

## **Clarification Note #8**

EUSPA internal reference: 303266

**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 #179: Reference: Annex I.F.3 Financial Table Lot3 – CE Demonstrator\_LOT3\_Corrigendum 3\_V1, sheet “Mission travel prices”. Is it intended that the mission prices (for short 3 days missions) are part of the total FWC price? If the mission prices (for short 3 days missions) are the part of the total FWC price, is it right that the mission prices in the tab in the sheet named „Mission travel prices” are not linked to the tab that calculates the total FWC price?**

**Answer #179:**

The 3 days missions you refer to in your question are indicated in table 3 of the SoW for Lot 3; consequently, they relate to the FWC execution and not the Simulation Exercise for the said Lot. Accordingly, these 3 days missions do not have an impact on the so-called 'Total FWC price' listed in the 'Evaluation' sheet of the Financial Table for Lot 3.

**Question #180: Can the authority confirm whether a subcontractor (not part of the core team, and which is not expected to handle classified information) is required to submit the Formal statement of SAB authorisation, and the documentation by the relevant National Security Authority proving their PSC up to SECRET UE / EU SECRET?**

**Answer #180:**

**a) PRS SAB authorization**

Evidence of PRS SAB authorization is not needed when the economic operator in subject is not expected to handle classified PRS information. See also Answer to Question#142 in Clarification Note #7 and Answers to Questions #109 and #117 in Clarification Note #6.

**b) Documentation by the relevant National Security Authority proving their PSC up to SECRET UE / EU SECRET**

Personal Security Clearances shall be proved only for personnel involved in tasks requiring the handling of EUCI. Hence, if the subcontractor is not expected to handle classified information or engage in activities involving EU Classified Information (EUCI), and it can clearly state and justify this, then the documentation proving their Personnel Security Clearance (PSC) up to SECRET UE / EU SECRET is not required.

Attention of the tenderer is drawn to the fact that, overall, the proposal shall be clear and coherent in terms of assignation of tasks, handling of EUCI by the entities involved in the industrial team and expected PRS information exchanges.

**Question #181: We are an international group of companies with 100% controlled subsidiaries. The Management and corporate services are all provided by the mother company, and the subsidiaries would only be utilized to employ locally staff that needs to be working at specific EUSPA sites in other countries for compliance with local labor legislations. Do we need to formally list the subsidiaries as subcontractors?**

**Answer #181:**

In line with Article 2(61) of Regulation 2018/1046, an economic operator that is proposed by the tenderer to perform part of a contract (for instance, to employ locally staff that needs to be working at specific EUSPA sites) is to constitute a subcontractor. Therefore, the response to your question is affirmative, i.e., you would need to formally list the relevant subsidiaries as your subcontractors. In this respect, please also consult Section 2.2.11 of Annex I – Tender Specifications covering the general principles of subcontracting in the context of procurement procedure ref. EUSPA/OP/37/23 (EUSPA/PRG/2024/OP/0001).

**Question #182: Can the authority confirm whether a subcontractor (not part of the core team, and not expected to handle classified information) is required to have in place the following? a) PRS SAB authorization; b) documentation by the relevant National Security Authority proving their PSC up to SECRET UE / EU SECRET; c) appointment of a Local Security Officer.**

**Answer #182:**

**a) PRS SAB authorization**

Please refer to Answer to Question #180 above.

**b) Documentation by the relevant National Security Authority proving their PSC up to SECRET UE / EU SECRET**

Please refer to Answer to Question #180 above.

**c) Appointment of a Local Security Officer**

Regarding the appointment of a Local Security Officer, as reported in section 2.2.7.7 of the Tender Specifications, this is needed for entities handling classified information classified RESTREINT UE/EU RESTRICTED or above under the FWC. Hence, if the subcontractor is not involved in handling classified information or EUCL, and it can clearly state and justify this, the appointment of a Local Security Officer is not necessary.

**Question #183: Despite your answer to question #145 the updated "Annex I.F.2 Financial Table Lot2 - CE Demonstrator\_LOT2\_CORRIGENDUM 5\_V1.xls" still contains 11 deliverables and deliverable D2.5. still reports 6 instances instead of the 9 instances you state in your answer. As we can't modify the content of those cells, could you either provide another update of Annex I.F.2 or provide instructions on how to proceed?**

**Answer #183:**

It is confirmed that there are only 10 defined deliverables for task 2 and the expected deliverable D2.5 is expected to be composed of 9 instances.

Please consult the updated version of Annex I.F.2 Financial Table Lot 2 resulting from Corrigendum #6.

**Question #184:** In those situations in which several companies participate together, in order to respect the submission guidelines for EUCI introduced in the updated version of Section 4.5.3 of the Tender Specifications, it would be necessary for each consortium member / subcontractor to ship in the indicated secure manner their classified information to the consortium Prime / Leader. This change was introduced on 07/05/2024. The next working day in certain European countries is 13/05/2024, leaving de facto only 4 working days to industry to process the change and organize shipments in time for submitting our proposals. Considering that companies in consortia can be spread across Europe, and the timeframe available is not sufficient to guarantee compliance with the new requirement, could EUSPA either provide an extension or indicate an alternative way?

**Answer #184:**

Even though the Guidelines for deliveries of EU classified information level introduced in the updated version of Section 4.5.3 of the Tender Specifications serve as a simple reminder of the law, specifically COMMISSION DECISION (EU, Euratom) 2019/1962, the time limit for submission of tenders is extended by one week (see Corrigendum #6) in order to allow the bidder to reflect upon the recent modifications introduced in the tender documentation.

**Question #185:** Q2.2 requires providing information on the financial proposal, but as per clarification note 3 #48 this information should go into the Envelope 2 (Technical proposal). This seems not correct: Q2.2 ("credibility of the costing and pricing [...] with respect to the [...] financial proposal") will require providing costing and pricing inputs related to the financial proposal. Therefore, including this document as part of the Technical proposal may imply that the evaluation may be biased as some information on the financial part is present in the technical package already and hence available to people in the Evaluation Committee. --> In light of the above, can you please confirm that we will have to put sections related to Q2.2 in the technical proposal?

**Answer#185:**

As provided in the answer to Question #48 in Clarification Note 3, indeed the Technical Simulation Exercise Proposal should not include costing information, which shall be part only of the Financial Proposal. Criterion Q.2.2 targets the *consistency, justification and traceability of the proposed costs/prices with respect to the Tenderer's technical and financial proposals for the Simulation Exercise*, and the technical proposal shall include the technical elements relevant to the criterion – i.e. technical details, and information to allow to assess the consistency, justification and traceability of the proposed costs/prices for the simulation exercise.

**Question # 186:** The competitive subcontracting plan (Q3) is considered both as an administrative document (p. 57, TS; clarification note 3 #46) and hence as part of the selection criteria and as part

of the qualitative award criteria (p. 52, TS). This seems not correct: the competitive subcontracting plan should be included only among the admin documents or be part of the qualitative award criteria (as done in previous ITTs from EUSPA). Failing to do so will in fact imply that the Evaluation Committee will be biased as some information is present in the administrative package already and hence available to people outside the Evaluation Committee and before they meet. --> In light of the above, can you please confirm that we will have to put sections related to Q3 in the administrative proposal?

**Answer #186:**

EUSPA as a contracting authority and lead of the interinstitutional tender, is committed to ensure that the evaluation of the Tender Evaluation Committee is fair, impartial and unbiased.

Envelope 1 includes the information pertinent to the structure of the tenderer (prime / subcontracting level), and the information on the competitive subcontracting is to be provided in it. The information of the competitive subcontracting shall be reviewed / assessed in the frame of the evaluation of criterion Q3. The evaluation committee (its panels, as relevant) has access and reviews / assesses all parts of the tender submitted, Envelope 1 including, and shall take into consideration the information submitted therein for the competitive subcontracting.

**Question #187: 2. Q1.3 as per clarification note 3 #47 should go into the Envelope 3 (Financial proposal). However, it is also an award criterion. Therefore, including this document as part of the Financial Envelope will imply that the Evaluation Committee will have to look into the Financial proposal before completing the Technical evaluation. This may bias the evaluation of the Technical proposal as financial information will be made available to the Evaluation Committee. --> In light of the above, can you please confirm that we will have to put sections related to Q1.3 in the financial proposal?**

**Answer #187:**

EUSPA as a contracting authority and lead of the interinstitutional tender, ensures and commits that the evaluation of the Tender Evaluation Committee is fair, impartial and unbiased.

The assessment of the qualitative award criterion q.1.3 will be made by a dedicated programmatic / financial panel, while the evaluation committee participants, not part of the financial panel, shall evaluate the qualitative award criteria not related to the credibility of the costing and pricing.

**Question #188: The tender states that "SAB authorisation for the entities concerned must be completed prior to the conclusion of the evaluation process for the procurement procedure by the Contracting Authority [i.e. est. 19/07]". This creates an unfair competition among companies based in different countries that may be excluded or not based on the slowness of the national security agency and not on their merits. Further to this, the uncertainty of the conclusion of the evaluation process (for which there is no clear milestone, but only an estimated date is provided with no means to verify it) makes the criterion impossible to respect. --> Given the above points, we request that such proof is provided upon award.**

**Answer #188:**

The contract may not be awarded to a tenderer that is not in possession of the necessary PRS authorization as it will not be able to fulfill the tasks related to PRS upon the contract signature. Therefor the possession of the PRS authorization at the required category is a condition for the award of the tender<sup>1</sup>.

**Question #189:** In TS p. 64 is made an explicit reference to the "cost sheet form A2" whose completion will be positively evaluated in Q1.3. However this form is not included in the ITT. In Clarification note answer #77 a link is provided to download such a form (<https://www.euspa.europa.eu/opportunities/procurement>). However the link is not working since the clarification was issued Can you please either cancel the reference to A2 in the ITT (as it is impossible to comply with this requirement) or provide A2 forms in pdf?

**Answer #189:**

It is confirmed that reference to A2 in the Annex I – Tender Specifications has been deleted.

Please consult the updated version of Section 4.6.3 (Financial Proposal (ENVELOPE/FOLDER 3) of Annex I – Tender Specifications resulting from Corrigendum #6.

---

<sup>1</sup> ECJ Decision of 08.07.2020 – Securitec v. Commission (T-661/18).