Invitation to tender No MOVE/B3/2014-751 for a service contract regarding "Study on permitting and facilitating the preparation of ten-t core network projects in particular waterborne projects and cross-border projects"

Contract notice in OJEU 2014/S 241-423061 of 13/12/2014

QUESTIONS & ANSWERS

Latest update 27/01/2015

Question 1:

- 1.1 Should a tenderer accompanied by several subcontractors be considered as a joint tender as well?

  1.2 In this case, should Annex 3 (power of attorney) also be completed by the subcontractors?

  1.3 Or is this not applicable in this case?

  1.4 Or is a joint tender constituted by at least 2 partners accompanied /or not by subcontractors?

Answer 1:

As a response to point 1.1: no.

As a response to point 1.4: According to the terms of reference (paragraph 1.3, p. 4), a joint tender is a situation where a tender is submitted by a group of economic operators (consortium). This means that it should include at least two partners who would, in the case of award of the contract, all become parties to the contract.

Subcontractors, on the other hand, are not considered as partners of a joint tender and consequently, they would not become parties to the contract.

Therefore, there is no requirement for subcontractors to provide a signed power of attorney of Annex 3 (as a response to points 1.2 and 1.3).

Joint tendering and subcontracting are not mutually exclusive: joint tenderers can also have subcontractors.

As for the subcontracting, the tenderers must give an indication of the part of the services and proportion of the contract that they intend to subcontract. They are also required to identify
subcontractors whose share of the contract (of the work) is above 20% (for these, annexes 1 and 2 have to be provided).

The difference between a joint tender and a tender with subcontractors is that in the former case, all contractors are legally liable towards the Commission for the implementation of the contract, but in the case of subcontracting, the contractor(s) are also liable for the subcontracted part of the contract.