

Call for tenders' details

Title: Study on the transposition by Member States of Directive 2016/943 on Trade Secrets

Start date: 23/05/2018

Time limit for receipt of tenders: 18/07/2018

Contracting authority: European Commission, DG for Internal Market, Industry, Entrepreneurship and SMEs (GROW)

Status: Closed

Call for tenders question list

Call for tenders questions summary

#	Submission date	Publication date	Question subject	Question	Answer
1	25/05/2018 15:16	29/05/2018 08:30	Clarification on the selection criteria	<p>1. ToR, 5.2.3 “Evidence of the economic and financial capacity ...” point (a) reads “The language skills shall be demonstrated by a relevant certificate or past experience of working in English and[...]. Any claim of past experience should be supported by at least one document written in English by the person claiming the language skills. This evidence refers to selection criteria 2.1 and 2.2.”</p> <p>Please, confirm that this evidence requirement applies only to selection criterion 2.2. “Team Members” in its part “The team of the Contractor shall have at least at least two members fluent in English with C2 [...]”</p> <p>In case it applies to all team members it will be practically impossible to provide documents in English written by all team members, whose number will be more than 30.</p> <p>2. Subsection 5.2.3 “Evidence of the economic and financial capacity ...”, point (b) reads “a list of the principal projects conducted and their recipients, public or private. The list of the most important projects [...]”; This evidence refers to selection criterion 2.1.”</p> <p>Please, explain whether you require project references for the Project manager(s) in his/her personal</p>	<p>29/05/2018</p> <p>On the first question: The English language capacity has to be proven for the project manager (criterion 2.1 – level C1), the two members of the team, who are responsible for the quality of the final report (criterion 2.2 – level C2) and the supervisory staff (criterion 2.2</p> <p>On the second question: we are interested in the experience of the Project Manager in his/her personal capacity, also working for companies other than the applicant.</p> <p>On the third question: the references for the supervisory staff should also be in their personal capacity.</p>

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				<p>manager(s) in his/her personal capacity, including projects implemented on behalf of companies other than the applicant company or whether you require project references from the applicant company, regardless of the Project managers` involvement in them.</p> <p>3. Subsection 5.2.3 "Evidence of the economic and financial capacity ...", point (c) reads "List of relevant projects on which the supervisory staff worked demonstrating its capacity to perform the tasks. This evidence refers to selection criterion 2.2."</p> <p>Please, explain whether you require project references for the members of the supervisory staff in their personal capacity.</p>	

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2	29/05/2018 12:34	29/05/2018 15:55	Address for delivery of original hand-signed documents	<p>Dear Sirs, could you kindly clarify at which address the original hand-signed Declarations on Honour and Tender Reports should be sent to? This information is not quite clearly pointed out in the given invitation/ToR/contract documents.</p> <p>Thanks a lot in advance.</p>	<p>29/05/2018 As specified in the invitation to tender (point 1) and in the technical specifications (4.1.2), both documents should be sent to the postal address indicated under Heading I.1 of the contract notice. EUROPEAN COMMISSION - DG Internal Market, Industry, Entrepreneurship &SMEs - Directorate F :Innovation &Advanced Manufacturing - N105 9/023 - 1049 BRUSSELS - Belgium</p>
3	29/05/2018 16:32	03/06/2018 17:44	5.2.3. Evidence of the technical and professional capacity of the service provider(s)	Please, clarify whether a translation company has to provide a list and signed CVs of all translators	<p>03/06/2018 If you use a company or companies to translate, you have to indicate only the name of those companies and some basic information which helps to identify whether the scope of activities of those companies include translations. If you choose to look for independent translators, then you have to indicate the names of those persons with some information allowing to check their qualifications as translators. No CVs are necessary. A CV is, however, necessary for the persons who will verify the translations.”</p>

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#	Submission date	Publication date	Question subject	Question	Answer
4	20/06/2018 12:27	28/06/2018 07:56	Request for clarification	The extension of the term for the project (more than double than the initial one) materially increases the activities to be undertaken by the contractor: the contractor shall potentially repeat the completeness and conformity check and integrate the translations – as well as all related quality assurance tasks – more than once for each MS. Do you consider an increase of the budget for the project? Regards	28/06/2018 There is no change to the material scope of the project and hence no increase of the budget is deemed necessary. In both the initial technical specifications and in the updated version the Contractor is required to provide the reports on completeness (point 1.3.b) and compliance (point 1.3.c) for each Member State. Those reports are submitted only once and subsequently integrated in the draft final report. The draft final report and the final report have to include all reports for all Member States. The technical specifications was updated in order to take into account the fact that some Member States might not have transposed the Directive on the date of signature of the contract with the Contractor but might do so in the course of 2019 or early 2020.

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5	19/06/2018 14:18	28/06/2018 07:57	request for clarification	<p>Q1 The specifications require:</p> <ul style="list-style-type: none"> - "Any amendments to those [transposition] national provisions until the date of submission of the Contractor's draft final report shall be reflected in the latter report" (par. 1.1, p. 4); - "The Contractor shall submit each [completeness] report within 10 weeks from the date on which the Commission provides the Contractor with the notification of transposition of a Member State. If a Member State sends more than one notification to the Commission and on different dates, the contractor shall submit the report for the Member State in question within 10 weeks from the last notification sent by the Commission to the Contractor." (par. 1.3.b), p. 6); - "For each Member State the Contractor shall submit the report [on conformity] within 7 months from the date on which the Commission provides the Contractor with the last notification of transposition by the Member State in question" (par. 1.3.c), p. 7); - "The Contractor shall submit the [draft final] report within 10 months from the date on which the Commission provided the Contractor with the notification of the last Member State to transpose the 	<p>28/06/2018</p> <p>Q 1) The indicated time limits are maximum time limits. We expect that by 31 March 2020 all Member States will have notified their transposition measures. All notifications sent to the Contractor until 31 March 2020 will have to be reflected in the draft final report. In other words, the contractor will have 10 weeks to submit the completeness report and 7 months to perform the conformity check and include it in the draft final report (which is to be submitted by 1 November 2020 the latest). In the event that notifications are received after 31 March 2020, the Contractor and the Commission services will promptly discuss and agree upon on the feasibility of taking them into account. The inclusion of such additional notifications will not lead to a revision of the price. Finally, please note in the draft final report the Contractor will have to report on the transposition by all Member States, that is, including those that have not notified any transposition measure (point 1.3.(d) para 4 of the Technical specifications).</p> <p>Q2) Yes, the draft final completeness report refers to the draft final report.</p>

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				<p>Member State to transpose the Trade Secrets Directive In any case, the Contractor shall provide a draft of the final report on 1 November 2020 covering all Member States regardless of whether or not the Trade Secrets Directive was transposed by all Member States.” (par. 1.3.d), p. 7).</p> <p>Based on this, we need seven months to analyse completeness and conformity of provisions for each MS, the EC needs two months to comment on each report and subsequently we need some time to integrate those comments in the Draft Final Report due on 1 November 2020 (at the latest). Shall the Contractor consider, and work on, national provisions for which DG GROW communicates the notification to the same Contractor by 31 January 2020 at the latest?</p> <p>Q2 The specifications mention a “draft Final Completeness Report” once only (par. 1.3. b), page 6): shall we read it as “draft Final Report”?</p>	

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#	Submission date	Publication date	Question subject	Question	Answer
6	26/06/2018 17:28	28/06/2018 08:03	Parties required to submit the signed declaration on honour	<p>Section 4.2.1 of the Terms of Reference requires the Tenderer to provide a declaration on their honour by submitting a signed version of the form provided in Annex 6.1. It requires the submission of both a scanned version and the original, to be posted to the address of the contracting authority as indicated. Section 4.2.1 further states that, where the bid involves more than one legal entity (including subcontractors), each legal entity must provide the form.</p> <p>Does this mean that where individual legal experts are included in the bid in respect of each of the 28 Member States, such legal experts are not required to provide the declaration?</p>	<p>28/06/2018 The declaration must be submitted by each expert involved in the project.</p>

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