



## Clarification Note #2

GSA internal reference: 230673

**Procurement procedure: GSA/OP/23/16 – "Development, Supply and Testing of a Galileo Open Service Authentication User Terminal (OS-NMA) for the GSA"**

**Question no. 18:** Are subcontractors to be selected by competitive tenders mandatory? The following sentence seems to confirm (paragraph 2.8.6 page 40 of the tender specifications): *"For the purposes of Article 26(1) GNSS Regulation, the GSA envisages the following indicative share for subcontracting which the tenderer shall implement by competitive tendering outside the tenderer's group: minimum share of 10% of the Total Price"*. On the other side, on page 41 of the tender specifications it is stated that: *"In case where no or not the required share of competitive tendering is planned to be undertaken, the tenderer shall submit a justification providing compelling reasoning for the non-compliance with the abovementioned requirement. Failure to provide such justification may lead to the rejection of the tender"*. Which type of "compelling evidence" would you consider appropriate in case the tenderer is not using competitive subcontractors? And is this strongly discouraged?

Answer: **Paragraph 2.8.6 of the tender specifications** provides that if the tenderer does not intend to carry out any competitive tendering or that it will carry out competitive tendering for a share of the Total Price lower than the one indicated in the tender specifications (10%), it shall provide its reasoning to the GSA (no compelling evidence as referred to in the question). It is for the tenderer itself to provide the reasoning for its non-compliance to the subcontracting requirement, which would be evaluated by the evaluation committee, appointed for the purpose.

**Question no. 19: Can competitive subcontracts be allocated entirely to Stage 2?**

Answer: As stated in section 2.8.6 of the tender specifications, tenderers must clearly indicate in their tenders which tasks, allocated to which Contract Stage and to which proportion (in %) in relation to the Total Price they intend to subcontract, demonstrating compliance with the requirements therein. Please note that according to Article I.2.2 of the draft Conditional Stage Payment Contract (CSPC), the activation and entry into force of the Contract Stage 2 shall be subject to the conditions precedent described under Article I.3.4 and subject to Article I.9.3 of the CSPC. Therefore, as the activation of Contract Stage 2 is not a certain event at the time of signature of the CSPC, it is not possible for tenderers to implement the competitive subcontracting in relation only to tasks allocated to Contract Stage 2.

**Question no. 20: Can competitive tenders (minimum 10% of the contract) be selected before the submission of the project, and already proposed to GSA in the proposal? In such case, which of the following option would you require: 1) all the different competitive proposals have to be delivered, as proof of the evaluation process, 2) only the winning competitive proposal must be included, 3) no competitive proposal needs to be included; the outcome of the evaluation and the description of the process used is sufficient.**



Answer: Tenderers **are required** to complete the competitive tenders before the submission of their tenders; however, if they do not manage to do so, they must submit a signed undertaking presenting the credible tendering plan they intend to carry out.

Competitive tendering outside the tenderer's group is considered to have taken place when more than one offer from an entity outside the group has been requested by the tenderer. As proof of competitive subcontracting tender(s), tenderers must allow visibility of the request for proposals and all the different competitive proposals received by the tenderer.

**Question no. 21: The following statement is included in the tender specifications: “IMPORTANT INFORMATION: The total price of Contract Stage 1 (including the budget for all tasks included in it and the mission budget) – shall not exceed 45% of the Total Contract Value of 2,500,000 EUR (two million five hundred thousand euro) to be evidenced by Annexes I.K and I.L, as otherwise this may bear negatively on the marking in Q1. The total overall price of all tasks (Total Price), to be indicated in Annex I.L shall not exceed the Total Contract Value, as otherwise the tender may be rejected. The prices quoted per task shall cover all costs incurred by the contractor in relation to the performance of each task and any activity related to the implementation of the Contract.” Is the meaning of this statement that the value of Contract Stage 1 shall not exceed 1.13 M EUR (45% of 2.5 M EUR) or the 45% of the Total Price proposed by the tenderer (which may be less than 2.5 M EUR)?**

Answer: As stated in section 2.8.2 of the tender specifications, the **maximum** price of the Conditional Stage Payment Contract (CSPC) is EUR 2,500,000 and any tender providing a higher price may be rejected. The tenderers may indicate in their financial offer a total overall price of all tasks (Total Price) which is lower than the abovementioned maximum of EUR 2,500,000.

Based on the above, the 45% threshold related to Stage 1 has to be interpreted as referring to the price offered by each Candidate and not the maximum price of EUR 2,500,000.

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