

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

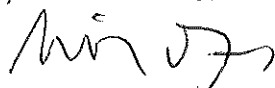
Vienna, the 20/10/17  
Ref: 2017-outgoing- 001622

**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 VI**

#### **Question 40:**

In your first clarification document, your reply to question 4 states that persons who are employed/contracted by the contractor are considered part of the team, and no subcontractors. In the fourth clarification document, your reply to question 21 states that persons who are not permanently employed but contracted as to be considered subcontractors.

Could you clarify this difference, possibly by clarifying what you understand by 'employed/contracted' in your first clarification, if the latter term excludes individuals (not companies) who are contracted consultants/service-providers?

#### **Answer 40**

Subcontracting is the situation where a contract has been or is to be established between the contracting authority and a contractor only and where the contractor or candidate/tenderer, in order to carry out that contract, enters into legal commitments with other entities for performing parts of the contract. The contracting authority has no direct legal commitment with the subcontractor(s). Examples of subcontractors include contractors' suppliers or free-lance experts. In practice, any third party involved in the contract implementation which has no legal link with the contracting authority but with the contractor will be considered as subcontractor (e.g. any other company which does not participate in the contract execution but provides financial capacity).

#### **Question 41:**

Regarding the open call for tender No F-SE-17-T11 we would like to ask you the following questions:

1. a) How can we calculate the percentage of "intended share of the contract" that might be allocated to subcontractors?  
b) The limit of 10% refers to the percentage of the work to be carried out by the subcontractors or is it a financial measure calculated on the total amount awarded?  
c) How can the percentage be calculated given that the exact services to be requested are not a priori defined?
2. Are the members of the Board of Directors of a consortium partner, who are not employees or contracted, considered as subcontractors?
3. Please confirm that regarding Form A.5 – STATEMENT OF SUBCONTRACTING, in case we intent to subcontract less than 10% of the Contract, we should tick the box with answer "NO" and only provide Form A.6 – LETTER OF INTENT FOR SUBCONTRACTORS.
4. Can we provide Form A.6 – LETTER OF INTENT FOR SUBCONTRACTORS in a photocopy and not the original signed ones?
5. Given that tender specifications do not mention otherwise, please confirm that the legal documents (register of companies, articles of association, VAT registration, etc.) to be provided along with the "Legal Entity Form" can be submitted in the national language.

6. Please clarify whether individual experts who at the moment of submission of the tender have a service agreement or contract with a specific consortium partner are considered employed/contracted and not as subcontractors.

**Answer 41**

1. a) The percentage of the intended subcontracting can only be estimated.  
b) The limit of 10% refers to the percentage of the work to be carried out by the subcontractors. Please note that the exclusion criteria of all identified subcontractors whose intended share of the contract is above 10% will be assessed. The declaration of honour on exclusion criteria and selection criteria included in Annex C, duly signed and dated, stating that the subcontractor is not in one of the exclusion situations, must be provided by each identified subcontractor. For further information regarding subcontracting please see also Section 13 of Annex A – Tender Specifications.
2. The answer to your question is no, they are not regarded as subcontractors.
3. In case you have no intention to subcontract all or part of the performance of the Contract then you must tick the box "NO".  
In case you intend to subcontract all or part of the performance of the Contract then you must tick the box "YES". Furthermore, in column "Percentage of the contract" you must indicate the percentage you intend to subcontract.  
In case of subcontracting you must also provide Form A.6 – Letter Of Intent For Subcontractors.
4. The answer to your question is yes. However, the Agency reserves the right to request the original documents at a later stage.
5. The answer to your question is yes.
6. Please see answer 40 of the present document.

**Question 42:**

- 1) Question in regard to the documentation concerning subcontractors (also related to your answer to question no 30), which is still confusing: If we are subcontracting the Language Editor and a Legal Expert, thus relying on subcontractors' professional capacity to fulfill the tender requirements but not on the subcontractors' economic, financial, or technical capacity (none of his/her work is included in the List of Principal Services), do the subcontractors' need to sign the Declaration of Honour?
- 2) Question in regard to the Financial Offer: Is it possible that there is a mistake in the Financial Offer template's second part on the daily rate per profile? Under Intra-muros it says N/A only for the Project Manager and Senior Expert but in Annex A – Tender specifications under Intra-muros N/A is also for the Senior Expert, other Experts, Interviewer and Language Editor. Considering your explanations on the meaning of Intra-muros in your answer for question no 26, the Annex A version seems the right one, but we wanted to confirm if we have understood correctly.

**Answer 42**

- 1) Please see Section 13 second indent of the fourth paragraph of Annex A – Tender Specifications.
- 2) In the financial offer template – regardless the lot - tenderers should give under the column "Intra-muros", point 4.7 "Participation in meeting(s) at FRA" the daily rate for one person's (regardless the profile) participation in a meeting at the FRA.

Under point 4.7a) "Intramuros 1<sup>st</sup> day" should 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 subsistency allowance).

Under point 4.7b) "Intramuros subsequent day" tenderers should give the daily rate for the subsequent day.

**Question 43**

It is stated that all CVs and all publications of the expert(s) should 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. Do you refer to the first name or last name of the expert?

**Answer 43**

The alphabetical order by name refers to the family name/surname.

**Question 44:**

We would like to ask for a clarification on the qualifications of the Senior Expert; Legal Expert(s) and Expert(s) in social sciences. Namely, it is stated that they need to have at least two scientific publications in any EU language. In case we are applying for the lot of a candidate country, do Macedonian or Albanian language apply as well?

**Answer 44**

In case of applications for lot Fyrom scientific publications in Macedonian or Albanian language will be accepted, provided an abstract in English is provided.