



Sarajevo,

2021

**Clarification No. 1 to the Contract Notice**

**Capacity Building of BiH Railways Regulatory Board focusing on the Fourth Railway Package  
RE LAUNCH**

**Location - Western Balkans; Bosnia and Herzegovina**

**Publication reference NEAR/SJJ/2020/EA-RP/0024; EC/BiH/TEN/19/019**

**Question 1:**

XY is a company based in Z. We are interested in participating in the tender mentioned above hence want to get more information about the same.

Considering the geographical constraint of personally reviewing the document, I request you to provide us the following details before we buy the document:

- 1) List of Items, Schedule of Requirements, Scope of Work, Terms of Reference, Bill of Materials required.
- 2) Soft Copy of the Tender Document through email.
- 3) Names of countries that will be eligible to participate in this tender.
- 4) Information about the Tendering Procedure and Guidelines
- 5) Estimated Budget for this Purchase
- 6) Any Extension of Bidding Deadline?
- 7) Any Addendum or Pre Bid meeting Minutes?

We will submit our offer for the same if the goods or services required fall within our purview.

**Answer 1:**

At this stage of the restricted service tender procedure only questions related to information presented in the published Contract Notice can be answered. These are questions 3-6 and the answers are below. The above questions 1, 2 and 7 relate to tender dossier, which will be provided to shortlisted candidates during the next stage of the procedure.

Answer to the above question no 3: With reference to Point 4 (Eligibility and rules of Origin) of the Additional information about the Contract Notice:

*“Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium – of candidates/tenderers) which are effectively established in a Member State of the European Union [...]”:*

Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom<sup>1</sup>.

*“[...] or in a eligible country or territory as defined under the Regulation (EU) No 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable instrument under which the contract is financed [...]”:*

<sup>1</sup> The United Kingdom ceased to be an EU Member State on the 31 of January 2020. Pursuant to the Withdrawal Agreement concluded between the EU and the UK, references to the eligibility of ‘Member States’ for participation in programmes under the current 2014-2020 MFF and the EDFs also cover the United Kingdom (Article 127(6), Article 137 and Article 152(1) Withdrawal Agreement).

Albania, Bosnia and Herzegovina, Kosovo<sup>2</sup>, Montenegro, Serbia, Turkey, Republic of North Macedonia, Iceland, Lichtenstein, Norway, Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Republic of Moldova, Morocco, occupied Palestinian territory (oPt), Syria, Tunisia, Ukraine.

Answer to the above question no 4: Please refer to Legal basis stated in the Contract notice:

*“Regulation (EU, Euratom) No 2018/1046*

*Procurement award procedure applying to European Union external actions financed from the general budget of the European Union and the European Development Fund (EDF)”*

Answer to the above question no 5: With reference to point II.1.5 of the Contract notice estimated total value of the tender is 1 400 000 EUR excluding VAT.

Answer to the above question no 6: There is no extension of deadline for receipt of requests to participate published in point IV.2.2 of the Contract notice.

### **Question 2:**

14. Selection criteria, 3) Technical capacity, point b

Description: Regarding criteria under point b) please confirm whether the Contracting Authority will accept as eligible services such as studies and design documents (i.e. pre-feasibility study, feasibility study, conceptual design, preliminary design or detailed design) prepared for railway transport infrastructure.

### **Answer 2:**

The Contracting Authority cannot give prior opinion in application’s assessment. Applicants are encouraged to submit their Expression of Interests in line with the requirements of the Contract Notice and the nominated Evaluation Committee will make their assessment adhering to the published selection criteria and used its discretion where necessary ensuring equal treatment of applicants.

### **Question 3:**

14. Selection criteria, 3) Technical capacity, point a and b

Description: Regarding criteria under point a) and b) please confirm whether the Contracting Authority will accept as eligible partially completed contracts, in which the services relevant to the respective tender requirements have been successfully completed and meet all the prescribed selection criteria.

### **Answer 3:**

As the evaluation committee would not be in a position to make a qualified judgement on a successful completion of the project for projects which are not completed, such ongoing projects will not be taken in consideration.

### **Question 4:**

It is understood that lead organisations must provide information for financial and technical requirements of the brief. Please could you confirm what level of information must be provided by sub-contracted organisations – should this be technical capability only or should include capacity or financial information? Paragraph 3 of page 4 of the Additional Information about the Contract Notice refers to entities on whom the economic operator relies. Can you please confirm that this notion includes subcontractors of the economic operator;

<sup>2</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence. Participation is also open to international organisations.

**Answer 4:**

As stated in the additional information about the Contract Notice, “*An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities **regardless of the legal nature of the links which it has with them***” (emphasis added). This means that the nature of the relationship with these entities is not relevant. As further detailed in the paragraph dedicated to ‘capacity providing entities’, candidate must provide data of these third entities for the relevant selection criterion (for which they put their resources at disposal of the candidate).

**Question 5:**

Paragraph 3 of page 4 of the Additional Information about the Contract Notice refers to entities on whom the economic operator relies. Can you please confirm that the requirement to include data in relation to the subcontractor in a separate document does not apply to selection criteria for which the economic operator is not relying on the subcontractor;

**Answer 5:**

Please refer to Answer 4.

**Question 6:**

Would you consider electronic submission for the EoI document in order to achieve a level playing field? Not all candidates have a local office that can ensure delivery by hand of the submission and international postal services are operating with considerable delay.

**Answer 6:**

Please note that electronic submission for the Expression of Interest is NOT foreseen / allowed for this procedure.

\*\*\*