

Clarification Note #5

EUSPA internal reference: 302710

Procurement procedure: EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001)

Title: 'Provision of support services to the European Union Agency for the Space Programme and the European Commission'

Question #80: According to Q#30 - please confirm, if in the situation where entity meets the requirements of section 2.2.1 and Article 24 of Regulation (EU) 2021/696 (minor stakeholder is UK citizen but the person does not hold decisional power) - and it is confirmed by national authorities - would the contracting authority still demand a request for waiver or it will not be needed in this case?

Answer #80:

Please note that the assessment of the economic operators' compliance with the participation conditions, as per the applicable rules and tender documentation's provisions, cannot be done at this stage, but in the course of the evaluation of the proposals, following due submission of all relevant information and associated documents, as foreseen in Section 2.2.1 of Tender Specifications, as part of the economic operators' bids. For further clarity purposes, though, kindly be advised that the assessment of the compliance to participation conditions indicated in Section 2.2.1 of Tender Specifications is carried out by the Contracting Authority (EUSPA), and not by the national security authorities (NSAs). In case of non-compliance with participation conditions the entity has the right to submit a request for waiver, together with the relevant NSA assessment as to the existence of adequate security measures, with the aim to be granted the waiver by the European Commission.

Question #81: Annex I - Tender Specifications, section 4.7, indicates that 'The documents which must be signed according to the Tender Specifications may be signed electronically with a qualified electronic signature (QES) of the Tenderer'. We therefore understand the paper versions to be submitted within the envelopes can be printout of the digitally signed documents and that therefore the original electronic signature will be contained on the digital support (USB key, CD-ROM, etc.). Do you confirm our understanding?

Answer #81:

We confirm your understanding and invite you to also consult in this respect answer #44 included in Clarification Note #3.

Question #82: Can the CA clarify if Annex I.E_Template Financial statements_V1 must be signed by the Tenderer's authorised representative?

Answer #82:

As per the dedicated entry of the Recapitulative Table at the end of Annex I – Tender Specifications (precisely, on page 77), the Financial Statement (Annex I.E) shall be submitted by

all members of consortium **individually**, as well as by any subcontractor upon which the tenderer is to rely so as to reach the required minimum turnover and capacity level for fulfilment of selection criteria F1 and F2. In this respect, the authorised representative of each of the economic operators forming the consortium, as well as the authorised representative of any relevant subcontractor, shall be signing accordingly the individual Financial Statement (Annex I.E) pertaining to his/her company to be submitted as part of the tender.

This aspect is now also further clarified in the body per se of Annex I.E – Template Financial Statements – kindly consult Corrigendum #4.

Question #83: In Annex I.I.3 Statement of Work Lot 3, tables 5 and 6, in the column 'PSC/SAB, Authorization, Language Skills', there are no language skills described. In addition, section 3.2.3.1 mentions the need of at least French B1 level for the security expert performing services under task 3.1. Can the CA clarify (or update in the tables 5 and 6) if languages other than English are required for the Lot 3 Simulation Exercise activities?

Answer #83:

It is, indeed, confirmed that for task 3.1 skills in French (level B1) are required. This has been corrected in Tables 3 and 5 of the document via Corrigendum #4.

Question #84: In document Annex I.I.3 Statement of Work Lot 3, section 3.2.5.1 mentions that the Place of Performance for activity 5.1 is 'EUSPA HQ premises in Prague or Contractor's premises or Brussels'. However, Table 3 only indicates 'EUSPA HQ premises'. Can you please clarify?

Answer #84:

It is clarified that while the general possibility of requesting support also for locations other than EUSPA HQ is expressed in section 3.2.5.1, the simulation exercise states that for the first implementation of the support contract only EUSPA HQ is foreseen as the working location for Task 5.1.

Question #85: In document Annex I.I.3 Statement of Work Lot 3, in Table 5, the indicated Place of Performance for SE Task 2 is Toulouse. However, in Table 3, the indicated Places of Performance for FWC Task 2 are 'EUSPA HQ Prague, Contractor's premises and Brussels'. Can you please clarify what is the exact Place of Performance for the SE Task 2?

Answer #85:

It is clarified that while the general possibility of requesting support also for locations other than Toulouse is expressed in table 3, the simulation exercise states that for the first implementation of the support contract only the EUSPA office in Toulouse is foreseen as the working location for Task 5.2.

Question #86: In regards to Annex I.I.3 Statement of Work Lot 3, sections 3.2.6 and 3.2.7, for the activities related to the identification of vulnerabilities, can the CA clarify if the Contractor is expected to run specific tools for this activity?

Answer #86:

- Task 6: Vulnerability Assessment (ENG)
 - Current tools available:
 - Mobius tool in GSMC-FR.
 - Future tools:
 - VTT (Vulnerability Tracking Tool) expected to be deployed and operational this year in EUSPA HQ, GSMC-FR and GSMC-ES.

Question #87: Annex I.I.3 Statement of Work Lot 3, section 3.2.7, indicates that 'Activity focused on EGNOS may be partially performed (0,5 or 1 FTE) in Toulouse (FR).' Can the CA clarify whether this activity must be performed in Toulouse or if the Tenderer can decide what to propose?

Answer #87:

It is clarified that while the general possibility of requesting support also for locations other than EUSPA HQ is expressed in section 3.2.7, the simulation exercise states that for the first implementation of the support contract only EUSPA HQ is foreseen as the working location for Task 7.

Question #88: In regards to Selection Criteria L7, in case the Consortium Leader does not have the PRS/SAB accreditation at the time of contract signature due to delays at its NSA, can it rely on its partner(s) and/or subcontractor(s) for the activities necessitating it until the accreditation is provided?

Answer #88:

As explicitly stated in Section 2.2.2 of the Annex I - Tender Specifications, the delivery of the evidence of the relevant SAB authorisation is a precondition for accessing any PRS information and is to be met for the award of the contract (hence, it is needed before contract signature) for each entity, which is envisaged to handle classified PRS information according to the PRS Information Management Plan to be submitted as part of the proposal.

Question #89: While lot1 task 1 mention activities regarding Copernicus no mention of activities regarding Copernicus or earth observation is present in table 5. Is this correct? Does it mean that no activities regarding Copernicus will be carried out under task 1?

Answer #89:

It is clarified that task 1 explicitly includes the Copernicus programme in the scope of the task. Even though table 5 is not explicitly mentioning Copernicus, this is not excluding this topic from its scope, in particular for SE task #5 in direct support to the European Commission.

Question #90: It's not clear if compliance with L3 and L8 requirements is mandatory to participate in the tender.

Answer #90:

Criteria L3 and L8 constitute selection criteria having as purpose to determine whether a tenderer has the capacity necessary to implement the resulting from the procurement procedure contract. The tenderer shall meet the said criteria (in case of non-compliance, the submitted tender shall be considered unsuitable), which shall be complied with and evidenced accordingly at the moment of tender submission as per Section 3.2.1 of Annex I – Tender Specifications. For what concerns their applicability to the different entities (i.e., primes, consortium members, subcontractors), please refer to column “Applicable to” of the table included in foregoing Tender Specifications Section, as well as consult answers #38 and #39 of Clarification Note #3, reply #49 of Industry Day Clarification Note and answer #79 of Clarification Note #4.

Question #91: We have successfully passed Phase I of the NATO and EU Security Clearance at the Secret Level, and we are currently awaiting approval for Phase II, which we anticipate will be finalized shortly. In this context, we would like to inquire about the feasibility of our participation given our current security clearance status. Specifically, we are interested in understanding whether being in the pending approval stage of Phase II of the Security Clearance would allow us to be part of a consortium for this tender. Furthermore, we would appreciate it if you could provide us with detailed information regarding the different requirements and expectations for a partner compared to a subcontractor in the context of this tender.

Answer #91:

It is not clear from your question whether you refer to a facility security clearance or a personal security clearance; hence, that does not enable the Contracting Authority to provide the most accurate information regarding your eligibility to participate in this tender. In this respect, please be advised that the specifics of the clearance phases might vary from one country to another and, therefore, EUSPA would not be in a position to advise on this. Accordingly, on the implications of being currently at the pending approval stage of Phase II for your participation in the tender, we recommend you consult the relevant national security authorities for detailed guidance on this matter.

As regards the requirements and expectations for a partner compared to a subcontractor in this tender as raised in your query, in a nutshell they may vary primarily based on whether the entity will handle EU Classified Information (EUCI) and the location where this information will be managed. Partners who handle EUCI on their own premises must meet the requirements, including facility security clearance and adherence to specific safeguarding measures.

Conversely, subcontractors who handle EUCI at another partner's premises might not require facility security clearance but will still need to comply with all personal security clearance and procedural requirements. All relevant details in this respect may be found in Sections 2.2.7.5 and 2.2.7.6 of Annex I – Tender Specifications, as well as on the table included in Section 3.2.1 of the same document. Moreover, you may consult answers given to questions #38, #39 and #45 of Clarification Note #3, reply #49 forming part of the Industry Day Clarification Note and response provided to query #79 of Clarification Note #4.

Question #92: Can you please clarify what is meant by Facility Security Clearance? In document Annex I_EUSPA-OP-37-23-TS-Corrigendum 2_v1, section 2.2.7.6, paragraph 2, it is stated: "Please bear in mind that national security authorities of some Members States require companies to hold a Facility Security Clearance before releasing PSC for their staff". In reading this we understand that the FSC is the equivalent of the companies security clearance, as granted by the national security authority (for instance, the HSEM in Spain) and not a specific clearance for the restricted access work area (for instance, the ZAR in Spain).

Answer #92:

Your understanding of Facility Security Clearance (FSC) is correct. According to the European Commission's regulations, FSC refers to an administrative determination by a National Security Authority (NSA), Designated Security Authority (DSA), or any other competent security authority. This determination assesses whether a facility can provide an adequate level of protection for EU Classified Information (EUCI) up to a specified security classification level.

The FSC is not tied to specific areas within a facility (such as the restricted access work area or ZAR in Spain) but encompasses the overall security measures and protocols of the entire facility. It includes assessments of the general security of the building, additional safeguarding and storage capabilities, and the accredited communication and information systems (CIS) necessary to handle classified information securely.

Thus, the FSC is effectively a company's security clearance granted by national security authorities like the HSEM in Spain, ensuring that the facility as a whole meets required security standards for handling EUCI.

Question #93: In case some requirements in I.M (e.g., 0230, 0320) are not fulfilled/only partly fulfilled at the moment of submission, is it possible to state in I.K that they will be solved/ addressed in case of award or will this be a case of exclusion?

Answer #93:

Non-compliance with Management Requirements is not a case of exclusion from the procurement procedure. As per Section 4.6.2 of Annex I – Tender Specifications, a duly written, signed and dated Statement of Compliance with Annex I.M Management Requirements shall be submitted as part of the technical proposal in which the tenderer must (i) confirm its full compliance and (ii) define its partial or non-compliance to the requirements described in this document. Any non-compliance or partial compliance must be explained and the level of

compliance committed to be reached shall be indicated. In this respect, compliance with the Management Requirements will be considered in the context of evaluation of qualitative award criteria.

Question #94: Can we receive ADs 03, 013, 014, 015, 018, 020, 021, 022, 023, 024 and RDs 01, 02 of annex I.M?

Answer #94:

- [AD-020], [AD-021], [AD-022] and [AD-023] constitute Proprietary Information made available to the interested economic operators subject to entering into a non-disclosure undertaking (NDU) in line with the process described in Section 2.2.4 of Annex – Tender Specifications.
- As per Corrigendum #1, [AD-024] is to be made available to the Contractors after FWC signature.
- The complete set of ECSS (ADs 03, 013, 014, 015, 018), can be downloaded from the European Cooperation for Space Standardization site. To be noted that in particular [RD.01] and [RD.02] cannot be distributed by EUSPA but are not deemed necessary for the preparation of the tender.

Question #95: When filling in annex I.B selection criteria a) to c) if a subcontractor or a partner does not fulfil individually one or more of the selection criteria but these criteria are fulfilled by the tender as a whole, should the single subcontractor or partner put a cross on NO for the selection criteria unfulfilled (as this will be the case of the individual entity) or on YES on all selection criteria (as this will be the case of the overall tender)?

Answer #95: Considering, indeed, that certain of the selection criteria shall be fulfilled individually, while others cumulatively, as already duly described in Annex I – Tender Specifications, the Selection Criteria part of Annex I.B - Template Declaration on Honour has been updated accordingly through Corrigendum #4 so as to mark explicitly which entries have to be filled in only by the sole tenderer or the group leader and which entries have to be filled in by each entity individually. Therefore, kindly consult accordingly the Corrigendum #4 and the updated version of Annex I.B – Template Declaration on Honour uploaded to the ‘Documents’ section of the dedicated to this procurement procedure Funding and Tenders Portal webpage (<https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/tender-details/a0afc6f2-a024-4ae3-8393-5dfde22f0001-CN#anchorDocuments>).

Question #96: In Annex I.I.3 Statement of Work_Lot3_V1, for Lot 3, Task 5.2 “Support to EGNOS security activities (SAU)” and Task 7 “Risk Assessments”; can you please precise if the activities requested in Toulouse are foreseen to get the FTE in EUSPA Toulouse premises or in our Toulouse office? Can you please specify if Task 2 and Task 6 can be based in Toulouse? and in EUSPA Toulouse premises or in our Toulouse office.

Answer #96:

It is clarified that the working locations are mandated by the Contracting Authority through the simulation exercise giving the indication of where the individual services are to be performed. When Toulouse is stated as the working location this is to be understood as the EUSPA offices in Toulouse. If locations other than Toulouse are mentioned in the simulation exercise the relevant tasks cannot be performed from Toulouse.

Question #97: When reading Table 6 (Simulation Exercise: Deliverable Mode), the FWC Task No is typically associated with Deliverables from the same Task (e.g., FWC Task 6 leads to deliverables D6.1 and D6.2). However, only for FWC Task 2 are the associated deliverables from a different Task, namely Task 3 (D3.1, D3.2, etc.). Are these typos?

Answer #97:

Please refer to Corrigendum #3 and updated SOW for Lot 1 correcting these typos, as published on 5 April 2024 in the 'Documents' section of the dedicated to this procurement procedure Funding and Tenders Portal webpage (<https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/opportunities/tender-details/a0afc6f2-a024-4ae3-8393-5dfde22f0001-CN#anchorDocuments>), as per also the relevant announcement made therein..

Question #98: We request an extension of the deadline to submit a qualitative proposal as the current submission deadline cannot be considered as relevant for such a big procurement.

Answer #98:

Considering:

- (i) that an extension of the initial time limit for submission of offers by 3 weeks has already been granted resulting in a total bid preparation of 2,5 months;
- (ii) that an Industry Day was conducted on 15 March 2024 to present interested economic operators with the details of the procurement procedure in question, including inter alia its type and characteristics, specificities of each Lot, envisaged contractual modalities and modes of implementation;
- (iii) that no substantial changes to the tender documentation have been introduced as of the launch of the procurement procedure;
- (iv) the criticality to ensure business continuity and due coverage of the Contracting Authority's needs;

it has been decided not to extend further the deadline for receipt of offers under open procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001). Therefore, the time limit for submission of tenders is to remain unchanged, i.e., on 16/05/2024 at 23:59 Prague local time.

Question #99: We request an extension of the deadline for submission of bids due to challenges in consortium formation stemming from eligibility constraints, in addition to the numerous long weekends and public holidays in April and May.

Answer #99:

Considering:

- (i) that an extension of the initial time limit for submission of offers by 3 weeks has already been granted resulting in a total bid preparation of 2,5 months;
- (ii) that an Industry Day was conducted on 15 March 2024 to present interested economic operators with the details of the procurement procedure in question, including inter alia its type and characteristics, specificities of each Lot, envisaged contractual modalities and modes of implementation;
- (iii) that no substantial changes to the tender documentation have been introduced as of the launch of the procurement procedure;
- (iv) the criticality to ensure business continuity and due coverage of the Contracting Authority's needs;

it has been decided not to extend further the deadline for receipt of offers under open procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001). Therefore, the time limit for submission of tenders is to remain unchanged, i.e., on 16/05/2024 at 23:59 Prague local time.

Question #100: We request an extension of the deadline for submission of offers in view of the large number and complexity of the documents to be collected in response to this call for tenders, as well as their nature.

Answer #100:

Considering:

- (i) that an extension of the initial time limit for submission of offers by 3 weeks has already been granted resulting in a total bid preparation of 2,5 months;
- (ii) that an Industry Day was conducted on 15 March 2024 to present interested economic operators with the details of the procurement procedure in question, including inter alia its type and characteristics, specificities of each Lot, envisaged contractual modalities and modes of implementation;
- (iii) that no substantial changes to the tender documentation have been introduced as of the launch of the procurement procedure;
- (iv) the criticality to ensure business continuity and due coverage of the Contracting Authority's needs;

it has been decided not to extend further the deadline for receipt of offers under open procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001). Therefore, the time limit for submission of tenders is to remain unchanged, i.e., on 16/05/2024 at 23:59 Prague local time.

Question #101: Due to the huge amount of work to produce in a short time period to respond to the call and the fact that we are facing problems building a solid consortium to answer to this IT, we ask for an extension of the submission deadline.

Answer #101:

Considering:

- (i) that an extension of the initial time limit for submission of offers by 3 weeks has already been granted resulting in a total bid preparation of 2,5 months;
- (ii) that an Industry Day was conducted on 15 March 2024 to present interested economic operators with the details of the procurement procedure in question, including inter alia its type and characteristics, specificities of each Lot, envisaged contractual modalities and modes of implementation;
- (iii) that no substantial changes to the tender documentation have been introduced as of the launch of the procurement procedure;
- (iv) the criticality to ensure business continuity and due coverage of the Contracting Authority's needs;

it has been decided not to extend further the deadline for receipt of offers under open procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001). Therefore, the time limit for submission of tenders is to remain unchanged, i.e., on 16/05/2024 at 23:59 Prague local time.

Question #102: In consideration of the complex technical, operational and industrial landscape of the tender, we wish to request for an extension of tenders' submission time limit.

Answer #102:

Considering:

- (i) that an extension of the initial time limit for submission of offers by 3 weeks has already been granted resulting in a total bid preparation of 2,5 months;
- (ii) that an Industry Day was conducted on 15 March 2024 to present interested economic operators with the details of the procurement procedure in question, including inter alia its type and characteristics, specificities of each Lot, envisaged contractual modalities and modes of implementation;
- (iii) that no substantial changes to the tender documentation have been introduced as of the launch of the procurement procedure;
- (iv) the criticality to ensure business continuity and due coverage of the Contracting Authority's needs;

it has been decided not to extend further the deadline for receipt of offers under open procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001). Therefore, the time limit for submission of tenders is to remain unchanged, i.e., on 16/05/2024 at 23:59 Prague local time.

Question #103: Due to the complexity of this tender and to ensure the completeness of our proposal, we wish to request for an extension of tenders' submission time limit.

Answer #103:

Considering:

- (i) that an extension of the initial time limit for submission of offers by 3 weeks has already been granted resulting in a total bid preparation of 2,5 months;
- (ii) that an Industry Day was conducted on 15 March 2024 to present interested economic operators with the details of the procurement procedure in question, including inter alia its type and characteristics, specificities of each Lot, envisaged contractual modalities and modes of implementation;
- (iii) that no substantial changes to the tender documentation have been introduced as of the launch of the procurement procedure;
- (iv) the criticality to ensure business continuity and due coverage of the Contracting Authority's needs;

it has been decided not to extend further the deadline for receipt of offers under open procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001). Therefore, the time limit for submission of tenders is to remain unchanged, i.e., on 16/05/2024 at 23:59 Prague local time.

Question #104: Given the complexity of the requested service and to have enough time for a thorough preparation and the submission of a professional and high-quality tender in line with the service to be provided, we request for an extension of tenders' submission time limit.

Answer #104:

Considering:

- (i) that an extension of the initial time limit for submission of offers by 3 weeks has already been granted resulting in a total bid preparation of 2,5 months;
- (ii) that an Industry Day was conducted on 15 March 2024 to present interested economic operators with the details of the procurement procedure in question, including inter alia its type and characteristics, specificities of each Lot, envisaged contractual modalities and modes of implementation;
- (iii) that no substantial changes to the tender documentation have been introduced as of the launch of the procurement procedure;
- (iv) the criticality to ensure business continuity and due coverage of the Contracting Authority's needs;

it has been decided not to extend further the deadline for receipt of offers under open procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001). Therefore, the time limit for submission of tenders is to remain unchanged, i.e., on 16/05/2024 at 23:59 Prague local time.