

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

Vienna, the 18/10/2017  
Ref: 2017-outgoing-001601

**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 V

**Question 28:**

Currently, Form A.6 - Letter of intent for subcontractors indicates that "in case the contract is awarded to xxx, the company/organisation that he/she represents, intends to collaborate in the execution of the tasks subject to this call for tender, in accordance with the technical specifications and the tender to which the present form is annexed, and is available to carry out its part of the tasks during the period foreseen for the execution of the contract."

If individual experts, contracted by the tenderer on a consultancy basis (and not as in-house employees) are to be treated as subcontractors, is it possible to change the wording of this sentence to indicate that "in case the contract is awarded to xxx, the undersigned intends to collaborate in the execution of the tasks subject to this call for tender, {...}." to clarify that the person would act in his/her own capacity, and not on behalf of a company/organisation?

**Answer 28**

The answer to your question is "yes".

**Question 29:**

Our question relates to a provision in Annex A, second bullet point under 13. Subcontracting: 'Where the tenderer relies on the economic, financial, technical and professional capacity of the identified subcontractor(s) to meet the selection criteria, subcontractors shall be treated as if they were partners in a consortium or a group of companies for the purposes of the evaluation of the selection criteria, and therefore, they shall provide proof of economic, financial, technical and professional capacity as well.'

If the tenderer subcontracts a natural person to fill one of the project team profiles and is, as such, dependent on the person's technical and professional capacity, but not their economic or financial capacity, does the natural person need to prove economic and financial capacity? If so, how is this to be done? Forms C.1. and C.2. seem applicable only to legal persons rather than natural persons and as such no form for a natural person to prove economic and financial capacity is included.

**Answer 29**

The answer to your question is "no", since you are not relying on this person's financial and economic capacity.

For further information please see also Section 19 and Section 25 of Annex A – Tender Specifications.

**Question 30:**

In Annex A, page 7, under section 13. Subcontracting, it is stated that "Subcontractor(s) should select the 'N/A' option in their individual declaration when the tenderer does not rely on their economic, financial, technical and professional capacity."

As we understand the documents, subcontractor(s), when the tenderer do not rely on the subcontractor(s)' economic, financial, technical and professional capacity, and the intended share is below 10 %, are to fill out form A.6, "Letter of intent for subcontractors". In this form, there is no 'N/A' option.

Which document does FRA refer to in Annex A, page 7, when stating that subcontractor(s) should select the 'N/A' option?

**Answer 30**

The term "individual declaration" refers to FORM B.1 - DECLARATION ON HONOUR ON EXCLUSION CRITERIA AND SELECTION CRITERIA.

**Question 31:**

- 1) Is there a maximum of how many senior experts we can present in the proposed team in the Technical Offer? (asked on 3 October)
- 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? (asked on 3 October)
- 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? (asked on 3 October)
- 4) As regards Form B.1, III "SITUATIONS OF EXCLUSION CONCERNING NATURAL OR LEGAL PERSONS ASSUMING UNLIMITED LIABILITY FOR THE DEBTS OF THE LEGAL PERSON", could you please clarify if this part should be filled out in all situations where the applicant for the tender is a legal person? (asked on 6 October)

**Answer 31**

- 1) Please see answer 26 1) of Q&A IV.
- 2) Please see answer 26 2) of Q&A IV.
- 3) Please see answer 26 3) of Q&A IV.
- 4) This part should be filled-in only in cases where the natural or legal person assumes unlimited liability for the debts of the legal person.

**Question 32:**

.....is it possible to submit some documents that must be signed (e.g. selection grids) with a digital signature? Considering that a digital copy of the complete tender must be submitted too, it can be checked the authenticity of these signatures there.

**Answer 32**

The answer to your question is "yes".

**Question 33:**

Since it is not specified in the tender specifications otherwise, please confirm that the legal documents (register of companies, articles of association, VAT registration, etc.) we should provide along with the "Legal Entity Form" should be submitted in the national language.

**Answer 33**

The answer to your question is "yes".

**Question 34:**

- 1) ANNEX A - TENDER SPECIFICATIONS – page 20 – states that "Bank Identification Form filled in and signed by an authorised representative of the tenderer and its banker." But the form "FINANCIAL IDENTIFICATION" says "It

is preferable to attach a copy of RECENT bank statement. (...) With an attached statement, the stamp of the bank and the signature of the bank's representative are not required. (...)"

The bank statement is enough or is it necessary the signature of the banker?

- 2) The "Invitation to tender" states that the offer needs to be submitted in data storage device such as USB flash drives: "The digital versions of the offers must be placed together with the paper versions inside the corresponding sealed envelope".

Is it enough to include 1 USB flash drive in each envelope, or is it necessary to include 1 original and 2 copies (i.e. 3 in each envelope)?

**Answer 34**

- 1) Either you have the Bank Identification Form filled in and signed by an authorised representative of the tenderer and its banker **or** you have the Bank Identification Form filled in and signed by an authorised representative of the tenderer and you attach a copy of a recent bank statement (on which the IBAN number must be displayed).
- 2) Please see also answer 23 of "Question and Answers IV".

**Question 35**

With regard to the scientific publications of experts, the technical specifications say 'e.g. articles in academic journals or books or peer reviewed books by academic publishers'. Would final reports of research projects, or reports to government bodies, national human rights institutions or EU bodies be acceptable? Or are only academic publications eligible?

**Answer 35**

The answer is yes, final reports of research projects, or reports to government bodies, national human rights institutions or EU bodies are acceptable.

**Question 36:**

Quote

In pages 17-18 of Annex C-Standard Submission form, the following table appears, for completion by the tenderers:

**VII – SELECTION CRITERIA**

1. 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 has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section [insert] of the tender specifications;			
(b) It fulfills the applicable economic and financial criteria indicated in section [insert] of the tender specifications;			
(c) It fulfills the applicable technical and professional criteria indicated in section [insert] of the tender specifications.			

Unquote.

You subsequently replied to our enquiry stating that (a) should be deleted from the form and that you would be uploading a revised version of the form which you did. However the updated version still contains the above paragraph (unchanged). Please confirm that we can amend the form ourselves as follows:

**SELECTION CRITERIA**

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
<del>(a) It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section [insert] of the tender specifications;</del>			
(a) It fulfills the applicable economic and financial criteria indicated in section 19.2.1 of the tender specifications;			
(b) It fulfills the applicable technical and professional criteria indicated in section 19.2.2 of the tender specifications.			

**Answer 36**

The answer to your question is "yes". Form B.1, Section VII Selection Criteria should read as set out below:

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 19.2.1 of the tender specifications;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) It fulfills the applicable technical and professional criteria indicated in section 19.2.2 of the tender specifications.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Question 37:**

I would like to ask for a clarification considering From A.6 – letter of intent for subcontractors (Annex C – Standard Submission Form)

In our case there is no consortium. Our Institute as a tenderer intends to subcontract experts as individual natural persons only, none of them will be representing any company/organisation.

In other words we intent to work with them strictly on a basis of individual subcontracts. For example, we intent to subcontract an expert working full time at the Constitutional court, who is in no way »representing« the Constitutional court here as she intents to work for us as subcontractor in her spare time.

The above mentioned form A.6 – Letter of intent for subcontractors however explicitly demands to fill out the name of »the company/organisation that he/she represents...«. The form A.6 that we needed to fill out in our previous application in 2013 did not demand this explicit reference to »the company/organisation.

**Answer 37**

Please see answer 28 of the present document.

**Question 38:**

.....In reference to tender F-SE-17-T11, we would like to ask for clarifications concerning tender documents, namely Legal Entities Form. The form requires providing documents confirming the registration of the organization and assigning the tax number. We would like to ask whether the copies of these documents in a national language will be sufficient or should these copies be sworn-translated into English?

**Answer 38**

Please see answer 5 of Questions and Answers I.

**Question 39:**

May we kindly ask which national languages should be taken into consideration for the Financial Offer for Belgium (Lot 1)?  
(In other words, should we also be taking German into consideration for the pricing of this lot?)

**Answer 39**

For the financial offer for Belgium French and Dutch should be the languages that you should take into consideration.