications, it is written that:
“Each tenderer (including subcontractors or any member of a consortium or grouping) must complete and sign the identification forms in Annex 1 and also provide the above-mentioned documents. However, the subcontractor(s) shall not be required to fill in or provide those documents when the services represent less than 20% of the contract”. To what element(s) of the first sentence does “those documents” in the second sentence refer to precisely:

- The identification forms in Annex 1; and/or
- The “above-mentioned documents” (i.e. the proof of registration and/or the copy of identity card/passport)?

Answer 25: both.

Question 26: At page 20 of the tender specifications (as corrected by the corrigendum), it is mentioned that: *“The tenderer (...) must have an average annual turnover for the years 2008-2009-2010 of at least half of the amount mentioned under section II.1 for the lot concerned”*. At section II.1, we find the following information for lot 1: “For lot 1” (i.e. legal assistance in the field of energy, we underline) “Indicative maximum amount is EUR 2.000.000 (up to 4 years)”. What is it meant by “average annual turnover for the years 2008-2009-2010) of “at least the half” of “EUR 2.000.000” exactly?

- a. For each of the three years, the tenderer must have had a turnover of 1.000.000 EUR; or
- b. For each of the three years, the tenderer must have had a turnover of 1.000.000 EUR “*for the lot concerned*” i.e. for legal assistance in the field of energy only.

Answer 26: None of the two. The **average of the annual turnovers of the tenderer for the years 2008-2009-2010 must be minimum 1.000.000€**

Question 27: Under point 2 of the invitation to tender, it is written that: “*A copy of the offer on a CD-Rom has also to be submitted*”. Could you please specify in which format/through which channel the CD Rom has to be provided?

Answer 27: A DVD/CD-Rom has to be enclosed to the original offer or included separately inside the inner envelope.

Question 28: In the Tender specifications, page 21, it is said that a reference cannot be used for several lots. We will be tendering for lot 1 and 4. We were wondering if our subcontractors, technical and economic experts, possibly tendering for lots 2, 3, 5 and 6, cannot include in the list of services that we will include in our tenders for lots 1 and 4 the services included in the list that they will submit in their tenders for lots 2,3, 5,6.

Answer 28: The same tenderer (single tenderer or same consortium) should not use the same reference to be selected for different lots. Other tenderers that would have participated to the same study as contractor are nevertheless allowed to use the same reference as far as the subject thereof relates to the specific field of the lot for which they are bidding.

Question 29: Can you confirm whether the legal entity form has to be filled in by subcontractors, or whether it just needs to be submitted by the members of a group or of a consortium?

Answer 29: We refer to section III.2.1 of the technical specifications. The legal entity form should not be filled in by sub-contractors. It has to be submitted only by the single tenderer or by all partners in case of consortium.

Question 30: The specifications state “Tenderers shall specify **one single maximum price per person-day** whatever the type of service and qualification requested. The person-day price must be a flat rate and include all administrative costs (as backstopping costs, insurance, reports, communication costs, contractor’s facilities...) with the exception of travel, daily allowances and accommodation costs. [...]”

Can this be understood as a single maximum price per each of the professional categories identified to be undertaking the work (e.g. if three different categories are identified in the pool of experts to work on specific contracts, one maximum price per person-day per category, therefore, three prices) or as a unique price for all the cases of categories to be involved in specific contracts?

Answer 30: As indicated in point III.2.3 of the tender specifications, it shall be one single maximum price per person-day whatever the type of service and qualification requested i.e. a unique price for all the cases of categories to be involved in specific contracts.

Question 31: We are interested in participating as a (non-leading) member of a consortium of companies. Our company has been established as a consequence of the reorganization of a previous company, which was split into two companies. The demerger occurred in 2011.
In order to deliver all economic, financial and technical information required by the tender specifications, in particular as regards the presentation of profit and loss accounts for the years 2008-2009-2010 and the technical capacity, is it possible to provide information coming from the previous company?

Answer 31: Please look at answer number 15 and answer 11 sub c).

Question 32: Let's imagine a tenderer for lot 1 involves as a subcontractor a tenderer for lot 2 or 3.
As the tender specifications require a multidisciplinary team, we understand that the subcontractors with technical and economical expertise should provide a list of technical and economical services provided in the last years.
However, for obvious reasons they will provide the same list submitted in their tender for lot 2 or 3, because the services they provide are indeed only technical or economical and they are engaged as subcontractors for this specific reason.

Now, I understand that technically services provided in the technical and economic areas are not taken into account in order to assess the technical capacity of a tenderer for lot 1, because this lot concerns legal services. Therefore, I assume that there is not a risk of double counting a reference, however from a formal point of view our technical and economic subcontractor wonder if it could give rise to any problems the fact that the latter submits the same list of services in his tender for the technical and economical lot and in our tender for the legal lot, for where he is involved as subcontractor.

Therefore my question would be can the same list be used for different lots, where such list in one lot is used to show that the tenderer fulfills the criteria required, and in another lot it is only useful in order to provide evidence that the team proposed by the tenderer is indeed multidisciplinary?

Answer 32: Yes

Question 33: 1. Within the specific tasks for Lot 6, please clarify the likely scope of activities under "Technical controls and/or audits".
2. Within section IV.3.1 (Award criteria No. 1) of the Specifications please clarify what constitutes "proof" of understanding of the objectives.

3. Within Section III.2.2 of the specifications please clarify the sentence “The level of detail of the tender will be important for the evaluation of the tender” with respect to “level of detail”.

Answer 33: **1. Further details will be given in the context of a request for service for a specific contract.**
2. The tenderer's offer must demonstrate its understanding of the technical specifications.
3. The offer must not be a copy/paste of the tender specifications. The offer must be sufficiently detailed to cover the issues tackled by the criteria listed under section IV.3.

Question 34: Concerning the Identification forms and the declarations of honor to be submitted by subcontractors, do they have to be original or can we submit copies of the original declarations and identification forms scanned and sent us via email by the subcontractors

Answer 34: **Subcontractors must also submit the original documents.**

Question 35: Concerning the documents such as proof of registration and those containing VAT number, we assume that they can be submitted in the original language. Could you please confirm that they do not need to be translated?

Answer 35: **Yes, we confirm that these documents do not need to be translated.**

Question 36: According to Section IV.2.2. point 3) of the Tender specifications, tenderers are expected to provide a list of principal services in the past three years as well as proof that the studies relevant to the criteria 1) have been carried out successfully (proof of payment of the full amount and/or certificate of satisfactory completion from the client).

Given that we are a law firm and are as such bound by a secrecy obligation, we don't know how to meet this requirement. Is it absolutely necessary to disclose such sensitive information? Could you please provide some guidance, how we should deal with this point.

Answer 36: **All tenderers must fulfill the same criteria. We can accept that the name of the client is not disclosed and/or masked for confidentiality reason but the proof of successful completion must be provided in any case and the subject of the assignment must be clearly mentioned on the documentary proof.**

Commission guarantees the confidentiality of the information provided by tenderers, based on Article 4.2 of the Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents.

Question 37: There is a template available for the financial offer or if we can use a free format.

Answer 37 **There is not a template for the financial offer.**

Question 38 Economic and Financial ability: “for each partner, presentation of the profit and the loss accounts for the years 2008, 2009 and 2010”: as a law firm, do we have to provide these documents?

Answer 38 Yes, all tenderers must fulfill the same criteria.

Question 39: Methodology: “a separate bid should be submitted for each individual lot” – “the tenderer should be placed inside two sealed envelopes, one inside the other. The inner envelope should be marked. . .”: if we prepare a response for two lots, am I right thinking that there will be one envelope and then two envelopes inside mentioning “call for tenders. . . lots1/lot2/lot3 . . .”?

Answer 39 Yes.

Question 39: 1. Can you please clarify the duties required of the Legal Expert in relation to activities associated with Lots 5 and 6.
2. Additionally, is it anticipated that the Legal Expert, involved in Lots 5 and 6, will be required to draft formal legislation and statutory instruments?

**Answer 39: 1. The aim of requesting Legal Expert(s) for Lots 5 and 6 is to ensure the legal expertise for any legal aspect that may arise in relation to these lots in the request for services.
2. No**

Question 40: a) Tender Specifications Article IV.2.2/2) A minimum of 10 experts are required for each lot. May the same person be nominated for more than one lot?
b) Tender Specifications Article IV.2.2/3) what is considered as junior/senior position? We would consider staff with a working experience of 10 years and more as senior staff. Do you have the same understanding?

**Answer 40: a) Yes, as far as the person fulfills the technical and professional capacity required for each lot in point IV.2.2.2)
b) A senior should have at least 5 years' professional experience in the field.**

Question 41: Framework Service Contract Article II.18.4 / d) the rate for subsistence allowance shall be specified in Article I.3 of the Special Conditions. In this Article I.3 there is no position set out for reimbursables. However, in the model specific contract Article III.3.2 one can find an exemplary statement on reimbursables. From our understanding specifications on reimbursables will only be handled in each specific contract. Is this correct?

Answer 41: Article III.3.2 of the specific contract model states that in addition to the price no reimbursable expenses are foreseen. This means that reimbursables will not be paid additionally to the total price, which should include all expenses.

Question 42: Should documents bringing evidence of proof of registration of the subcontractor in his country be original or certified copies, or can copies be provided?

Answer 42: Documents should be original.

Question 43: As to the Tenderer we understand that if we submit original documents in a bid for a lot (for example proof of registration and financial identification form or VAT certificate) we can refer to the original documents submitted for such lot in our bid for another lot. Are we correct in such assumption?

Answer 43: Yes, original documents provided for a lot are valid for another lot within the same call for tender. It should be clearly indicated in the bids.

Question 44: May employees of companies in the same group of a tenderer be considered as experts

Answer 44: Experts can be employees of the tenderer (of a single contractor or of a member of a consortium) but they can also be sub-contractors or employed by sub-contractors. In the latter case, as mentioned under the last paragraph of section IV.2.2., a declaration stating that the expert is willing to participate in the execution of the tasks defined in the framework contract in the team of the tenderer must be provided.

Question 45: We have a question concerning the requirement to include the price for the services in the list of services that tenderers are required to submit in their bids (page 21 of the tender specifications). On this respect we understand that when bidding for a lot, a tenderer has to provide proof of payment or of acceptance of the relevant studies carried out in the past three years up to a value of 200000 Euros ("Section IV.2.2. criterion 1"). However, we were wondering

(a) whether with respect to the further services (meaning the ones that we will include in our list of services but which are not necessary in order to prove that we fulfill criterion 1) we can provide the hourly fees that are charged to clients by our law firm, and we don't need to provide the overall price charged to each individual client for the legal assistance provided in a case, as the process of collecting such information for a long list of cases might be long.

(b) In case the reply is positive, we would like to know if the fact of not specifying the price charged to each individual client, but only our hourly rates, could affect the possibility to assess properly our technical expertise, as described in our list of services.

**Answer 45: (a) Yes.
(b) No.**

Question 46: Can we specify in our offer a maximum fee per person-day distinguishing fee for junior expert and for senior expert or one single price is required?

Answer 46: No, one single maximum price fee per person-day is required.

Question 47: The quoted price is required to not include travel, daily allowance and accommodation cost. For per diem can we refer to the max EU rates published at the following link: http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm ? Since accommodation cost is included in the above per diem rate, can we consider a cumulative rate for (daily allowance + accommodation cost) = per diem? If not, could you please clarify what do you mean for daily allowance, if there is a max daily allowance admitted and where we can find it?

Answer 47: Mission costs (as, for example, travel, daily allowance and accommodation cost) are not to be included in the financial offer for the framework contract (i.e. in the daily rate). In their financial offers for the specific contracts the contractors will be able to use the method of their choice for a proper estimation of these costs (which will have to be included, if relevant, in the global price for the specific contract).

Question 48: [Follow up question to 41:](#)

As far as we understood the daily rate to be stated in our proposal for the framework contract under Article I.3.1 shall be free of reimbursable items (which are listed in Framework Service Contract - Special Conditions Article II.18). In case that this is correct, the price which will be stated in the specific contracts will have to be calculated by a bidder as a combination of daily rates (remuneration of required time) and reimbursables. Is this correct?

Answer 48: As mentioned under section IV.4. of the tender specifications, the global price will be a combination of daily rates and, depending on the request for services, potential missions costs and/or other costs. No costs will be reimbursed. The agreed total price will be paid upon successful completion of the mission in line with the provision of the Contract.

Question 49: Should Cvs of experts be signed?

Answer 49: No

Question 50: Proof of execution of studies according to Section IV.2.2: copy of contract plus invoices for payment of full amount indicated in the contract, can be considered as a proof?

Answer 50: No, we need of proof of payment or a statement from the client.

Question 51: Due to the change of the deadline for submission to the 26.03.2012 we assume that this is now the offset date for the eight months of validity period of the offers, is this correct?

Answer 51: Yes.

Question 52 We would like to request some information about the supporting documents that must be enclosed:

- Proof of registration as prescribed in our country of establishment
- The VAT registration

- Presentation of the profit and loss accounts for the years 2008, 2009 and 2010

Can you confirm if you need legalized copies of the documents or not?

Answer 52: Yes, we need original or legalized copies.

Question 53: Could Certificate of registration to the local Chamber of Commerce and certificate of VAT number be provided in scanned copy?
A scanned copy of Stature is accepted?

Answer 53: No.

Question 54 We have a network of persons (associates) who we often work with. We plan to add these associates to our proposal as they have specific relevant expertise and will be doing some of the work when granted. Do we need a specific signed declaration of each associate, or adding their CVs is sufficient?

Answer 54 According to point IV.2.2. 3), each expert not employed by the tenderer has to provide a declaration that he/she is willing to participate in the execution of the tasks defined in this framework Contract in the team of the tenderer.

Question 55 Should we include in the CD only our offer or is it necessary to include also all the annexes?

Answer 55 Annexes must also be included in the CD.

Question 56 The requisite of continuous page numbering. Do you mean that we have to handwrite the numbers of the pages in order to ensure that, if for example, the last page of the offer is 30, the first page of annex 1 is 31?

Answer 56 The requisite of continuous page numbering contributes to the clarity of the offer, regardless of the way of doing it.

Question 57 The requisite of the page being bound or stapled. We understand that each document has to be bound or stapled, and separated by the others by some kinds of marks where it will be clearly stated annex 1, 2 and so on. Can you confirm it? Or should we bind the offer and all the annexes so that the entire offer and the annexes will look like a booklet?

Answer 57 The requisite of the tender being bound or stapled contributes to the clarity and integrity of the offer, regardless of the way of doing it.

Question 58 Bidding for separate lots. As our offers will include many documents that will probably not fit in one envelope we were wondering whether:

- a. If we bid for different lots, we can put our documents in different internal and external envelopes. In one of your replies indeed it seems that if a tenderer bids for different lots the external envelope can be the same. Can you confirm that this is a faculty and not a requirement?
- b. As it might be difficult to find envelopes that can contain three copies of bids composed by many annexes, would it be possible to put every copy of the bid

in a different envelope, and put the three envelopes in a small box. In other words, can we consider a small box as an external envelope?

**Answer 58 a. Yes, we confirm that it is a faculty.
b. Yes.**

Question 59 As association of professional, we are not required under Italian law to publish its balance sheets.
Basically what happens is that the firm has a list of all the invoices issued and on the basis of such a list the revenues of the firms are calculated and shared among the partners.
On this respect we were wondering if you would be satisfied with a declaration of the turnover of the law firm in 2008-2009-2010, and the list of invoices issued or if we need to submit some other documents.

Answer 59 According to point IV.2.1 of the tender specifications, the profit and loss accounts for the year 2008-2009-2010, shall be presented where publication of this document is required under the company law of the country in which the economic operator is established.

In case that these documents are not required by the country in which the economic operator is established, it may prove his economic and financial capacity by other means which will be analysed by the contracting authority.

Question 60 Are the detailed examples of methodologies specific to each lot or can we use a same example of methodology for 2 lots, provided it is relevant to the context and objectives of each of the lots?
In other terms is the use of an example of methodology mutually exclusive between the lots (like the references - §IV.2.2 states that "a reference cannot be used for several lots"), or can be common to two lots?

Answer 60 The example of methodology can be common to two lots, provided it is relevant to the context and objectives of each of the lots.

Question 61: (a) On p 22 (par IV.2.2, last bullet) of the tender specifications you mention that "each expert not employed by the tenderer has to provide. Do you have a form/ format for this declaration?
(b) On p 22 (par IV.2.2, last bullet) of the tender specifications you mention that "each expert not employed by the tenderer has to provide a declaration ..."
We do not fully understand what is meant with "each expert". In case of a joint tender, with a lead partner and another partner, a legal entity, does "each expert" mean that this non leading partner submits one declaration, or that all experts being employed by this non leading partner should all individually submit this declaration?
© On p 22 (par IV.2.2, last bullet) of the tender specifications you mention that "each expert not employed by the tenderer has to provide a declaration ..."
We do not fully understand what is meant with "each expert. In case of subcontracting by a legal entity, does "each expert" mean that this

subcontractor (legal entity) submits one declaration, or that all experts being employed by this subcontractor should all individually submit this declaration?

Answer 61: (a) No, we have no standard template.
(b) As mentioned under answer 44, experts employed by a consortium partner do not have to submit such declaration.
(c) All experts being employed by this subcontractor should all individually submit this declaration.

Question 62: On p 22 (par IV.3.1, Award criterion 1) of the tender specifications you mention ... and on the functioning of a framework contract with the re-opening of competition'. Can you explain what is meant with this sub sentence?

Answer 62: We expect that the tenderer's offer reflect their understanding of the instrument of a framework contract with reopening of competition and of the main challenges of such a type of contract.

Question 63: We are aware that any sub-contractors need to complete Annexes 1 (Identification of Tenderer) and Annex 4 (Declaration of Honour). However, in the case of a lead tenderer supported by sub-contractors is there also a requirement for all firms/individuals (including sub-contractors) to complete Annex 2 (Financial Identification Form) and Annex 3 (Legal Entity Form) as well?

Answer 64: As mentioned under III.2.1, only sub-contractors whose services represent more than 20% of the contract should fill in Annex 1 and 4. Annex 3 must be filled in by all partners of a consortium, not by sub-contractors and Annex 2 by the sole tenderer or leader of a consortium only.

Question 65: The contract notice - under III.2.1. - requires, that each tenderer (including subcontractors) "must complete and sign the identification forms in annex 1 and also provide the abovementioned documents. However, the subcontractor(s) shall not be required to fill in or provide those documents when the services represent less than 20% of the contract." What does this mean with regard to the latter specification (less than 20% of the contract)? Is any proof of registration and are any identification forms required?

Answer 65: Only sub-contractors whose services represent more than 20% of the contract must fill in Annex 1 and must provide the proof of registration and/or the copy of identity card/passport. At this stage (award of the framework contract), the 20% of the contract referred to under point III.2.1 "Section one: Administrative proposal" should be based on the 20% of the indicative maximum framework contract amount over four years mentioned under II.1.for the lot concerned. However, at the stage of submitting offers for specific contracts, it will be requested to subcontractors whose services representing more than 20% of the specific contract to submit those documents if not yet provided.

Question 66: Is Annex VI also to be filled in send with other annexes?

Answer 66: No.

Question 67: Referring to Answer 50, it is not clear to me what can be considered a proof of payment. Are you meaning for example a bank statement where it is visible that the payment has been performed (additional to contract + invoice)?

Answer 67: In case a statement from the client is not provided, we need one or several documents (e.g. bank statement + contract) from which we can conclude that the final payment has been made for the study.

Question 68: Referring to Q&A 53, please clarify whether Statute should be provided as a certified copy to original. Of course original Statute cannot be provided.

Answer 68: As per tender specification section II.2.1. a proof of registration, as prescribed in their country of establishment, on one of the professional or trade registers or a declaration or certificate must be provided by tenderers. The documentary proof must be an original or a certified copy of the original.

Question 69: Do sub-contractors need to submit Annex 5?

Answer 69: No.

Question 70: Is our understanding of the TOR correct that the three sections that the tender shall be comprised of (administrative, technical, financial section) may be submitted together in one single document/folder in one envelope and do not have to be submitted in separate documents/envelopes?

Answer 70: Your understanding is correct.

Question 71: As we must submit the tender in triplicate, is it necessary to have three legalized copies of the documents, or could we send one original version of the proposal, and the other two with non-legalized copies?

Answer 72: One original (including original documents or legalized copies) and two copies of the tender are required to be submitted.