



16 April 2014

Clarification No 4

Reference: Open call for tenders No EEA/MDI/14/001

Title: *Copernicus Initial Operations 2011-2013 - Land Monitoring Service
Local Component: riparian zones*

Question 1

Based on the tender specifications it is unclear what the expected legal position is of the experts providing consultancy services, in relation to the future contractor.

Shall they be:

- member of consortium/subcontractor of member of consortium;
- or
- remain to be independent consultant in a "pool of potential experts", with his/her expertise requested upon ad-hoc emergence of need for consultancy, without any legal bind to the contractor.

More specifically, when named as consultant within the above-mentioned tender do you see a conflict of interest with the following:

- call for expression of interest No EEA/SES/13/05-CEI (employer being member of consortium accepted to the pool of experts)
- DGENTR's Call for expressions of interest experts for the "Copernicus Expert Group" (http://ec.europa.eu/enterprise/newsroom/cf/itemdetail.cfm?item_id=7320) (application as individual expert)

Answer 1

As stated in section 6 of the tender specifications, the purpose of this call for tenders is to establish a framework contract with a single economic operator who can provide services for both the production of three data layers and consultancy ancillary to the production of these three layers.

It is entirely up to the tenderer to decide on the composition of the tender e.g. natural or legal person or groupings (consortia) or subcontracting. Please refer to section 4 of the tender specifications which specifies the rules applicable for participation in this call for tenders. The technical offer to be submitted shall provide a clear and comprehensive overview of the service providers intended to be involved with details on their professional qualifications and roles.

However, tenderers shall bear in mind that for the purpose of the award of the contract, they will be assessed in terms of their technical and professional capacity to provide the requested services as provided in section 11.2.3 of the tender specifications. Tenderers shall note as well that for the purpose of performance of the framework contract, their competence in terms of economic and financial capacity and technical and professional capacity as described in their tender must be maintained throughout the framework contract, as specified in section 12 of the tender specifications.

Furthermore, tenderers shall pay attention to the provisions on exclusion criteria specified in section 11.1 of the tender specifications and annex 2 thereof, i.e. declaration on exclusion criteria, in particular point (g), whereby tenderers shall declare on their honour that they have no conflict of interest in connection with the framework contract.

Once the contract has been signed, the contractor shall abide by the provisions of Article II.3 of the framework service contract on the prevention and management of conflict of interest (see annex 6 to the tender specifications).

Question 2

EEA received a request for clarification on the rules for participation in the above-mentioned call for tender (Section 4 of the Tender Specifications), with regard to subcontracting companies in non-listed countries.

Answer 2

In principle, according to Sections 4.1 and 4.3 of the Tender Specification, the rules for eligibility do not necessarily apply to subcontractors, as long as they meet the requirements for Exclusion and Selection Criteria.

Tenderers are required to provide a description of the services they intent to subcontract and their scope and in addition evidence that the subcontractors meet the exclusion and selection criteria set in the tender specifications.

The tenderer to whom the contract is to be awarded shall ensure that the contractual provisions applicable to him are also applicable to the subcontractors and he shall retain sole responsibility for the proper performance of the contract (Article II.12.2 of the Draft Framework Contract, Annex 6 to Tender Specifications).

Question 3

1. Annex 1 (tender submission form) contains only one field for signature. We therefore assume that this document needs to be signed only by the coordinator of a consortium. Please confirm if this assumption is correct.

2. Must annex 4 (financial identification form) also be provided by each member of a consortium or only by the coordinator?

Answer 3

1. Yes, it is correct.

2. Annex 4 (financial identification form) shall only be provided by the coordinator.