Clarification Note #7
GSA internal reference: 254323
Procurement procedure: GSA/OP/08/19
Security Monitoring services to the GSA

Question #46
For Lot 2 there are three core advisors required per each expertise (i.e. for Vulnerability Tracking and Mitigation, Defensive Security Design, and Cyber Internal Auditing) and at least one core advisor for task 2.1 in section 2.1.2. (i.e. Service Supervisor Manager). Does the GSA require documents (especially europass CV) for other team members who will be involved in the project?

Answer #46
In accordance with the minimum requirement M1 in section 3.2, the tenderer must provide at least one core advisor per expertise (i.e. 3 core advisors in total for Task 2.2). The CVs of these core advisors must be Europass CV (refer to minimum requirement M1). For other team members assigned for support to the core advisors, the provision of Europass CV is only preferred and not obligatory. However, the tenderer must ensure that the CVs provided give the information required in the qualitative award criterion Q.2.

Question #47
With regards section 2.2.7.2 (‘Mandatory subcontracting’), it is stated that the contractor must subcontract an indicative minimum share of 10%. These subcontractors shall be selected outside the tenderer’s group, where group is defined in footnote no.07 as: “i) the entity or the group of entities acting as a tenderer, ii) the entity/entities to which the tenderer or any of the members of the group acting as tenderer is affiliated, iii) the entities affiliated to the tenderer or to any of the members of the group acting as tenderer.”

Also the Core Team is defined in Section 2.2.6 as being “composed of prime contractor, including, where relevant, all consortium members, and subcontractors which are essential in order for the tenderer to meet the selection criteria under section 3.2.”

Could you confirm whether the 10% requirement can be satisfied by subcontractors within the Core Team or whether this needs to be filled with subcontractors outside of the Core Team only?

Answer #47
The 10% requirement can be satisfied by subcontractors within the Core team, provided the subcontractors are selected outside the Prime Contractor’s group as mentioned in footnote no.07, through competitive tendering.

Question #48
In Annex 1 to Invitation to Tender (‘Tender Specifications (Lot 1 – Lot 3)’) under section 3.2.1 (‘Legal and regulatory capacity’) under ref. L3 it states that “Tenderers must have – at the moment of submission of offer – a Facility Security Clearance (“FSC”) of at least SECRET UE/EU SECRET level to be
maintained throughout the duration of the FWC, unless the tenderer/contractor can demonstrate that the consortium member or subcontractor’s will not have to access classified information above RESTREINT UE/EU RESTRICTED for performing the activities under the FWC outside the GSA’s premises.”. Having reviewed the tender specifications, it is not clear for us why having an FSC at SECRET UE/EU SECRET level is required as all the data are expected to be accessed within the GSA premises and should not be stored outside of GSA premises. Therefore, can you please clarify why FSC is required and what is meant by “handling classified information above RESTREINT UE/EU RESTRICTED” (whether it refers to access or store or both)?

**Answer #48**

In Annex I (‘Tender Specifications’), section 2.2.5.3 (‘Security requirements’) it is stated that contract activities may “entail handling and production of documents classified up to SECRET UE/EU SECRET. To this end, both the facility security clearance and the personal security clearance of the personnel providing services are required”.

The majority of the services will be provided at the GSA premises and, in general, remote work is not possible (see answer to question #40 in clarification note 6). However, in some circumstances, the performance of tasks may require that they are performed at Contractor’s premises and such a performance may require the treatment of EUCI at the level above RESTREINT UE/EU RESTRICTED.

In this case the Contractor will have to respect Article 44 of the Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information (hereafter ‘Commission Decision 2015/444’). It follows from this provision that a contractor can treat, within its premises, EUCI classified CONFIDENTIEL UE/EU CONFIDENTIAL or SECRET UE/EU SECRET only if it has the FSC at appropriate level.

Further the reference of “handling classified information above RESTREINT UE/EU RESTRICTED” shall refer to any creation, processing transfer and storage of classified information above RESTREINT UE/EU RESTRICTED.

**Question # 49**

Annex I.1 to Invitation to Tender referring to Lot 1, Annex I.2 to Invitation to Tender referring to Lot 2 and Annex I.3 to Invitation to Tender referring to Lot 3, under the article 3.2 per document, state that “the proposed core advisors should have a Personal Security Clearance (“PSC”) of at least SECRET UE/EU SECRET level to be maintained throughout the whole term of the FWC”. In question #23 (under Clarification Note # 4 - GSA internal reference: 253578) it is stated that “the security requirement applies only to the core team and non-core team subcontractors that will handle classified information above RESTREINT UE/EU RESTRICTED. The tenderer must have the relevant security clearance at the moment of submission of the offer”. In practice, the process of obtaining PSC for nationals of EU Member States takes up to 6 months.

Given the length of the period available for tender submissions, the above-mentioned requirement in effect hinders the participation of new entrants which may be inconsistent with principle of promotion of the widest and most open participation of all economic operators, principle of equal treatment and
non-discrimination, freedom of establishment, freedom to provide services and principle of free competition.

Therefore, we would like to kindly request amendment of “the requirement of having PSC at the time of submission of tender”, setting the new requirement as “providing a commitment letter that proposed personnel will apply for obtaining PSC at least SECRET UE/EU SECRET level upon award of the FWC”.

**Answer #49**

The above-mentioned principles are not absolute principles and they may be subject to restrictions which are justified by reasons of public interest, such as protection of public security, and are proportional.

In particular, according to article 18 of Regulation 1285/2013, the application of the general principles recalled in question 49 shall be without prejudice to measures required to protect the essential interest of the security of the Union or public security.

In this respect, section 2.2.5.3 (‘Security requirements’) of the tender specifications states that contract activities may “entail handling and production of documents classified up to SECRET UE/EU SECRET. To this end, both the facility security clearance and the personal security clearance of the personnel providing services are required”.

In accordance with Art. 50(2) of the Commission Decision 2015/444, a consultant may access classified information classified above RESTREINT UE/EU RESTRICTED only if he/she has a PSC at appropriate level. The performance of the tasks requires that at least a limited number of proposed advisors – i.e. core advisors – are fully operational from the moment of signature of the framework contract and that, therefore, they may have access to classified information above RESTREINT UE/EU RESTRICTED from that moment.

The GSA therefore has a legitimate interest to ensure that the proposed core advisors have a PSC certificate on the date of submission of the tender, in order to minimise any risks of not implementing the contract from signature. The requirement is also applied proportionally vis-à-vis the minimum possible number of advisors to perform the Contract from its signature (i.e. core advisors) and does not extend to additional advisors.

The required security clearances are fundamental aspect of the tender and cannot be omitted from the contract, not even for the first six months of its performance, without substantially affecting the feasibility of the contract.

For the reasons above, the requirement is consistent with the above-mentioned principles.
Question # 50
In Annex I.2 to Invitation to Tender referring to Lot 2, under section 2.3.2 (WP 1: Project Management & Reporting) and section 2.3.3 (WP 2: Operational Support to GSA Cyber Team), the expected on-site support is not clear. Can you please clarify the expected on-site support for these work packages?

Answer #50
Please refer to section 2.2.2 of Annex I.2. Tenderers are also reminded that the advisors shall further be required to have missions to other destinations where GSA systems are located and perform services.

Question # 51
In Annex I.3 to Invitation to Tender, referring to Lot 3, under section 2.3.3.2. (‘Work package element work environment’) it is stated that “[t]he service provision shall be provided during GSMA working hours which are comprised from 08.00h to 19.00h Monday to Friday.” Can you clarify if the expected man-hours per day is 8 hours or 11 hours?

Answer #51
The GSA confirms that a working day (i.e. man-hours per day) is comprised of 8 hours, which can be delivered between 08.00h and 19.00h, according to the needs of GSA.

Question #52
In the section 8 of the Declaration on Honour (Annex I.B), the participant has to declare that he fulfils the selection criteria and minimum requirements. However, there is no box to declare the compliance of the tenderer’s group, as a whole or can we consider that section 8 is applicable for the Tenderer (e.g. all members of the group or cumulatively relying on subcontractors)? And if not, do we tick the «NO» box if the tenderer is not compliant alone (being the prime or a subcontractor) to one of this criteria? And if we tick «NO», shall the tenderer’s group be considered as ineligible or can the tenderer add some kind of explanatory note or a reference to the proposal section dealing with the criterion?

Answer #52:
Each economic operator must submit a separate Declaration of Honour and it must fill-in section 8 related to selection criteria. The tenderer shall tick the «NO» box if the tenderer is not compliant alone (being the prime or a subcontractor) to one of this criteria. Regardless of ticking the «NO» or «YES» box in this section, the GSA will assess the proposal in its entirety (including sub-contractors or members of a consortium) for the fulfilment of the selection criteria, before considering it ineligible. The GSA would give to the tenderer the possibility to be heard before considering it ineligible. In any case, the tenderer must provide relevant description in the cover letter.

Question #53
Are the selection criteria laid down in Section 3.1 of Annex I.2 (‘Lot 2: Technical Terms of Reference and Simulation Exercise’) needed only for the core advisors, or for all advisors proposed to the GSA?

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Answer #53
The selection criteria in section 3.1 refer to the capacity of the economic operators involved in a tender. Therefore, the requirement does not apply to the core advisors but to the economic operators.

Question #54
In the tender documentation, there is a request to submit a statement of authorisation to representative/signatory and official documentary evidence on the person’s legal authority to validly sign the tender and – in case of award - the contract. Is it possible to use proofs delivered together with the NDU, or do we need a new statement?

Answer #54
The tenderer may either submit a new statement for the signature of the tender or make reference to proofs delivered together with the NDU while confirming that these proofs are valid.

Question #55
The statement of full compliance with the security requirements detailed in the Security Aspect Letter (mentioned in Annex I.I. of the Tender Specification) (Annex I, section 3.2.1, L6) shall be described in the proposal as chapter in text or does it need to be written as a separate letter and signed by the representative of the tenderer? And if so, is it sufficient if it is only signed by the Security Director or also by the Executive?

Answer #55
The full compliance to the security requirements detailed in the Security Aspects letter must be evidenced by a Statement of compliance in the dedicated section of the Declaration of Honour (Annex I.B). This Declaration must be signed by the person having the power to represent the tenderer.

Question #56
In ANNEX I.E (‘Service Level Agreement’) it is stated “The services subject to task 1.2 will be activated by GSA when needed and shall be based on the list of the contractor’s accepted and certified staff (see section 2.1).” Please clarify whether GSA shall request for a specific advisor from the list or it shall make a general request (without naming the advisor)?

Answer #56
By default, the GSA will make a general request from the list. However, the tenderer must consider that GSA, following the description of its request, may ask for an advisor that has expertise on certain areas related to the task.

Question #57
In Annex I.1 (‘Lot 01: Technical terms of reference and Simulation exercise’), it is stated [in sections 2.6.3.2(a) and 2.6.6.2(a)] “The GSA will give the tenderer a notice period of four (4) weeks for these planned activities, so that it can prepare for this scenario in the event of a possible GSA request happening during that period.” Is it possible to provide a sample/dummy of such a notice and which is the maximum number of advisors requested in such a notice? Further in the “extreme case of the
GSMC-FR site being unavailable” stated in the same sections, is the notice to the Contractor of the same duration (i.e. 4 weeks)?

Answer #57
There is no sample of the notice. However, the notice will be sent – via e-mail – 4 weeks in advance to the Service Supervisor Manager of the tenderer using the mail contacts supplied to the GSA at contract signature. This notice applies for Business Continuity and Disaster Recovery exercises. The notice will contain the start and end dates where the GSMC will operate from its backup location, in order to allow the tenderer to prepare the logistics to deliver the tasks, namely Task 1.2 – in case GSA submits a relevant request for the given period – and Task 1.5 in all cases as this task is delivered on a permanent basis. Therefore on the basis of the above, GSA cannot estimate the maximum number of advisors that will be required during this exercise.

In the highly unlikely event of an unplanned contingency, the contractor must start performing the task 1.2 from the GSMC backup site or from one of the GCCs within 5 working days (see section 2.2 of ANNEX I.E). For task 1.5, the contractor must ensure the equivalent level of service as in the main site with a maximum of 5 calendar days to provide the service.

Question #58
Is it possible for the Contractor to replace members of the proposed advisors team?

Answer #58
During contract implementation it is possible to replace the members of the proposed advisors team only with authorisation of the GSA. This request must be duly justified and the replacement should be done in exceptional cases, such as when a person leaves the tenderer. Please refer to Article II.2.4 of the draft Framework Contract (Annex II) for the procedure.

Question #59
Annex I.E (‘Service Level Agreement’) states: “Task 1.2 of Lot 1 – Service provision time for shift services - Upon activation of task 1.2, the contractor shall ensure that 1 (one) expert is physically present on the GSMC premises and available to support the GSMC shift roster functioning in a 24h (twenty four hours) basis per day, 7 (seven) days per week scheme for the entire duration of the underlying specific contract”. Please clarify whether this requirement is correct or whether the whole task 1.2 is on-demand.

Answer #59
The Task 1.2 is an on-demand task for GSA certified experts in Security Monitoring. In this context, an example of such demand could look like this:
“GSA requests an operator to cover the night shifts of Tuesday 21/11 and Wednesday 22/11.” In this example, the night shifts duration is defined in the GSMC roster that will be communicated to the company at contract signature. An example of such roster is supplied in Annex 1 of the Clarification 6.

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