



CONTRACTING AUTHORITY'S CLARIFICATIONS No. 2

Project title: Successful implementation of EU funded projects under indirect management system of EU pre-accession assistance

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No.	Question	Answer
1.	<p><i>The Contracting Authority's Clarifications No. 1 in Answer No. 1 states the following:</i></p> <p><i>In accordance with PRAG Section 2.3.3.2 – Rejection from a given procedure, the economic operator who was previously involved in the preparation of procurement documents <u>where this entails a distortion of competition that cannot be remedied otherwise</u>, will be rejected from a given procedure.</i></p> <p>Having in mind that the previous phases of this project in Serbia haven't caused the Conflict of interest for the economic operators, which was remedied by applying a PRAG Section 2.6:</p> <p><i>Given the technical complexity of many contracts, preparing the tender dossier – particularly the technical specifications/terms of reference – may require the assistance of one or more external technical specialist(s). Each such specialist must sign a Declaration of Objectivity and Confidentiality (see Annex A3);</i></p> <p>please advise if the same principle would apply to the procedure in subject?</p> <p>We believe that rejection of a successful tenderer from bidding for any future projects related to the project in subject would limit the competition and cause the limited participation of experienced economic operators able to provide high quality technical assistance to the Contracting Authority.</p>	<p>Please note that a rejection from future procurement procedures of the economic operator who was previously involved in the preparation of procurement documents in accordance with PRAG Section 2.3.3.2 (c) is subject to the following conditions:</p> <ul style="list-style-type: none"> - the involvement entails a distortion of competition (i.e. it can be proven that the economic operator obtained a real advantage compared to other competitors); - distortion of competition cannot be remedied otherwise; - decision on rejection is taken by the Contracting Authority on case-by-case basis; - rejection is subject to a contradictory procedure; <p>Therefore, at this moment it is premature to determine what will be the appropriate remedy in the situation described in Section 2.3.3.2 (c) of the Practical Guide.</p>