



EUROPEAN UNION

DELEGATION TO THE REPUBLIC OF SERBIA

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CONTRACTING AUTHORITY'S CLARIFICATIONS No. 1

**TECHNICAL ASSISTANCE TO THE CUSTOMS ADMINISTRATION OF
SERBIA TO SUPPORT THE MODERNISATION OF THE CUSTOMS SYSTEM**

Publication ref.: EuropeAid/131367/C/SER/RS

Tender no: 11SER01/05/11

No	Question	Answer
1.	<p>According to the selection criteria (article 21), tenderers are requested to present at least two software development projects, covering at least two areas of expertise as in article 7 (NCTS-compatible national transit application and guarantee management system, implementation of an IT risk management system based on risk management and methodology, implementation of an authorised economic operator system and performance of a feasibility study in order to set priorities to improve the Serbian customs control procedures and methodology applicable to transport by rail, river and air) of a budget higher than 1.5 MEur. This requirement is not compliant with the Financial Regulation and applicable public procurement law and is very restrictive for the following reasons:</p> <p>a) Several "software development projects" are executed within larger integration or framework contracts that include the delivery of application software (software development), infrastructure (hardware and network), system software, integration with third party applications, etc. In such projects it is very difficult to isolate the software development part (in budget terms). Even in cases that the software development budget is visible in the Contract (financial offer), it only reflects how the contractor allocated the budget, usually based on its marketing/sales policy, and not the real value of the application software. As an example, and in order to demonstrate the deficiency of the selection criteria, a 1.5 Meur project that includes an NCTS application, hardware and network infrastructure, system software, and a general ledger application is (according to the actual selection criteria) eligible; even if the pure NCTS application development part is 200 KEur. On the other hand, a 1.3 Meur pure application development NCTS project would <u>not</u> be eligible. Thus, a pure software development project is penalised, even if the net budget corresponding to software development activity is higher than the corresponding application development activity of a mixed-type project with a budget exceeding 1.5 MEur.</p>	<p>Please see the forthcoming corrigendum no. 1 to the Procurement Notice, which amends sections 7 (Contract Description), 21 (Selection Criteria), 23 (Deadline for receipt of applications) and 30 (Additional Information)</p> <p>a.1) Please see the forthcoming corrigendum no. 1 to the Procurement Notice.</p>

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	<p>b) Other projects (either integration or pure software development) include the delivery of several vertical applications. In such cases, the combined software development value of the contract is much higher than the value of a contract which includes only one vertical application. As an example, and in order to demonstrate the deficiency of the selection criteria a 1.6 MEur project that includes NCTS, ECS and ICS is eligible. A 1.3 MEur project that includes only an NCTS application, is <u>not</u> eligible, although in the latter case the budget of NCTS-related application development is much higher than the average of the three applications in the former case.</p> <p>c) According to our experience and similar to (b), in most EU Customs projects that involve the development of only one Customs vertical application, their price is well below 1.5 MEur. Although such projects are a direct match as regards the business domain, for the selection criterion they are not eligible due to the 1.5 MEur threshold.</p> <p>It is our understanding that through the specific selection criterion the contracting authority is trying to ensure:</p> <p>a) The tenderer's understanding of the specific business domain of article 7 (NCTS-compatible national transit application and guarantee management system, implementation of an IT risk management system based on risk management and methodology, implementation of an authorised economic operator system). We reasonably believe that a selection criterion that asks for at least two projects that cover at least two of the areas of expertise as in article 7 without unduly high budget limitations adequately demonstrate the tenderer's understanding of the specific areas of expertise.</p> <p>b) The tenderer's ability to implement Customs related projects of similar complexity and budget. We reasonably believe that a selection criterion that asks for at least two Customs related projects (i.e. without restriction to the areas of expertise as in article 7), with at least 1.5 MEur budget, adequately demonstrate the tenderer's ability to implement projects of similar complexity and budget.</p> <p>Consequently, we would like to kindly ask you to modify the selection criteria, so that the threshold of 1.5 MEur applies to the field of Customs and additionally to at least two related projects (article 7 business domain) independently of budget. Such a criterion will open the market in question to all European IT firms which offer their services all over the EU. If the selection criteria remain unchanged, free and fair competition will</p>	<p>b.1) Please see the forthcoming corrigendum no. 1 to the Procurement Notice.</p> <p>c.1) Please see the forthcoming corrigendum no. 1 to the Procurement Notice.</p> <p>a.2) Please see the forthcoming corrigendum no. 1 to the Procurement Notice</p> <p>b.2) Please see the forthcoming corrigendum no. 1 to the Procurement Notice</p> <p>Please see the forthcoming corrigendum no. 1 to the Procurement Notice.</p>

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	<p>be dramatically reduced, limiting the ability of IT firms to participate in the procedure. Moreover, the procurement procedure will, in such an unfortunate case, sponsor a very limited number of IT firms (to the best of our knowledge only two), who happen to have implemented very expensive NCTS projects under EuropeAid. This cannot possibly be in the spirit of the Financial Regulation and applicable law. We kindly ask the Commission to adapt the tender specifications accordingly, so that free competition is made possible.</p>	
2.	<p>With respect to the selection and award criteria for the above mentioned service procurement notice, point 21.3).1. Technical capacity of candidate: "1. the candidate has completed (i.e. where the final report has been approved) at least 2 software development projects (the candidate's proportion at or greater than 1 500 000 EUR for services in each project) in at least 2 of the required areas of expertise described in Article 7, within the 5-year period prior to the closing date of submission of the application. These projects must cover all of the following activities: business modelling, analysis and design, implementation and testing, deployment, project management and quality assurance;" Please confirm we can cumulate 2 or more separate contracts in the requested area in order to reach the amount of 1 500 000 Euro, as mentioned in your requirement.</p>	<p>Please see the forthcoming corrigendum no. 1 to the Procurement Notice.</p>