

## Questions & Answers (Q & A)

### Invitation to Tender No. 05/2017/OP/EITPROC

Contract notice 2017/S 101-200020

Last updated: 22/06/2017

#### Q & A No. 1

**Question: 1. Technical and Professional criteria - evidence to demonstrate technical and professional criteria of recent experience of conducting multiple audits in a short period of time**

With reference to the technical and professional criteria – criterion 1.1 evidence to be provided states the following:

“Lists of minimum 50 audits carried out within a three months period, in at least three countries within the last three years., coordinated by a single department within a company.” The comments state that “if supplied to public institutions, evidence must be provided in the form of certificates issued or countersigned by the latter.”

We have conducted considerable volumes of audits on behalf of the European Commission and its Agencies/Joint Undertakings, where site work for in excess of 50 audits has been carried out within a 3 month period (in at least 3 countries within the last 3 years). However, these audits were not CFS certifications, but full audits with grants typically covering up to 3 projects for a maximum of 3 reporting periods (up to a total of 9 reporting periods), and with full reporting process being required prior to the signing off of a final audit report. These full audits were typically carried out within a 7 month period. Please can you advise whether including these examples where the site work has been carried out within a 3 month period (in at least 3 countries within the last 3 years), but where sign off is concluded after this 3 month period, would be acceptable as evidence to demonstrate technical and professional criteria of recent experience of conducting multiple audits in a short period of time.

**Answer:** Our schedule for carrying CFS audits and finalization of the certificates is tighter than mentioned 3 months. For 2016 grants it was less than a month in some cases. Also the amount of audits to be carried by a single department within a company is larger. For 2016 grants we had two audit companies carrying 72 and 54 CFS audits respectively. This amount is expected to increase each year. We therefore shall not accept experiences carried in timeframes larger than three months.

#### Q & A No. 2

**Question: 2. Technical and Professional criteria - evidence to demonstrate recent experience in auditing FP7/H2020 projects**

With reference to the technical and professional criteria – criterion 1.2 evidence to be provided states the following:

Lists of at least 20 conducted audits in the last three years directly on FP7/H2020 projects. The comments state that “if supplied to public institutions, evidence must be provided in the form of certificates issued or countersigned by the latter.”

As outlined in Q1 above, we have conducted considerable volumes of such audits on behalf of the European Commission and its Agencies / Joint Undertakings. For previous EC tenders, evidence to demonstrate recent experience in auditing FP7/H2020 projects has typically involved providing an extract of specific contracts awarded by the EC Agency / JU to carry out full grant audits on such projects. Please can you confirm if the provision of an extract of specific contracts would be acceptable for this tender procedure, as evidence to demonstrate technical and professional criteria of recent experience in auditing FP7/H2020 projects.

**Answer:** Specific contracts would not be accepted as evidence of recent experience of auditing FP7/H2020 projects as contracts do not confirm successful delivery of services.

### Q & A No. 3

#### Question: 3. Sub-contracting

We would like to request clarification re the definition of sub-contracting in relation to the following example. Where site work is carried out by a local audit firm located in the country where the auditee is also located (or where site work is carried out jointly with the coordination firm) and where responsibility for the final sign off on the certificates of the financial statements lies with the coordination firm, please can you confirm that in this instance, the local audit firm is not classed as a sub-contractor.

**Answer:** EU financial regulation defines subcontractor as an economic operator performing part of the contract. Therefore a local firm performing a CFS audit contract under supervision of the coordination firm (contractor) shall be considered a sub-contractor.

### Q & A No. 4

#### Question: 4. 2015 Grants Awarded by the EIT

We note from our own research, that amongst the EIT grants awarded in 2015, 3 of these grants were awarded to the following KICs:

- a) KIC – Climate – KIC Holding BV - €88,552,000
- b) KIC EIT Digital – IVZW €75,806,821
- c) KIC InnoEnergy SE - €71,691,213.79

We assume that each of these 3 beneficiaries then awarded further separate grants to core partners and other participants. If our understanding is correct, we assume that under this contract, certificates of financial statements are required to be issued on grants awarded to the KICs, and also on the individual grants awarded (by the KICs) to each of the core partners and other participants. On this basis, please could you provide further details of the individual grants awarded for grant a), b) and c) above, to show the location of all of the beneficiaries in receipt of an individual grant, and the amount of the grant per beneficiary.

**Answer:** KIC is a consortium of Partners that participate in grant activities. Partners shall submit separate financial statements and CFS if reaching the H2020 CFS threshold. We consolidated contracting of CFS

auditors for KIC Partners reaching CFS threshold starting from the 2016 grant based on our forecasts. We have provided a list of Partners selected for 2016 CFS audits showing locations and estimated costs to be audited (for 4 batches) in Annex 1 to this Q&A.

#### Q & A No. 5

##### Question: 5. 2016 Grants Awarded by the EIT

Would it be possible for the EIT to provide details of the grants that EIT awarded in 2016?

**Answer:** The maximum 2016 grant amounts awarded per KIC are as follows:

Climate KIC – EUR 81,100,100.00

EIT Digital – EUR 75,074,941.00

EIT InnoEnergy – EUR 77,493,121.45

EIT RawMaterials – EUR 20,543,065.00

EIT Health – 20,706,935.00

#### Q & A No. 6

##### Question: 6. Grant period

Please can you confirm if each grant period relates to a calendar year, or if this is not the case, advise on the grant period.

**Answer:** Yes, the grant period relates to a calendar year.

#### Q & A No. 7

##### Question: 7. Audit Process

Please can you clarify the following in respect of the following elements of the audit process:

a) Please confirm that the EIT will notify the auditee that a CFS audit will be carried out on their grant. Please can you also advise whether this notification will be in the form of a formal announcement letter, and the time frame for the EIT's dispatch of such an announcement.

b) Please advise of the timeframe in which the EIT will issue a specific contract order for a batch of audits to be carried out. So for example, the tender specifications state that for SGA 17 – 140 CFS assignments could be required, and the contracting authority expects to launch 5 batches of audits. It would be helpful to be provided with an indicative timetable outlining the timings of the launch of the 5 batches (specific contract orders).

**Answer:** KICs are aware that CFS audits will be carried on their Partners' financial statement by EIT contracted auditors. EIT has already carried centralized CFS audits for 2016 grants for all our KICs. KICs will attend kick off meetings with the auditors once specific contracts are signed. EIT plans to sign framework contract in September 2017 and sign 2017 specific contracts not later than October 2017.

#### Q & A No. 8

**Question: 8. Non-cooperation by Auditee**

Please can you advise on the process the successful contractor is required to follow for instances where the Auditee is uncooperative or unable to provide the information required for performing the audit, which results in the successful contractor being unable to perform the audit and provide the CFS for that Auditee.

In relation to the above, please can you confirm that for instances of non-cooperation by the Auditee which has resulted in a delay with the signing off of a CFS, the interim payment of 75% can still be claimed for all other audits in the batch where the CFS and corresponding financial statements have been received by the EIT, effectively resulting in a partial claim.

**Answer:** EIT normally has no issues with KICs / Partners cooperation during audits. Non-provision of CFS reports to EIT may result in the entire expenditure of the Partner being disallowed. Therefore it is in Partners' interest to cooperate with the auditors. EIT may allow partial interim payment excluding non-submitted CFS reports in case of justified issues with the Partners.

**Q & A No. 9**

**Question: 9.** Given EIT's preference for the same auditor to perform one batch per KIC, how will EIT ensure that the same auditor is auditing the KIC LE and the majority of the partners within that KIC? On the basis of which grounds can a contractor request a particular CFS assignment to be taken out of the batch? We understand that COI is one valid reason. What other valid reasons would EIT consider? E.g. how does EIT intend to avoid a contractor cherry picking the missions within a batch, rejecting the less economically interesting ones?

**Answer:** EIT has reserved the right to move KIC Partners between batches to resolve potential issues with Conflicts of Interest between contractor and smaller Partners in the batch. We do not foresee moving larger Partners between batches and especially KIC Legal Entities. We also do not foresee other issues between contractor and KIC Partner that shall force us triggering this clause. However, if such need arises it will be discussed with the second contractor before EIT makes its final decision.

**Q & A No. 10**

**Question:** We note that the tender specifications on page 9 & 10 - criterion 1.2 and 1.3 – require us to provide a list of audits carried out i) in a three month turnaround period and ii) on FP7/H2020 projects. Please can you clarify the term 'audit' i.e. do you mean specifically financial audits or does this also include other assurance work such as expenditure verifications, agreed upon procedures, on-the-spot audits etc. We would assume that it would cover provision of Certificates on Financial Statements, as this is the subject of the tender?

**Answer:** Yes, agreed upon procedures such as the provision of Certificates on Financial Statements for FP7/H2020 projects shall be considered as audit experience for both criteria 1.2 and 1.3. We do not limit these criteria to financial audits.

**Q & A No. 11**

**Question:** Please can you clarify for criteria 1.3, which requires evidence of 'audits' conducted on FP7/H2020 projects, if this can include previous assurance work carried out for EIT?

**Answer:** For the criterion 1.3 assurance work carried out for the EIT (e.g. Certificates on Financial Statement, ex-post audit assignments) can be included if other criteria are met (e.g. the grant amount is greater than 325,000 EUR).

#### Q & A No. 12

**Question:** In relation to section 4.2 of the tender specifications, sub-section 2.2, we are required to name 5 Team Leaders within the Coordination team. Are we correct in assuming that the Team Leaders within the Coordination team are actually the managing specialists who would support the Project Manager as opposed to the Team Leaders who would be undertaking and managing the onsite fieldwork teams i.e. Audit Seniors?

**Answer:** We expect Team Leaders to have full involvement with fieldwork teams providing training and ensuring quality of their work. They may be involved as Fieldwork Team Leaders as well, especially for larger assignments. You shall describe their involvement in detail to allow assessment under award criterion 3 and clearly relating to the proposed work plan and its phases.

#### Q & A No. 13

**Question:** Could you please provide some insights regarding the structure of the (KAVA) costs to be audited (composition / proportional distribution of the cost categories, if possible: relative frequency of number of cost items exceeding 100/200/300 etc.), particularly regarding the KIC legal entities?

**Answer:** Please find distribution of costs per category reported for 2016 by KIC LE and linked parties that were subject to CFS audits in Annex 2 to this Q&A. The largest cost categories for our grants are personnel costs followed by sub-contracting and other direct costs. Financial support to 3<sup>rd</sup> parties (sub-grants) are normally present for KIC LE and related entities. Unfortunately we do not have information on the relative frequency readily available and not able to generate it with our current systems.

#### Q & A No. 14

**Question:** Would it be possible to estimate the frequency of occurrence of aggregated costs of research infrastructure?

**Answer:** You might expect a few occurrences for some KICs (batches). This is a rare costs category for our grants.

#### Q & A No. 15

**Question:** Regarding the Agreed upon procedures to be executed in the project, would the sample sizes need to follow the 10% rule always or in case of high volume transactions can it be based on the professional judgement of the auditor?

**Answer:** We had cases where we agreed to auditors' proposal to apply different methodology for travel costs due to large number of individual items. For other categories of costs such requests are not expected.

#### Q & A No. 16

**Question:** What kind of issues have EIT observed in the previous periods at the KIC's?

**Answer:** The largest deductions in previous years were caused by non-compliance with internal and H2020 procurement principles, in particular ensuring best value for money, which resulted in 100% of costs claimed under such contracts being disallowed. Considering the largest expenditure category is personnel costs, you may also expect various issues with such claims and the one that has the largest impact on deductions is absence of time recording system.

#### Q & A No. 17

**Question:** Can the framework agreement be amended as a result of a mutual consultation? Especially regarding the following clauses:

- usage and licensing of deliverables
- liability cap/liquidated damage
- termination possibility due to legal and professional regulation reasons

**Answer:** In general, amendment shall not modify substantially the conditions of the initial procurement procedure. Amendments bringing substantial modification to the contract require a new award decision based on a new procurement procedure. We do not intend to modify conditions of the framework contract especially the ones relating to liability cap / liquidated damage and termination. Non-performance under this contract will have a significant impact on the annual grant allocation process and therefore cases of non-performance and termination will be treated seriously and sanctions will be applied.

#### Q & A No. 18

**Question:** Beyond the Framework Agreement will there be a specific contract for each of the batches? Is there a chance to include batch specific clauses into the specific contracts?

**Answer:** Yes, there will be specific contracts signed per batch or per auditor if a few batches are awarded to the same auditor. We do not foresee to have batch specific clauses at this stage.

#### Q & A No. 19

**Question:** Our company is a global network of member firms, representing separate legal entities. The Hungarian entity will submit the proposal, but will use another member firm's (separate legal entity's) references and resources to meet the tender criteria. Is it required to treat the other member firm (providing references and resources) as a subcontractor in the tender, or due to the global network of

firms it is not necessary, and the Hungarian firm can use the references, resources without involving the other member firm as subcontractor?

**Answer:** You may include the other firm providing references and resources as sub-contractor, but in our opinion it is better to use that firm as main or secondary applicant (member of the consortia).

Annexes:

Annex 1. - List of Partners selected for 2016 CFS audits

Annex 2. - Costs per category reported for 2016 by KIC LE and linked parties