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TO THE REPUBLIC OF SERBIA

Belgrade, 08/07/2009

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VMA /SND

## CONTRACTING AUTHORITY'S CLARIFICATIONS No. 2

**Technical Assistance to improve the efficiency and transparency of the Judiciary System, Serbia**

**Publication ref.: EuropeAid/127704/C/SER/RS**

**Tender no.: 07SER01/04/22**

No	Question	Answer
1	Formulation from Article 21.3 a): "... general expertise described in Article 7".  Should <u>any</u> IT project (consulting, services, supply) funded by EC (or similar) over 1.5M EUR within given timeframe be considered as a valid reference or just the ones in Judiciary?	Only services and consulting since we are requesting as a principal activity software development.
2	Formulation from Article 21.3 a): "... within the three year period prior to the closing date of submission of the application;".  Does it mean that the reference project's end date shouldn't be older then 3 years prior to the to the closing date of submission of the application or both reference project 's start and end dates should be within those 3 years?	It is foreseen that the candidate has <u>worked successfully</u> on at least two projects <u>within</u> the three year period <u>prior</u> to the closing date of submission of the application. That means that those projects should be successfully <u>completed</u> in quoted three year period doesn't matter when they were started.
3	Formulation from Article 21.3 a): "The candidate must provide a signed attachment of the leading partner of the named project as evidence hereto".  Can you, please elaborate the definition of the "leading partner"? Is it a client or financial organization that funded a project or implementation partner with the highest proportion of the work done?	"Leading Partner" is the company that used to be the leader of the Consortium of the named project.

## CONTRACTING AUTHORITY CLARIFICATION No. 2

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4	<p>Formulation from Article 21.3 a): "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".</p> <p>Since we are an international firm, does it mean that we can use references of our sister companies without having to form a consortium?</p>	<p>An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, <u>regardless of the legal nature of the links</u> which it has with them.</p> <p>It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.</p> <p>Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator.</p>
5	<p>Article 15. "Grounds for exclusion: As part of the application form, candidates must submit a signed declaration, included in the standard application form, to the effect that they are not in any of the exclusion situations listed in Section 2.3.3 of the 'Practical Guide to contract procedures for EC external actions'..."</p> <p>However, in the application form we could not find any form of declaration mentioned above. Is there a separate declaration-document on website or... ?</p>	<p>Format of the Declaration is given on the page 6 of the Application Form.</p>
6	<p>Article 11. "Eligibility: Participation is open to all legal persons (participating either individually or in a grouping (consortium) of candidates) which are established in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed (see also item 30 below). Participation is also open to international organisations. The participation of natural persons is governed by the specific instruments applicable to the programme under which the contract is financed.",</p> <p>and also article 21. "Selection criteria: The following selection criteria will be applied to candidates. In the case of applications submitted by a consortium, these selection criteria will be applied to the consortium as a whole:</p> <p>1) Economic and financial capacity of candidate (based on item 3 of the application form). If the applicant is a public body, equivalent information should be provided.</p> <p>(a) The average annual turnover of the candidates must be at least 5 000 000 EUR for the last 3 years, 2006, 2007 and 2008.</p>	<p>An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, <u>regardless of the legal nature of the links</u> which it has with them.</p> <p>It must in that case <u>prove</u> to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal.</p> <p>Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator.</p>

## CONTRACTING AUTHORITY CLARIFICATION No. 2

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	<p>2) Professional capacity of candidate (based on items 4 and 5 of the application form): (a) at least 20 permanent staff currently work for the candidate in fields related to this contract.</p> <p>3) Technical capacity of candidate (based on items 5 and 6 of the application form): (a) the candidate has worked successfully on at least 2 EC- and/or internationally-funded projects in the required fields of general expertise described in Article 7 (with a candidate's proportion that is not less than 1 500 000 EUR for at least 1 project) within the 3-year period prior to the closing date of submission of the application; However, in the Standard Application Form (b3_applform_en.doc), Article 6 "EXPERIENCE Please complete a table using the format below to summarise the major relevant projects related to this contract carried out in the course of the past 3 years[i] by the legal entity or entities making this application..."</p> <p>Being a local company (a local legal entity) under the laws of republic of Serbia, but at the same time a part of the international company with the legal entities in the most countries of the world, we need a clarification if the eligible reference projects are only those carried out by local company or Article 11 is applicable and projects references from other parts of our international company are applicable as well. Do we need any additional documents to be attached to the Standard Application Form in that case?</p>	
7	<p>Under point 11 of the Service Procurement Notice and Point 2.3. of the Practical Guide to Contract Procedures for EC external actions (PRAG), paragraph f) it is stated that "an international organization" is eligible for the procurement. Our company is an international organization with headquarters in the United States. We have a proven track record supported Judicial Restructuring projects around the world including the Balkans.</p> <p>Could you please clarify "international organization" i.e. will a US-based company be eligible for this procurement?</p>	<p>Eligibility rules applicable to <b>IPA projects</b> are:</p> <ul style="list-style-type: none"> <li>- <b>All natural persons who are nationals of and legal persons who are established in a Member State:</b> Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.</li> <li>- <b>All natural persons who are nationals of and legal persons who are established in a country that is a beneficiary of this Regulation:</b> Albania, Bosnia and Herzegovina, Croatia, The former Yugoslav Republic of</li> </ul>

## CONTRACTING AUTHORITY CLARIFICATION No. 2

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		<p>Macedonia, Montenegro, Serbia (including Kosovo), Turkey.</p> <p><b>- All natural persons who are nationals of and legal persons who are established in a country that is a beneficiary of the European Neighborhood and Partnership Instrument:</b> Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Palestinian Authority of the West Bank and Gaza Strip, Russian Federation, Syria, Tunisia, Ukraine.</p> <p><b>- All natural persons who are nationals of and legal persons who are established in a country that is a member of the European Economic Area:</b> Iceland, Lichtenstein, Norway</p> <p><b>- All natural persons who are nationals of and legal persons who are established in any country where reciprocal access to their external assistance has been established</b></p> <p><b>- International organisations:</b> (a) international public-sector organisations set up by intergovernmental agreements, and specialised agencies set up by such organisations; (b) the International Committee of the Red Cross (ICRC); (c) the International Federation of National Red Cross and Red Crescent Societies; (d) the European Investment Bank and the European Investment Fund</p>
8	<p><b>In connection with article 7</b> We would like to offer a package software solution which would be customized to the requirements. In package software functional specifications and functionalities are very important, but data models are usually unimportant or hidden. Please clarify is for such type of software enough to present functional part of the solution and not to explicitly present data model, because it is integral part of the package solution?</p> <p>Data model of the solution which we tend to propose has more than 10.000 data objects and per our best practice it is not practical to be presented.</p>	<p>The conceptual and the logical data model should be presented together with functional specifications. Presentation of the actual implementation of the logical data model was intended for custom made systems. Even if the system is not custom made, presentation of at least the part of the physical data model representing storage space for production data should be considered. However, in case the physical data model is omitted, the Consultant will have to provide tools for exporting of data from the system into an external data repository with the physical data model corresponding to the presented logical data model.</p>
9	<p><b>In connection with article 21-2</b> We have sufficient number of permanent</p>	<p>The number of staff is related to software development.</p>

## CONTRACTING AUTHORITY CLARIFICATION No. 2

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	staff with knowledge of implementing our intended solution in different industries. Is special requirement experience in Ministry of Justice and related institutions (e.g. courts...)?	
10	<p><b>In connection with article 21-3</b> Please clarify the definition of General Expertise described in article 7 (IT in general, Justice or Serbian Justice).</p> <p>Example: We considered "required fields of general expertise" in all phases of implementation project according in explanation in Article 7, but in the Article 7 it is also mentioned Serbian Judiciary. Is it "Serbian Judiciary" mandatory requirement for each reference?</p>	Judiciary is mandatory.
11	Article 3 a) of the notice says: "The candidate must provide a signed attachment of the leading partner of the named project as evidence hereto". If the applicant in a certain reference was the leader of the consortium implementing the project, do you need this declaration?	No.
12	Article 3 a) of the notice says: "The candidate must provide a signed attachment of the leading partner of the named project as evidence hereto". If the applicant in a certain reference implemented the mentioned project in 100% proportion, do you need this declaration?	No, if the applicant was the leading partner of the named project.