

**Clarifications during tendering**  
**F-SE-17-T11**  
**FRANET- Data collection and research services on fundamental**  
**rights issues**  
**Questions and Answers IV**

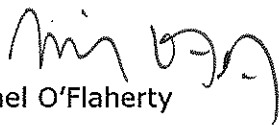
Vienna, the 17/10/2017  
Ref: 2017-outgoing-001597

**Reference:** Open call for tender F-SE-17-T11- FRANET- Data collection and research services on fundamental rights issues  
**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-SE-17-T11**

### **FRANET- Data collection and research services on fundamental rights issues**

#### **Questions and Answers IV**

##### **Question 21:**

Please find below a question in order to clarify the nature of the contract:

Are individual experts who will form part of the tenderer's team as contracted "consultants" (and not permanently employed by the tenderer) to be considered as "subcontractors"? The work relationship between the tenderer and such individual experts will be based upon a "framework consultant contract" lasting the duration of the tenderer's contract with FRA.

##### **Answer 21:**

The answer to your question is "yes". For subcontracting please see Section 13 of Annex A – Tender Specifications, and Annex C – Standard Submission Form (Form A.5 and Form A.6).

##### **Question 22:**

Is a non-governmental organization eligible to apply for the tender call F-SE-17-T11, since the executive director of the organization is recently appointed as a deputy observer in the Management Board of the FRA?  
Will this be considered as conflict of interest?

##### **Answer 22:**

The answer to your question is "yes" because observers / alternate observers in the Management Board – among others - have the same access to privileged information as members / alternate members of the FRA Management Board. Members / alternate members of the of the FRA Management Board will be in a situation of potential conflict of interest to engage in occupational activities with entities having contractual relationships with the Agency during, or up to one year after the term of their mandate, as per the provisions of article 10 of the Rules governing conflict of interest in the Management Board and Scientific Committee of the European Union Agency for Fundamental Rights. In analogy the above-said applies also to observers, the particular situation of the observers being non-voting members will be taken into account while assessing the conflict of interest and finding mitigating measures as laid down in the Management Board Decision No 2014/14 on Rules governing conflict of interest in the Management Board and

available on the FRA website: <http://fra.europa.eu/en/about-fra/structure/management-board>

**Question 23:**

.....Do we understand correctly that the tender has to consist of the following:

- 1) 1 outer envelope containing 1 inner envelop. The inner envelope containing 3 envelopes: 1 envelope containing the 'Administrative Documents', on paper, 1 original and 2 copies, and 1 USB stick with a digital version of the administrative documents; 1 envelope containing the 'Technical Offer', on paper, 1 original and 2 copies, and 1 USB stick with a digital version of the technical offer; 1 envelope containing the 'Financial offer', on paper, 1 original and 2 copies, and 1 USB stick with a digital version of the financial offer?
- 2) Or does it suffice to include 1 USB stick with the digital version of all 3 parts of the tender?
- 3) If so, in which envelope should this USB stick be placed?

**Answer 23**

- 1) The answer to your question is "yes". Please see also Section 2 of the invitation to tender.
- 2) No, the digital version of the administrative, technical and financial offer should be on separate USB sticks.
- 3) Please see answer 23 2).

**Question 24:**

In the standard submission form, under D.1 it is mentioned: "Please note that all CVs and all publications of the expert(s) may be provided as a text-searchable format on data storage devices such as USB flash drives (i.e. memory sticks) sorted in alphabetical order by the name of the proposed expert and separated by lot." – Does this mean that the CV's and publications do not have to be provided on paper, but only in digital form?

**Answer 24:**

You can submit the CVs and all publications either in hard copies and or in a text-searchable format on data storage devices such as USB flash drives.

**Question 25:**

PART B & C – EXCLUSION CRITERIA AND SELECTION CRITERIA.

Part VI of the above-mentioned document contains the following section:

"VI – Evidence upon request

Upon request and within the time limit set by the contracting authority the person must provide information on the persons that are members of the administrative, management or supervisory body. It must also provide the following evidence

concerning the person itself and concerning the natural or legal persons which assume unlimited liability for the debt of the person:

For situations described in (a), (c), (d) or (f), 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 (a) or (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."

We would like to inquire whether this fragment shall be understood to mean that the tenderer (the person) has to provide the Contracting Authority with the documents indicated in this section only upon an explicit request from the Contracting Authority, formulated after the submission of a tender application by the tenderer.

**Answer 25:**

The answer to your question is "yes". The successful tenderer must provide the documents mentioned as supporting evidence in the declaration on honour before signature of the contract and within a deadline given by the contracting authority. This requirement applies to each member of the group in case of joint tender and to all subcontractors whose share of the contract is above 10 % and whose capacity is necessary to fulfil the selection criteria.

The obligation to submit supporting evidence does not apply to international organisations.

**Question 26:**

- 1) Is there a maximum of how many senior experts we can present in the proposed team in the Technical Offer?
- 2) Will alternate Members of the Management Board be deemed to have a conflict of interests if they join the proposed team in one of the lots?
- 3) In the Financial Offer, form F.1, under "Daily rate per profile in Euro (price in Euro/day)" the terms "extra-muros" and "intra-muros" are applied. Could you please clarify these terms and what information should be provided in the columns below?

- 4) If language editing is carried out outside our organisation using consultants, and there is no staff profile fulfilling the criteria for Language Editor, should we enter into an agreement of subcontracting or would it be sufficient to indicate in the Technical Offer that language editing is carried outside the organisation using consultants?

**Answer 26:**

- 1) The answer to your question is "no", there is no maximum of how many experts per profile the tenderer must present. For further information regarding the project team please see Section 8 of Annex A.1 - Technical Specifications.
- 2) The answer to your question is "yes". Please see also Answer 22 of the present document.
- 3) As explained in footnote 9 and 10 on page 46 of Annex C - Standard Submission Form the term "Extra-muros" refers to work executed at the contractor's place or any other place indicated in Annex A.1 Technical Specifications.

In Form F.1 - Financial Offer, under the column "extra-muros" tenderers should give the daily rate per profile for work that is executed at the contractor's place or any other place indicated in Annex A.1 Technical Specifications.

The term "Intra-muros" refers to the participation in meetings at the contracting authority's premises.

In Form F.1 - Financial Offer, in the column "Intramuros 1<sup>st</sup> day" tenderers should give one-single price, irrespective of the profile of the person who will attend the meeting at the contracting authority's premises. The price must be inclusive of all costs and expenses, directly and indirectly connected with the services to be provided and including all costs (like overheads, travel expenses and subsistence allowance).

In the column "Intramuros subsequent day" tenderers should give one-single price, irrespective of the profile of the person who will attend the meeting for the subsequent day of participation in a meeting at the contracting authority's premises.

- 4) Any person that is not employed by your organisation or by your partner organisation(s) - will be regarded as subcontractor (regardless what kind of contractual agreement might have been concluded between your organisation and a third party). However, the minimum requirements for the Language Editor - as set out in Section 8.1 (for lots 1-29) and in Section 8.2 for lot 30 - must be met also by subcontractors.

For further information regarding subcontracting please see Section 13 of Annex A - Tender Specifications, and Annex C - Standard Submission Form (Form A.5 and Form A.6).

**Question 27:**

Please clarify how Proficiency in English (level C1) should be demonstrated. Is there any request for a specific English Language certificate? Can an expert with a university diploma in UK be considered as having a C1 proficiency in English?

**Answer 27**

There is no request for a specific English Language certificate.

Tenderers are requested to specify in the selection grid how they are meeting the requirements of English language knowledge.

An expert with a university diploma in UK would be considered as having a C1 proficiency in English.