

## **Open Call for Tender No OC/004/2012/EIT PROC Provision of digital telecommunications services**

Below, a list of the questions received for this procedure and the answers provided by the EIT:

### **Question 20**

The Tender Specifications under point 5 states that

*"Where the Tenderer wishes to sub-contract or otherwise rely on the capacities of other entities, they must in that case prove that they will have at their disposal the resources necessary for performance of the contract, for example by producing an undertaking on the part of those entities to place those resources at its disposal."*

Later point 5.1.1 says:

*"The tenderer must have an average annual turnover of at least 300 000 (three-hundred-thousands) EUR in the last three years for provision of services equivalent to those subject of this Open call. In case of consortia, the lead company must provide proof of annual turnover of at least 60 % of the above figure."*

My question is as follows:

Do you exclude tenderer if he demonstrates that he will have at their disposal the resources necessary for the successful performance of the contract, however his average annual turnover is below 300 000 EUR and below the 60% limit in case of consortia?

### **Answer to question 20**

Yes, your understanding is correct. However, the tenderer might be a consortium, in this case the total annual turnover of the consortium members will be taken into account. Also the tenderer might rely on the capacity of another entity with a proof provided. Nevertheless in any case the consortium leader or sole tenderer need to have at least 60% of the 300 000 EUR.

### **Question 21**

Are there any clarifications already published? Where are you going to publish clarifications?

### **Answer to question 21**

Yes, Q&A 1 was published on the EIT website under:

<http://eit.europa.eu/about-us/procurement/procurement-information/open-call-for-tender-no-oc0042012eitproc-provision-of-digital-communications-services/>

### **Question 22**

The link for the design-mock up (page 9 of the tender specifications) is invalid. Could you please confirm that <http://eit.europa.eu/events/event-information/youth-and-entrepreneurship-drivers-of-innovation/> is the correct link.

### Answer to question 22

Yes, we confirm. Your understanding is correct. The correct link is: that <http://eit.europa.eu/events/event-information/youth-and-entrepreneurship-drivers-of-innovation/>

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### Question 23

In Annex 5 and Annex 6 net prices are to be listed. Is the assumption correct that the fixed prices are only required for:

- 3.1.1 (Audit)
- 3.2.1 (Support)
- 3.2.2. (Hosting)
- 3.3.4 (newsletter system),
- and all other prices are only indicative, due to actual project needs (Scope is not clear in every indicated field)?

### Answer to question 23

In Annex 5 and 6 all prices are fixed. However in Annex 6 the third column with the quantities is indicative and is used just for evaluation purposes.

### Question 24

Is the expectation that all foreseen services (3.1 – 3.6) are described in detail? The scope is not clear for every field. Or it is sufficient to describe the fixed price tasks (3.1.1, 3.2.1, 3.2.2., 3.3.4). Please advise.

### Answer to question 24

The requirement for the technical evaluation criteria is stated in Section 6.1 of the Tendering specifications document. Based on these requirements the tenders shall decide which parts are necessary to be described from Sections 3.1 to 3.3 of the Terms of Reference document.

### Question 25

As far as we understood having at least 2 TYPO 3 based website references (projects with 10 000 visitors per month at least or minimum 25 000 Euros budget) is a must.

Does this criterion also apply in case we would like to provide a non TYPO 3 based open source CMS solution for implementation? Why does having TYPO 3 based references qualify as a main criteria, if the new portal could be also implemented using a new technology?

### Answer to question 25

First requirement or 5.2.2.2 of technical and professional capacity states:

Please note that At least 5 website redesign or developments (please include URLs or screenshots) for projects with 10000 visitors per month at least or minimum 25000 Euros budget including at least 2 developments using the CMS TYPO3.

Should read as follows:

Please note that At least 5 website redesign or developments (please include URLs or screenshots) for projects with 10000 visitors per month at least or minimum 25000 Euros budget using the CMS TYPO3 or equivalent. Please specify for each example which CMS has been used.

### **Question 26**

Hosting / Maintenance / Operation of the existing Typo3 System: Is the assumption correct that the CMS / website system is technically well documented in order to provide hosting and operation services after the contract is signed?

### **Answer to question 26**

All relevant documentation will be provided to the future contractor by the time of implementing the contract.

### **Question 27**

Website response time < 4 sec.: Is the assumption correct that this is meant for the re-launched website and not for the existing code? If invalid or bad code causes slow response times the overtaking service provider cannot guarantee this without having a detailed technical documentation at this stage. Please advise.

### **Answer to question 27**

As stated in page 6 of the terms of reference, the scope of the work refers to the future website.

### **Question 28**

Presentation of the Design Mock-up: what is the expected format the sample mini-website for the event should be presented? Is there a Styleguide to be used?

### **Answer to question 28**

Please refer to Q&A number 9.

### **Question 29**

Contract I.9.2 requires Contractor to transfer all rights to the Union, even though pre-existing intellectual property rights exist. Contract I.9.3 only allows partial vesting of rights if such a partial vesting was envisaged in the tender specification. However, the published tender specification does not allow for such a partial vesting. Therefore, the Contractor is contractually obliged to transfer full title to all possible results under the framework contract.

Yet, it is very likely that for EIT's website's relaunch and in other specific assignments, as common in software development in general, third parties' software, such as CMS, frameworks or libraries or other open source software, will be used, or in case of websites photographs/icon/graphics of third parties' commercial databases. Certain open source

software licences (so called copyleft open source software licences, e.g. GPL) require even amendments or linkage with other software to be under same licensing conditions (viral effect).

Can we therefore assume that the Contractor is only obliged to transfer the intellectual rights for any third party material (software, photographs/icon/graphics etc.) or any amendments of copyleft open source software (or its linkage with other software) according to the respective applicable licensing conditions?

### **Answer to question 29**

As Section 2.1 of the Terms of Reference document describes:

*"The contractor shall be responsible for developing and implementing – in close collaboration with the EIT - technical, graphical and other aspects of the EIT's digital communication platforms, as well as for hosting the EIT website and other specific online contents."*

Based on this and the abovementioned articles of the Framework Contract the tenderers shall propose a plan to develop and implement the platform. In case possible they shall avoid solutions with pre-existing rights. However in a solution might necessitates such rights, they shall clearly specify in their concept which pre-existing rights are included. As included in Art 9.2 and 9.3 of the Draft Framework Contract:

*"All pre-existing rights to delivered results shall vest in the Union and thereby under the terms of the Contract be effectively transferred to the Union, as provided for in Article I.9.1. The Contractor shall present relevant and exhaustive proofs of acquiring all necessary rights [together with delivery of the final report at the latest] [together with presentation of relevant result] [specify other earlier stage]."*

*"In case the partial vesting of particular rights to the results was envisaged in the tender specification and the offer, the Contractor shall list precisely at the moment of delivery of the final report at the latest all materials, information, IT tools, methodology and any other results or parts of the result to which third persons have rights, even if originally owned by the Contractor, or for which the right is not to be unconditionally given to the Union. For every listed item the Contractor shall describe precisely the scope of pre-existing rights and not pre-existing rights and the scope and the way, direct or indirect, of the partial vesting and thereby the effective transfer of rights to the Union."*

Therefore the future Contractor is obliged to make sure that the pre-existing and partial vesting rights on the deliverables are effectively transferred to the Union. For this purpose see Annex A1 and A2 to the draft Specific Contract in Annex 2 of the Tendering Documents.

For the different licensing conditions on softwares and other materials, used for the concept the future contractor is obliged to respect the licence terms and inform EIT about these and their impacts.