



Republic of Serbia  
**MINISTRY OF FINANCE**  
**Department for Contracting and**  
**Financing of EU Funded Programmes**  
**(CFCU)**  
25/10/2019, Belgrade

**CONTRACTING AUTHORITY'S CLARIFICATIONS No. 1**

**The modernization and rehabilitation of the railway section Niš - Brestovac**

**Publication ref.: EuropeAid/140002/IH/WKS/RS**

**Note: The Contracting Authority intends to postpone the deadline for submission of offers and to publish Corrigenda and Clarification No.2 in the upcoming period. Please regularly check official websites:**

**<https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?do=publi.welcome> and <http://www.cfcu.gov.rs/tenderi.php>.**

<b>Q No.</b>	<b>Question</b>	<b>Answer</b>
<b>1.</b>	<p>(U prilogu vam dostavljam ovlasćenje za predstavnika XXXX, koji bi u toku sutrasnjeg dana preuzeo dokumentaciju u vezi sa tenderom Modernizacija i rehabilitacija deonice pruge Nis – Brestovac.</p> <p>Molimo vas da potvrdite da je za preuzimanje tehnicke i opste dokumentacije gorepomenutog tendera dovoljno priloženo ovlasćenje.)</p> <p><i>Unofficial translation:</i> Attached is authorization for representative of <u>XXXX</u>, which would obtain documentation related to tender: “The modernization and rehabilitation of the railway section Niš – Brestovac” tomorrow.</p> <p>Please confirm that for obtaining technical and general documentation regarding above-mentioned tender attached authorization is sufficient.</p>	<p>In accordance with section 18 of Contract Notice (CN) the tender dossier is available from Contracting Authority (CFCU) on CD-ROM, at the following address: Government of the Republic of Serbia, The Ministry of Finance Department for Contracting and Financing of EU Funded Programmes (CFCU) 3-5 Sremska St., VII floor, Office 701, 11000 Belgrade, Republic of Serbia, free of charge, which excludes courier delivery. Any person representing potential tenderer can obtain tender dossier at premises of the Contracting Authority, free of charge. No authorization or power of attorney is needed.</p>
<b>2.</b>	<p>As you announced the tender ref. EuropeAid/140002/IH/WKS/RS today,</p>	<p>Rules On Participation In Procurement Procedures And Grants can be found in</p>

Q No.	Question	Answer
	<p>would you be so kind to clarify what you mean by “Participation is also open to international organisations.” (TERMS OF PARTICIPATION cl. 8).</p> <p>Are non-European companies are eligible for participation?</p> <p>In other words, are companies, for instance, registered in China, Russian Federation, Turkey can take part in the tender in the role of Tenderer or member of Consortium or Subcontractor?</p>	<p>the practical guide on contract procedures for European Union external action (PRAG) on the web site at <a href="http://ec.europa.eu/europeaid/rag/">http://ec.europa.eu/europeaid/rag/</a></p> <p>In PRAG Annex A2a, Part I: 2014-2020 instruments for external action, on pages 3 and 4 in Article 3) for IPA II (CIR- Article 10), you can find information about participation eligibility to all natural and legal persons for actions financed under the CIR for IPA II.</p> <p>In the same annex in appendixes related to above mentioned Article 3) for IPA II (CIR- Article 10) please find lists in line with this topic (appendix 1, appendix 2, appendix 3, appendix 11).</p>
3.	<p>We would like to obtain the tender dossier for the procedure mentioned above.</p> <p>Does a person coming need any power of attorney?</p>	<p>Please see answer to the question No.1.</p>
4.	<p>Please clarify following paragraph 3.1, Volume 1 Section 1 – Instructions to tenderers: “3.1. Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium - of tenderers) which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) no. 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable instrument under which the contract is financed (see also heading 22 of the contract notice).”</p> <p>Question 1: Is it acceptable and eligible to participate with company established in EU and owned by Chinese company?</p> <p>Question 2: Would you accept as eligible tenderer legal entity established in Serbia and owned by Chinese company?</p>	<p>Please see answer to the question No.2.</p> <p>In addition to your question 3, please note that according with Volume 1, Section 1, Instructions To Tenderers, heading 12.2, Section Capacity-providing entities: “Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them.”</p>

Q No.	Question	Answer
	<p>Please clarify section "Capacity-providing entities"</p> <p>Question 3: Would you accept as eligible tenderers registered in EU and Serbia relying on financial capacity of Mother Company from China?</p>	
5.	<p>Is it possible for the contracting authority to send to a postal address abroad via courier (our company shall pay for the cost) the tender documentation as well as the additional information specified in the notice?</p>	<p>In accordance with section 18 of CN the tender dossier is available from Contracting Authority (CFCU) on CD-ROM, at the following address:  Government of the Republic of Serbia,  The Ministry of Finance  Department for Contracting and Financing of EU Funded Programmes (CFCU)  3-5 Sremska St., VII floor, Office 701,  11000 Belgrade, Republic of Serbia,  free of charge, which excludes courier delivery.</p> <p>In order to obey the principles of equal treatment and transparency, the Contracting Authority cannot send the tender documentation to a postal address, or by any other means, i.e. electronic, express mail, etc..</p>
6.	<p>We as <u>XXXX</u> wishes to prepare a tender for your subjected Project. It's written that in contract notice "The tender dossier is available from Contracting Authority (CFCU) on CD-ROM, at the following address:.... And free of charge" so we kindly want to ask if its possible could you send us the documents via mail or Cargo? And than when we com efor the site visit we can purchase the cd-rom.</p>	<p>Please see answer to the question No.5.</p>
7.	<p>...obraćam vam se u ime kompanije XXXX, kao potencijalnog ponuđača u tenderskom postupku: "The modernization and rehabilitation of the railway section Niš - Brestovac Location - Republic of Serbia" sa zahtevom za pribavljanjem konkursne dokumentacije.  Da li je dovoljno samo poslati kurira da preuzme dokumentaciju na CD-u na</p>	<p>Please see answer on the question No.1</p>

Q No.	Question	Answer
	<p>navedenoj adresi: Government of the Republic of Serbia, The Ministry of Finance  Department for Contracting and Financing of EU Funded Programmes (CFCU)  3-5 Sremska St., VII floor, Office 701, 11000 Belgrade; Opening hours of the Contracting authority: 8:30 — 14.30 CET, Monday to Friday?</p> <p><i>Unofficial translation:</i>  I am addressing you on behalf of <u>XXXX</u>, as a potential bidder in the tender process: "The modernization and rehabilitation of the railway section Nis - Brestovac Location - Republic of Serbia" with the request for the obtaining of tender documentation.  Is it enough to just send the company representative/courier to obtaining the documentation on the CD at the mentioned address: Government of the Republic of Serbia, The Ministry of Finance  Department for Contracting and Financing of EU Funded Programmes (CFCU)  3-5 Sremska St., VII floor, Office 701, 11000 Belgrade; Opening hours of the Contracting authority: 8:30 — 14.30 CET, Monday to Friday?</p>	
8.	<p>(...pišem vam iz <u>XXXX</u> u ime firme <u>YYYY</u>, kako bi hteli preuzeti projektnu dokumentaciju (na CD-u) i dodatne informacije (i na DVD-u) prema ispanom pozivu na javni natječaj (web stranica TED-a) za projekt vezan: EuropeAid/140002/IH/WKS/RS, naziv projekta: Serbia-Belgrade: IPA – The Modernization and Rehabilitation of the Railway Section Niš-Brestovac 2019/S 161-395406.  Dokumentaciju bi hteli preuzeti dana 04. septembra 2019. u naznačenom radnom vremenu.)</p>	Please see answer to the question No.1

Q No.	Question	Answer
	<p><i>Unofficial translation:</i>  ... I am writing to you from <u>XXXX</u> on behalf of <u>YYYY</u>, as they would like to obtain the project documentation (on CD) and additional information (and on DVD) according to the published Contract Notice (TED website) for project related: EuropeAid / 140002 / IH / WKS / RS, project title: Serbia-Belgrade: IPA - The Modernization and Rehabilitation of the Railway Section Nis-Brestovac 2019 / S 161-395406.  We would like to obtain the documentation on September 4, 2019 at the indicated business hours.</p>	
9.	<p>With regards to the above-mentioned tender, would you be so kind to confirm wheather the companies, registered in and in according to the laws of the Russian Federation can take part in the tender in the role of Tenderer or member of Consortium or Subcontractor?  The EU regulations on the eligibility and rules of origin, the tender documentation refers to, are not clear to us.</p>	Please see answer on the question No.2 and No.4
10.	<p>Looking thoroughly into the tender documentation for the above-mentioned project, we have noticed that project is co-financed by Republic of Serbia. In the same time, General Instructions, 3. Participation, states that “3.1. Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium - of tenderers) which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) no. 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable instrument under which the</p>	Please see answer on the question No.2

Q No.	Question	Answer																											
	<p>contract is financed (see also heading 22 of the contract notice)". Usually, this means that only bidders from the Member states or pre-accession region can successfully participate in the tendering procedure. Nevertheless, the Regulation cited prescribes, under Title III, Rules on Nationality and Origin for Public Procurement, Grant and other Award Procedures, Article 8, point 2, that "In case of actions jointly co-financed with a partner or other donor or implemented through a Member State in shared engagement, or through a trust fund established by the Commission, countries which are eligible under the rules of that partner, other donor or Member State or determined in the constitutive act of the trust fund shall also be eligible".</p> <p>Does this mean, as the project is co-financed by the Republic of Serbia, that bidders registered in countries outside EU and/or pre-accession region but having tight commercial and business relations with the Republic of Serbia, would be also eligible bidders for this particular Project?</p>																												
11.	<p>Dear Sirs,</p> <p>according to the participation documentation, BoQ Document 4.5_4.3.15_ Signalling- 22112018 part Electronic Interlocking device Medjurovo section</p> <table border="1" data-bbox="300 1641 850 1989"> <tr> <td data-bbox="300 1641 339 1680">4</td> <td data-bbox="339 1641 400 1680">B-</td> <td data-bbox="400 1641 850 1680">Electronic station interlocking</td> </tr> <tr> <td data-bbox="300 1680 339 1718">.</td> <td data-bbox="339 1680 400 1718">1.1</td> <td data-bbox="400 1680 850 1718">device (SID) with redundant</td> </tr> <tr> <td data-bbox="300 1718 339 1756">3</td> <td data-bbox="339 1718 400 1756">,</td> <td data-bbox="400 1718 850 1756">architecture "2 out of 3" or "2</td> </tr> <tr> <td data-bbox="300 1756 339 1794">.</td> <td data-bbox="339 1756 400 1794">B-</td> <td data-bbox="400 1756 850 1794">times (2 out of 2)" with all</td> </tr> <tr> <td data-bbox="300 1794 339 1832">I</td> <td data-bbox="339 1794 400 1832">1.2</td> <td data-bbox="400 1794 850 1832">necessary hardware and software</td> </tr> <tr> <td data-bbox="300 1832 339 1870">5</td> <td data-bbox="339 1832 400 1870">,</td> <td data-bbox="400 1832 850 1870">components, interfaces (including</td> </tr> <tr> <td data-bbox="300 1870 339 1908">.</td> <td data-bbox="339 1870 400 1908">B-</td> <td data-bbox="400 1870 850 1908">level crossings, CTC and</td> </tr> <tr> <td data-bbox="300 1908 339 1946">1</td> <td data-bbox="339 1908 400 1946">2.8</td> <td data-bbox="400 1908 850 1946">ERTMS/ETCS system) and spare</td> </tr> <tr> <td data-bbox="300 1946 339 1984">.</td> <td data-bbox="339 1946 400 1984"></td> <td data-bbox="400 1946 850 1984">parts, with SIL4 level according</td> </tr> </table>	4	B-	Electronic station interlocking	.	1.1	device (SID) with redundant	3	,	architecture "2 out of 3" or "2	.	B-	times (2 out of 2)" with all	I	1.2	necessary hardware and software	5	,	components, interfaces (including	.	B-	level crossings, CTC and	1	2.8	ERTMS/ETCS system) and spare	.		parts, with SIL4 level according	<p>Please note that the contract which is subject to this procedure is FIDIC Yellow Book. The tenderer is allowed to propose his technical solution as long as it is in line with the Tender documentation, in particular with Employer's Requirements (see Volume 3).</p> <p>Documents listed as additional information in the Contract Notice heading 18. "How to obtain the tender dossier" shall be used for information purposes only. Information only documents shall not form part of the contract.</p>
4	B-	Electronic station interlocking																											
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1		to the SRPS EN 50128 and SRPS						
4		EN 50129 standards						
12.	According to the Works Contract Notice, para. 13, for »The modernization and rehabilitation of the railway section Niš – Brestovac«, we would like to register 4 (four) persons for the site visit that will commence on 23 September 2019 at the premises of Serbian Railways Infrastructure (IZS), at 10:00 CET.	For registration procedure please see section 13 of the CN.						
13.	Please find attached XXXX authorization for XXX representatives regarding Site-Visit and Information meeting in line with WORKS CONTRACT NOTICE of The modernization and rehabilitation of the railway section Niš – Brestovac;	Please see answer to the question No.12.						

Q No.	Question	Answer
	publication reference - EuropeAid/140002/IH/WKS/RS.	
14.	In attach you will find XXXX list of delegated Persons for site visit and clarification meeting scheduled for 23/24. September.	Please see answer to the question No.12
15.	I kindly would like to register XXXX in the site visiting and clarification meeting.	Please see answer to the question No.12
16.	According to the Tender documents, Site Visit and Clarification Meeting are scheduled for 23.09. and 24.04, respectively. Should we announce prior to these events our representatives who will attend, or is it sufficient if they only appear there with PoAs?	Please see answer on the question No.12 In addition participation at the site visit for all tenderers will be allowed even if not registered in advanced. There is no need for PoAs (Power of Attorney).
17.	In accordance with instructions given in the Tender Documentation: Volume 1, Section 1:Instructions to Tenderers, Article 8.1 related to the Tender procedure for IPA- The modernization and rehabilitation of the railway section Niš – Brestovac, we would kindly ask you to clarify if the XXXX fully registered under the law of Republic of Serbia, as the Branch office of XXXX from Baku, Azerbaijan, entitled to participate in this procedure as a member of the Consortium, having in mind instruction given in the Tender Documentation: Volume 1, Section 1: Instructions to Tenderers, Article 3.1.	Please see answer to the question No.2
18.	Having on mind that the deadline for registration of participants at the site visit related to tender procedure for The Modernization and Rehabilitation of Railway section Niš-Brestovac has expired, we are kindly asking your permission for one representative of the company XXXX to be present and take a part in site visit which will be held on September 23, 2019 and information meeting scheduled for September 24,	Participation at the site visit for all tenderers will be allowed even if not registered in advanced.



Q No.	Question	Answer
	2019.Hoping that you will accept this subsequent application, thank you in advance.	
19.	<p>ITT 12.2 c) Technical capacity of tenderer Please confirm:</p> <p>1) It is acceptable to nominate several contracts of minimum 25 mil. Eur with separated scope of works, which will fulfill requested references cumulatively?</p> <p>2) it is acceptable that Subcontractor, which will be nominated and involved in project execution, could fulfill part of Technical requirement- technical capacity of tenderer (e.g. signaling&amp; telecom works)</p> <p>3) please confirm if nominated Subcontractor can be nominated in more than one Offer</p>	<p>1) Please note that according to PRAG Section 5.3.4. Additional information during the procedure, “The Contracting authority cannot give a prior opinion on the assessment of the tender“.</p> <p>2) Please refer to explanatory note in ITT 12.2. Capacity-providing entities</p> <p>3) Please refer to ITT 4. “The same company may only participate as subcontractor in different tenders if that is justified by the specific nature of the market and cleared by the contracting authority”. There is no specific nature of the market to allow participation of the same Company as subcontractor in different tenders.</p>
20.	<p>ITT 13.</p> <p>1) Please confirm that payment will be completely done in EUR</p> <p>2)How will be payment of Subcontractors: directly or thru Main contractor?</p>	<p>1) In accordance with Clause 14.15 of the PCC, The currency of the Contract shall be the Euro and all payments made shall be in Euro.</p> <p>2) Payments are made to the Contractor only, in accordance with Sub-Clause 14.7 of the GC and PCC</p>
21.	<p>Particular conditions 14.1. i The Contractor is exempted from VAT and from import duties and import taxes levied on import on Contract items of Goods into the Republic of Serbia... Please confirm this article is applicable also for Subcontractors and Subcontractors will be also exempted from VAT, import taxes and duties.</p>	<p>For the VAT exception, the procedures and rules must be followed established by the Law on Value Added Tax (“Official Gazette of RS” No. 84/2004, 86/2004, 61/2005, 61/2007, 93/2012, 108/2013, 6/2014, 68/2014, 142/2014 and 5/2015 and the Rulebook on Method and Procedure of Claiming VAT Exemptions with right to deduct Input VAT (Published in “Official Gazette of RS” No. 120/2012, 40/2015, 82/2015, 86/2015, 11/2016 and 21/2017); Additional information can be found on following web page: <a href="http://www.cfcu.gov.rs/tag.php?tag=tax">http://www.cfcu.gov.rs/tag.php?tag=tax</a></p>
22.	<p>Particular conditions 14.7 Payment Sums due shall be paid within no more than 84 calendar days... Proposed 84 days for payment has very</p>	<p>The payment shall be as defined in Particular Conditions of the Contract Clause 14.7</p>

<b>Q No.</b>	<b>Question</b>	<b>Answer</b>
	bad impact on cash flow and increase total cost. In coordination with Engineer, administrative procedure can be solved in shorter period. We kindly ask you to go to standard period of 56 days.	In accordance with Framework agreement between the RS and EC on the arrangements for implementation of Union financial assistance to the RS under the Instrument for pre-accession assistance (IPA II), all work contracts shall be awarded and implemented in accordance with the procedures and standard documents laid down and published by the Commission for the implementation of external actions. Practical guide on contract procedures for European Union external action (PRAG) stipulates that payment deadlines are longer than deadlines prescribed by national legislation.
23.	Please confirm that the cost of engagement of Notified Body and Designated Body shall be borne by Employer/End Recipient.	The cost of engagement of the Notified Body and Designated Body are to the Employer/End Recipient.
24.	In the Employer Requirements/Drawings the route of the prospective main fiber optical cable to be laid between stations Nis and Brestovac is not precisely defined, so please clarify whether it is necessary to use the existing main cable route or it is possible to foresee a different route.	The Design for Execution of the Works shall be in accordance with Volume 3.1, Section 6.4
25.	In submitted provisional BoQ just for signalling (without level crossing and telecommunication part), total indication amount is 8,377,405,00 euro. Actual total sum of all written signalling item is 9,507,405,00 euro. Please clarify, is the reason of this difference calculation error or this difference calculation error or this difference is caused by another reason?	Please refer to the response to Question 11.
26.	Please confirm that the costs of obtaining the Construction Permit and Usage Permit shall be borne by Employer/End Recipient.	The costs shall be as per PCC 1.13.
27.	Please clarify if Employer/End Recipient could guarantee maximal time necessary for obtaining construction permit from the moment of submitting the documentation	The Employer cannot guarantee at this stage, the maximal time necessary for obtaining construction permit .

Q No.	Question	Answer
	for Design for construction permit to competent Institution in order that tenderer can foresee it in its work dynamic.	
28.	Please confirm the validity period of “location conditions” obtained based on the preliminary design. We need a confirmation which party will be in charge of extending them if it would be necessary.	The Location Conditions and the responsibility for the submission of any extension required are as before, see Volume 3.1, Annex B and PCC 1.13.
29.	<p>1) Following the Invitation for Tenders which was published on the European Public Procurement portal (TED) on August 22nd, 2019 under reference: 2019/S 161-395406 for the aforementioned project, we would like to inform you of our company’s strong interest to participate in the above tender. Although the relevant tender notice has only come to our attention at the present moment, you are kindly requested to send us the relevant Tender documents via DHL courier, at our own cost. Please give DHL our account number 951974742, so as to charge us directly for the transportation cost.</p> <p>The data of our company are the following:XXXX</p> <p>2) Lastly, it is our understanding that a mandatory meeting and site visit was held on September 23rd and 24th, 2019. You are kindly requested to inform us on whether we can participate in the tender procedure without having attended the aforementioned meetings.</p>	<p>1) Please see answer to the question No.5</p> <p>2) As stated in Article No. 6 of ITT, the tenderer is obliged to visit and inspect the site of the works. Therefore, as the site visit and information meeting were mandatory, only tenderers having attended can participate in the tender procedure.</p>
30.	<p>Molimo za informaciju u vezi dostavljanja zapisnika sa koordinacijskog sastanka održanog 24.09.2019. u Železnicama Srbije a odnosi se na projekat rekonstrukcije železničke pruge Niš- Brestovac.</p> <p>Unofficial translation: ... Please give us information regarding</p>	The minutes of the clarification meeting and the site visit will be published on the website of DG International Cooperation and Development.

<b>Q No.</b>	<b>Question</b>	<b>Answer</b>
	<p>delivering of the minutes of coordination meeting which was held on 24.09.2019 at the premises of Serbian Railways Infrastructure and regarding railway line Niš-Brestovac reconstruction.</p>	
<b>31.</b>	<p>Difference between BoQ and Excel sheet CD1/ Preliminary design/K4.S17 - from 1 to 7 (bill of quantities) and folder BoQ/ 4.5_4.3.12_OCL 12102018 Chapter 1 Civil works Paragraph 4.04. Spark gap , 4.08 Earther, 4.09 mechanical protection and 4.11 Earther manhole We believe that the listed items must be included in the exel spreadsheet because without them it is not possible to set up a functional OCL. The signs in Chapter 1 are very important because they determine and define actions in electric traction and are essential for safe operation. It is possible to classify them in an exel table with the signs under paragraph 1.11 but also to add them in the description of that item. Grounding Elements in Chapter 4: 4.04; 4.08; 4.09 and 4.11 are important for security and should be added to the exel spreadsheet. Without them, grounding does not work or is inadequate.</p>	<p>Please refer to the response to Question 11.</p> <p>Earthing and bonding are covered by Volume 3.1, Section 5.19.</p>