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Delegation of the European Union to Bosnia and Herzegovina

Clarification No. 1

Publication Ref: EuropeAid/139140/DD/WKS/BA; EC/BiH/TEN/16/012

Subject: "Reconstruction of defence embankment along the Sava River in Srednja and Odzacka Posavina, FBiH, Bosnia and Herzegovina"

Location: Bosnia and Herzegovina

Question 1: Under professional capacity of candidate it is stated that "the Tenderer must be duly authorized/licensed to perform the works under this contract in accordance with the relevant law in force in BiH (i.e. in particular the FBiH Regulation on a construction site, required documentation at sites and participants in construction - "Official Gazette of BiH", Nr. 48/09 and 75/09). The relevant license must be submitted together with the offer."

Since we are company from Republika Srpska we have informed us about the license and found out that there are two types of licenses, one being issued by the Federal Ministry of Spatial planning, and the other by the Federal Ministry of Agriculture, Water Management and Forestry.

We kindly ask to clarify which one is the relevant license.

Answer 1: *The relevant licence is the one issued by the Federal Ministry of Spatial planning.*

Question 2: Under technical capacity of candidate it is stated that: Note: An economic operator may, where appropriate and for a particular contract, rely on the capacity of other entities, regardless of the legal nature of the links which it has with them. Some examples of when it may not be considered appropriate by the Contracting Authority are when the tenderer relies mostly on the capacity of other entities or when it relies on key criteria. If the tenderer relies on other entities, it must prove to the Contracting Authority that it will have at its disposal the resources necessary to perform the contract, for example by producing an undertaking on the part of those entities to place resources at its disposal.

As our company does not fulfil all criteria we want to rely on a third party, a big construction company which has the similar work. The third party, this big company is Chinese, so my question is can our company be the successful applicant if we rely on the experience of the Chinese company.

Answer 2: *As stated in the same Note (point 16.3 of the Contract Notice) it is required that capacity providing entities must respect the same rules of eligibility and notably that of nationality, as the*



EUROPEAN UNION

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economic operator. In this particular case Chinese company would not be eligible under this procedure. Please see also points 8 and 23 of the Contract Notice as well as clause 3 of the Instructions to tenderers

Question 3: Under economic and financial capacity of candidate it is stated that "the average annual turnover in construction works of the tenderer for the last three (3) years for which the accounts are closed must exceed 8,000,000.00 EUR (eight million euro)."

In case of forming a Joint Venture between two partners does both partners need to have the above amount as an annual turnover in construction and if not what is the ratio between partners?

Answer 3: *As stated in point 16 of the Contract Notice and clause 12.2 of the Instructions to tenderers "If a tender is submitted by a consortium/joint venture, unless specified, the selection criteria will be applied to the consortium as a whole." In this particular case therefore the cumulative amount as an average annual turnover in construction of the partners must exceed 8,000,000.00 EUR for the last three (3) years for which the accounts are closed.*

The ratio between partners is not defined however all rules on capacity-providing entities and partnerships (clauses 12.2.2 and 12.3 of Instructions to tenderers) must be respected.

Question 4: In connection to Component 1- II Earth works -Item 6: mechanical excavation of material III category, in bulk excavation.... Is the borrow pit a contractor's obligation or there is a planned borrow pit at the specified distance, average transport length (STD) 1km?

Answer 4: *As it is stated in the BoQ, Component 1- II Earth works -Item 6, the borrow pit is a contractor's obligation.*

Question 5: In connection to Component 1- II Earth works -Item 11 .'Mechanical spreading of material for the backfilling of old material trenches.... Whether this item also includes the purchase of material in a borrowing facility?

Answer 5:

Component 1- II Earth works -Item 11 foresees backfilling of the old trenches with surplus material (that includes material from borrow pits), that because of lower quality cannot be used for embankments construction.



EUROPEAN UNION

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Question 6: In connection to Component 2- Section II - Preparatory works. Geotechnical monitoring
Could you please clarify what exactly is the geotechnical supervision, whether they have additional requirements and conditions for monitoring?

Answer 6: *Please refer to Corrigendum no. 1 to the Contract Notice and Tender Dossier.*

Yours sincerely,

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