

**Clarifications during tendering
F-SU-18-T01**

**Production and delivery of customised promotional materials for
FRA**

Questions and Answers II

Vienna, the 4.10.18
Ref: 2018-outgoing- 001518

Reference: Open call for tender F-SU-18-T01 Production and delivery of customised promotional materials for FRA

Subject: Clarifications during tendering

Dear Sir/Madam,

We received questions of general interest from the tenderers. Please find herewith the answer to these questions.

Yours sincerely,



Michael O'Flaherty
Director

Clarifications during tendering F-SU-18-T01

Production and delivery of customised promotional materials for FRA

Questions and Answers II

Question 3:

Regarding the contractor's catalogue mentioned on the form E.1, in the second column, the reference in the contractor's catalogue is demanded. Do you refer to the reference of the products of the catalogue that included just the ten (10) products requested for this call for tender, or do you mean the reference on our general online/printed annual catalogue?

Answer 3:

In Form E.1 you need to provide the reference to the online/general catalogue that will be used during the execution of the contract and that has to be included together with your offer, as requested in Form F.1.

Question 4:

In Form C.1 it is demanded that financial statements in the form of profit and loss accounts as well as balance sheets for the last two financial years are attached.

I'd like to know a) what content these financial statements have to contain exactly and b) what other means of proof for the sufficient economic and financial capacity are possible.

If possible an answer in German would be appreciated.

Answer 4:

As described in section 20.2.1 of Annex A – Tender Specifications, the financial statements ("Jahresabschluss") comprise the balance sheet ("Bilanz") and the profit and loss accounts ("Gewinn- und Verlustrechnung") and are necessary to establish whether or not the tenderer has the minimum economic and financial capacity to perform the contract, namely, an annual average turnover ("durchschnittlicher Jahresumsatz") of at least 50,000 EUR for the last 2 financial years.

Should you be unable to provide any financial statements or your company is not required, under the law of the country where it is established, to present financial statements, then you can prove your financial capacity (in this case, that your turnover ("Umsatz") is at least 50,000 EUR) by any other means, like your tax declaration ("Steuererklärung") or any other relevant document in accordance with the laws applicable in your country.

IMPORTANT INFORMATION

An amendment to Annex C- Standard Submission Form is necessary in order to introduce changes in Form B1 - Declaration on honour on exclusion criteria and selection criteria to align it with the provisions of the Financial Regulation 2018/1046 of 18 July 2018 on the financial rules applicable to the general budget of the Union, repealing regulation No 966/2012.

A revised version of Annex C - Standard Submission Form, included the amended Form B.1 will be published together with these clarifications on the contracting authority's website <https://fra.europa.eu/en/call-for-tender/2018/production-and-delivery-customised-promotional-materials>.

PLEASE USE THE AMENDED VERSION OF FORM B.1 WHEN SUBMITTING YOUR TENDER.

Please also be informed that, due to the above change, the deadline for submission of tenders will be extended by one week, until **17/10/2018**. A corrigendum to the contract notice will be published in the Official Journal and on FRA's website in the coming days.

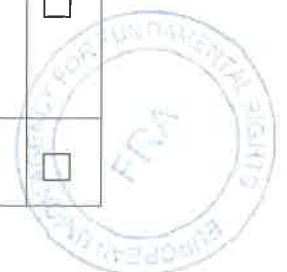
AMENDED

**FORM B.1 - DECLARATION ON HONOUR ON EXCLUSION CRITERIA AND
SELECTION CRITERIA**

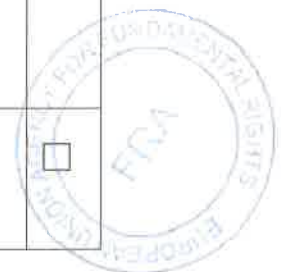
The undersigned [*insert name of the signatory of this form*], representing:

<p>(<i>only for natural persons</i>) himself or herself</p>	<p>(<i>only for legal persons</i>) the following legal person:</p>
<p>ID or passport number:</p> <p>(‘the person’)</p>	<p>Full official name: Official legal form: Statutory registration number: Full official address: VAT registration number:</p> <p>(‘the person’)</p>

1. declares whether the above-mentioned person is in one of the following situations or not:		
SITUATION OF EXCLUSION CONCERNING THE PERSON	YES	NO
a) it is bankrupt, subject to insolvency or winding up procedures, its assets are being administered by a liquidator or by a court, it is in an arrangement with creditors, its business activities are suspended or it is in any analogous situation arising from a similar procedure provided for under national legislation or regulations;	<input type="checkbox"/>	<input type="checkbox"/>
b) it has been established by a final judgement or a final administrative decision that the person is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the applicable law	<input type="checkbox"/>	<input type="checkbox"/>
c) it has been established by a final judgement or a final administrative decision that the person is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the person belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:		
i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract or an agreement;	<input type="checkbox"/>	<input type="checkbox"/>
ii) entering into agreement with other persons with the aim of distorting competition;	<input type="checkbox"/>	<input type="checkbox"/>



iii) violating intellectual property rights	<input type="checkbox"/>	<input type="checkbox"/>
iv) attempting to influence the decision-making process of the contracting authority during the award procedure	<input type="checkbox"/>	<input type="checkbox"/>
v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure	<input type="checkbox"/>	<input type="checkbox"/>
d) (d) it has been established by a final judgement that the person is guilty of the following:		
i) fraud, within the meaning of Article 3 of Directive (EU) 2017/1371 and Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995	<input type="checkbox"/>	<input type="checkbox"/>
ii) corruption, as defined in Article 4(2) of Directive (EU) 2017/1371 and Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, and conduct referred to in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the applicable law	<input type="checkbox"/>	<input type="checkbox"/>
iii) conduct related to a criminal organisation, as referred to in Article 2 of Council Framework Decision 2008/841/JHA	<input type="checkbox"/>	<input type="checkbox"/>
iv) money laundering or terrorist financing, within the meaning of Article 1(3), (4) and (5) of Directive (EU) 2015/849 of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision	<input type="checkbox"/>	<input type="checkbox"/>
vi) child labour or other offences concerning trafficking in human beings as referred to in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;	<input type="checkbox"/>	<input type="checkbox"/>
e) it has shown significant deficiencies in complying with the main obligations in the performance of a contract or an agreement financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by a contracting authority, the European Anti-Fraud Office (OLAF) or the Court of Auditors	<input type="checkbox"/>	<input type="checkbox"/>
f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95	<input type="checkbox"/>	<input type="checkbox"/>



<p>g) it has been established by a final judgment or final administrative decision that the person has created an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations in the jurisdiction of its registered office, central administration or principal place of business.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>h) (<i>only for legal persons</i>) it has been established by a final judgment or final administrative decision that the person has been created with the intent provided for in point (g).</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>i) for the situations referred to in points (c) to (h) above the person is subject to:</p> <ul style="list-style-type: none"> i. facts established in the context of audits or investigations carried out by the European Public Prosecutor's Office after its establishment, the Court of Auditors, the European Anti-Fraud Office (OLAF) or the internal auditor, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body; ii. non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics; iii. facts referred to in decisions of entities or persons being entrusted with EU budget implementation tasks; iv. information transmitted by Member States implementing Union funds; v. decisions of the Commission relating to the infringement of Union competition law or of a national competent authority relating to the infringement of Union or national competition law; or vi. decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body. 	<input type="checkbox"/>	<input type="checkbox"/>



II – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS WITH POWER OF REPRESENTATION, DECISION-MAKING OR CONTROL OVER THE LEGAL PERSON AND BENEFICIAL OWNERS

Not applicable to natural persons, Member States and local authorities

2. The signatory declares that a natural or legal person who is a member of the administrative, management or supervisory body of the above-mentioned legal person, or who has powers of representation, decision or control with regard to the above-mentioned legal person (this covers e.g. company directors, members of management or supervisory bodies, and cases where one natural or legal person holds a majority of shares), or a beneficial owner of the person (as referred to in point 6 of article 3 of Directive (EU) No 2015/849) is in one of the following situations:	YES	NO	N/A
Situation (c) above (grave professional misconduct)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (d) above (fraud, corruption or other criminal offence)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (e) above (significant deficiencies in performance of a contract)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (f) above (irregularity)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (g) above (creation of an entity with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (h) above (person created with the intent to circumvent legal obligations)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

III – SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON

3. declares that a natural or legal person that assumes unlimited liability for the debts of the above-mentioned legal person is in one of the following situations:	YES	NO	N/A
Situation (a) above (bankruptcy)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Situation (b) above (breach in payment of taxes or social security contributions)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV – GROUNDS FOR REJECTION FROM THIS PROCEDURE

4. declares that the above-mentioned person:	YES	NO
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Was previously involved in the preparation of the procurement documents used in this award procedure, where this entailed a breach of the principle of equality of treatment including distortion of competition that cannot be remedied otherwise.	<input type="checkbox"/>	<input type="checkbox"/>
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V – REMEDIAL MEASURES

If the person declares one of the situations of exclusion listed above, it must indicate measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. This may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines or of any taxes or social security contributions. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to this declaration. This does not apply for situations referred in point (d) of this declaration.

VI – EVIDENCE UPON REQUEST

Upon request and within the time limit set by the contracting authority the person must provide information on natural or legal persons that are members of the administrative, management or supervisory body or that have powers of representation, decision or control, including legal and natural persons within the ownership and control structure and beneficial owners.

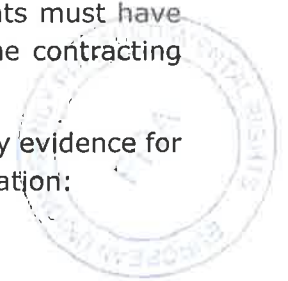
It must also provide the following evidence concerning the person itself and the natural or legal persons on whose capacity the person intends to rely, or a subcontractor and concerning the natural or legal persons which assume unlimited liability for the debts of the person:

For situations described in (a), (c), (d), (f), (g) and (h), production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.

For the situation described in point (b), production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the person is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The person is not required to submit the evidence if it has already been submitted for another award procedure of the same contracting authority. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:



Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

VII – SELECTION CRITERIA

5. declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender specifications:	YES	NO	N/A
(a) It fulfills the applicable economic and financial criteria indicated in section 20.2.1 of Annex A - Tender Specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable technical and professional criteria indicated in section 20.2.2 of Annex A - Tender Specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. if the above-mentioned person is the sole tenderer or the leader in case of joint tender , declares that:	YES	NO	N/A
(c) the tenderer, including all members of the group in case of joint tender and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VII – EVIDENCE FOR SELECTION

The signatory declares that the above-mentioned person is able to provide the necessary supporting documents listed in the relevant sections of the tender specifications and which are not available electronically upon request and without delay.

The person is not required to submit the evidence if it has already been submitted for another procurement procedure of the same contracting authority¹. The documents must have been issued no more than one year before the date of their request by the contracting authority and must still be valid at that date.

The signatory declares that the person has already provided the documentary evidence for a previous procedure and confirms that there has been no change in its situation:

Document	Full reference to previous procedure
<i>Insert as many lines as necessary.</i>	

The above-mentioned person may be subject to rejection from this procedure and to administrative sanctions (exclusion or financial penalty) if any of the

¹ The same institution or agency.



declarations or information provided as a condition for participating in this procedure prove to be false.

Full name:..... Date:.....

Signature:..... Stamp:.....

