



Clarification Note #1

GSA internal reference: 230062

Procurement procedure: GSA/OP/12/16

Integration of Fundamental Elements

Question #1: In section 3.2.1 (Legal and regulatory capacity), criterion L1, is stated that a copy of the value added tax (VAT) registration document is required to be authorised to perform the framework contract under the national law.

Could you please clarify if newly established companies that do not have the VAT registration yet could participate in tender? Under certain conditions the EU country where our company is registered does not require the VAT registration to be authorised to perform the framework contract. If the tender participation is allowed, what is the recommended procedure to fill in the Legal Entity Form?

Answer: Following selection criterion L1, tenderers must be authorised to perform the framework contract under the national law. If the tenderer does not have the VAT registration, the situation should be explained in the tender. The VAT number may be referred as N/A (not applicable) in the Legal Entity Form. If the tenderer intends to still obtain VAT registration before the contract signature it is to be made clear in the tender.

Question #2: In section 3.2.2 (Economic and financial capacity criteria), criterion F1 requires to submit a full copy of the tenderer's annual accounts for all consortium members.

Could you please clarify if newly established companies without any certified financial statements from previous years could participate in tender? If yes, what is the recommended procedure to fill in the Financial and Economic Capacity Form?

Answer: Please refer to section 3.2.2 of the Tender Specifications, second paragraph, stating that if, for some exceptional reason, a tenderer is unable to provide one or other of the above documents, the tenderer may prove its economic and financial capacity by any other document. The appropriateness of this document will be assessed by the Evaluation Committee. The exceptional reason and its justification shall be explained in the tender.

Question #3: Point 2.6.8 Participation conditions of the terms of reference state "*Participation in this procurement procedure shall be open on equal terms to all economic operators (natural and legal persons) established in the territory of the Member States of the European Union and to all economic operators established in a third country which has a special agreement with the EU in the field of public procurement, when applicable to the Agency, under the conditions laid down in that agreement. It shall also be open to international organisations*". However, contract notice 2017/S 032-057154 published on the OJ of the EU states, under point IV.1.8, that GPA does not apply in this case.

Can you please confirm whether legal entities established in a third country which has a special agreement with the EU in the field of public procurement (the GPA) are eligible for participation to this call for tender?

Answer: The Agreement on Government Procurement (GPA) is not applicable to the contracts awarded by European GNSS Agency.

Question #4: Our legal entity is a European Economic Interest Grouping (EEIG) According to Council Regulation (EEC) No 2137/85 of 25 July 1985 on the European Economic Interest Grouping (EEIG), all the members of our EEIG are registered and established in Member States of the European Union. We understand from the tender specifications (pages 19-20) that, in order to comply with the requirements related to the legal and regulatory capacity of our EEIG, i.e. the tenderer, it is sufficient that we provide in the tender the following documentation:

- legal entity form of the EEIG;
- a copy of the trade and professional register excerpt of the EEIG;
- a copy of the VAT registration document of our EEIG.

We also understand that, in order to prove the place of establishment of our EEIG and the eligibility of our legal entity, we will not have to produce any additional documentation to what is requested under point 3.2.1. of the tender specifications.

Answer: We confirm. However, please note that the evaluation committee has the right to request additional information / clarifications as it deems appropriate for the evaluation of the criterion set.

Question #5: Tender Specifications, Section 2.2.2, subsection “Tasks carried out by the contractor will include”: (pages 11-12). The section includes the type of activities to be performed and lists:

1. Provide business expertise to GSA
3. Post-project business coaching and support
4. Coaching on IPR issues.

Point 2 is missing. Is it a clerical error, or rather a section on the support to be provided *during* the projects is missing, along with related sub-activities?

Answer: It is a clerical error and no section is missing. The text should be read as:

1. Provide business expertise to GSA
2. Post-project business coaching and support
3. Coaching on IPR issues.

Clarification #6: The reference in art. I.14 of the Draft Framework Contract shall be read I.12 instead of 1.12.

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