

CLARIFICATIONS TO TENDERERS QUERIES

Reconstruction and modernization of railway line “Niš-Dimitrovgrad – Section Bypass of Niš

TABLE OF CLARIFICATIONS

<p>Question No 1: It is mentioned in the tender documentation that “The minimum value of the Works carried out by the individual candidate in each reference contract in criteria 3.1 a) must be at least 100 million EUR equivalent. In case of a joint venture or consortium the minimum value of the Works carried out by the members of a joint venture or consortium in the reference contracts must be at least 100 million EUR equivalent. In case of a joint venture or consortium, the value of contracts completed by its members shall not be aggregated to determine whether the requirement of the minimum requirements of a single contract has been met. Instead, each contract performed by each member contributing to meeting the requirement shall satisfy the minimum requirement of a single contract as required for single entity. In determining whether the joint venture or consortium meets the requirement of total number of contracts, only the number of contracts completed by all members, each fulfilling the minimum requirements, shall be aggregated.”</p> <p>As a candidate we are intended to participate this valuable Project as JV. In this regard, Bidder’s understandings from the above statement that If a candidate join this Project as a JV any member in this JV can comply criteria 3.1 a). For example, If company A+B form a JV and only company A can submit several EPC Railway Project above 100m million EUR equivalent and company B cannot submit any relevant Project for this criterion. In that case, JV of A+B can comply criterion 3.1 a). Please clarify.</p>	<p>Answer No 1: Correct – the candidates (but not the single members of a consortium / JV) are assessed against the requirements. As set in 3.1. a): “... the number of contracts completed by all members, each fulfilling the minimum requirements, shall be aggregated. ...”. Specifically, and with reference to the question, Company B within a JV is not obliged to demonstrate the experience in one (1) successfully completed Railway Project of above 100 million EUR equivalent, if Company A within the same JV can fulfil that requirement.</p> <p>Please see Corrigendum No. 3, which can be found at the following address: https://infrazs.rs/medjunarodne-nabavke/</p>
<p>Question No 2: Regarding the clarification of the questions related to the Nis City Bypass Section of the Nis-Dimitrovgrad Railway.</p> <p>The tender documents require that for the construction references shall be provided Taking Over Certificates or Performance Certificates/final acceptance, and for the design references shall be provided final acceptance certificate. Since we did not have the final acceptance certificates issued by the Owner, the bases that we provided in the previous biddings are preliminary acceptance report + pages with key information from</p>	<p>Answer No 2: The requirements for the evidences for the acceptance of the referent projects are clearly specified in the Contract Notice. Please see Article 18, item 3.3.</p>

<p>construction drawing documentation (construction references), reference evidence + pages with key information from construction drawing documentation (design references).</p> <p>We kindly ask the Owner to clarify will this bases for construction and design references be accepted by the Owner ?</p>	
<p>Question No 3: On March 3, 2022, The European Investment Bank (EIB) conducted an investigation into the reason that Joint Venture of our company and partner company made no disclosure as sanctioned entities by the World Bank during the one of the tender in a country. The investigation by EIB is still ongoing at this moment.</p> <p>Our company in Serbia has no staff who have participated in the up-mentioned project which is being investigated by EIB. According to these circumstances, we would like to ask you whether we are eligible to participate in the Prequalification for Reconstruction and modernization of railway line “Niš-Dimitrovgrad – Section Bypass of Niš“.</p>	<p>Answer No 3: The potential bidder can participate in the pre-qualification in accordance with the tender documentation, the legislation of the Republic of Serbia, as well as the "EIB Procurement Guide".</p>
<p>Question No 4: Please be kind to provide us Design for Building Permit (PGD). As potential Participant we need to revise the Design in order to decide whether we will make application or not, as the scope of this contract is preparation of the all necessary designs (meaning the Design for Construction (PZI) and As-Built Design (PIO) of Works based on the available Design for Building Permit (PGD).</p>	<p>Answer No 4: The Design for Building Permit and other relevant technical information about the subject of the future works contract are consistent part of the Tender Documents which will be delivered to the short-listed candidates along with the Invitation to Tender. Accordingly, such documents and information cannot be shared by the Contracting Authority at the pre-qualification stage of the public procurement. For more details about the restricted procedure and content of the related documents please refer to the European Investment Bank Guide to Procurement and EU PRAG.</p>
<p>Question No 5: In document Work Contract notice, chapter Conditions of participation: - Every candidate, member of a joint venture/consortium, every capacity-providing entity and every subcontractor must certify that they meet these conditions. They must prove their eligibility by a document dated less than one year earlier than the deadline for submitting application, drawn up in accordance with their national law or practice or by copies of the original documents stating the constitution and/or legal status and the place of registration and/or statutory seat and, if it is different, the place of central administration. The contracting authority may accept other satisfactory evidence that these conditions are met.</p>	<p>Answer No 5: No. The procurement is not carried out according to the Law on public procurement or through the Portal for public procurement. Accordingly all bidders are obliged to submit the required documentation in accordance with the contract notice and prequalification documentation.</p>

<p>Q: If the candidate is Serbian Company, would it be enough evidence to have Membership in Bidders “Ponudāci” under Serbian Agency for Business Registers “APR”, as it is common proof for the same cause under National Law of Public Procurement?</p>	
<p>Question No 6: In document Work Contract notice, chapter Selection and award criteria, 3.2 d): - Experience in successfully completed at least one (1) works contract for construction / reconstruction / modernization of any public transport infrastructure project of a value of more than 100 million EUR equivalent for administration of which Yellow Book FIDIC contract conditions were used.</p> <p>Q: Is it acceptable to provide experience of successfully completed construction of highway project or similar under the contracting authority’s formulation of public transportation infrastructure project of a value of more than 100 million EUR according to Yellow FIDIC contract?</p>	<p>Answer No 6: No. Please see requirements under 3.1.a) of General construction experience where it is defined that “...public electrified railway line...” are only relevant Projects.</p>
<p>Question No 7: • Reconstruction and modernization of railway line “Niš-Dimitrovgrad – Section Bypass of Niš, Ref. No: EIB-GtP/ 27/22/OON Please find below question regarding the Selection criteria that refers to the Technical capacity of candidate, specifically - 3.2 Specific construction experience: • Can the technical capacity requirements under 3.2 d), for experience in public transport infrastructure projects and Yellow FIDIC, be met by specialist subcontractor?</p> <hr/> <p>After a more careful analysis of the tender documentation, more precisely the Application form, we noticed a footnote on page 21 (Section 3.2), which states: „Subcontractor’s specific construction experience is acceptable for works and special features under c) and d) only.“ Please confirm that it is acceptable to use the Subcontractor’s specific construction experience to demonstrate the technical capacity requirements under 3.2 d).</p>	<p>Answer No 7: No, the requirements under 3.2 d) must be met by the candidate (sole tenderers or consortiums/joint ventures). As clearly set in sub-items 3.2 and 3.3 of Section 18., only the requirements under 3.2 c) and 3.3 e) and f) can be met by the party performing the activity, either the candidate or his specialist subcontractor(s).</p>
<p>Question No 8: Regarding Technical capacity of candidate, point 3: In order to increase the competitiveness of the procedure, as a benefit also for the Client, and considering that the fulfilment of total requirements (3.1 general construction experience and</p>	<p>Answer No 8: Please see Corrigendum No. 3, which can be found at the following address: https://infra.rs/medjunarodne-nabavke/</p>

<p>3.2 specific construction experience) is assuring the required experience according to the scope of works, please consider to modify point 3.1 General construction experience:</p> <p>a) Experience as a contractor (in any role) in the execution of at least one (1), construction / reconstruction / modernisation contract for public railway line (metro and light rail are excluded) with the total value of Works at least 100 million EUR equivalent, that have been successfully completed.</p>	
<p>Question No 9: Due to the relevance of the documents that must be provided, please consider to extend the submission date 4 weeks.</p>	<p>Answer No 9: Please see Corrigendum No. 2, which can be found at the following address: https://infrazs.rs/medjunarodne-nabavke/</p>
<p>Question No 10: It is indicated that candidate or his specialist subcontractor(s) must demonstrate the following specific experience and that the technical capacity requirements under 3.2 c) for experience in railway electrification should be met by the party performing the activity, either the candidate or his specialist electrification subcontractor.</p> <p>- Please indicate that it is allowed for specialist subcontractor in railway contract administration (experience for administration of which Yellow Book FIDIC contract conditions were used) to meet the Specific construction experience the technical capacity requirements under 3.2 d).</p> <p>- This would allow Sub-contractors (Sub-consultants) to participate in more than one application.</p>	<p>Answer No 10: Please see answer to clarification question No.7. [No, the requirements under 3.2 d) must be met by the candidate (sole tenderers or consortiums/joint ventures). As clearly set in sub-items 3.2 and 3.3 of Section 18., only the requirements under 3.2 c) and 3.3 e) and f) can be met by the party performing the activity, either the candidate or his specialist subcontractor(s).]</p>
<p>Question No 11: We kindly ask you to reconsider the amount 100 million EUR under 3.1.a) and 3.2.d) and to provide fair and transparent tendering.</p> <p>- We consider these minimal qualification criteria to be inappropriate. Please explain how this amount has been established? Is it really in compliance with the magnitude and complexity of the contract scope?</p> <p>- We are highly interested in participating this tender procedure, but we can't fulfill neither 3.1.a) neither 3.2.d) and we are not able to find consortium partner in EU who is complying with this certain requirement because companies with such experience are so rare and this requirement is disabling fair competition. For example, we have</p>	<p>Answer No 11: Please see the answer to Clarification Question No. 8.</p>

<p>experience as contractor for 95 million EUR Yellow FIDIC public electrified railway line that we can't rely on because of these excessively high demands.</p>	
<p>Question No 12: We kindly ask you to modify 3.2.d) requirement in order to able Contractors with corresponding experience for administration of which Silver Book FIDIC contract conditions were used, so it states: d) Experience in successfully completed at least one (1) works contract for construction / reconstruction / modernization of any public transport infrastructure project of a value of more than 100 million EUR equivalent for administration of which Yellow or Silver Book FIDIC contract conditions were used. In any event, all tenderers must be treated equally and fairly. Silver Book FIDIC contract conditions ("turnkey" contract), gives the promoter more technical guarantees and it usually takes considerable experience and in-house capacity to coordinate their implementation, so if Contractor provide experience in Silver Book FIDIC contract conditions he is certainly qualified to administer Yellow FIDIC contract. Namely, as potential Bidder who has: relevant Experience in successfully completed works contract for construction of public transport infrastructure project of a value of more than 100 million EUR equivalent for administration of which Silver Book FIDIC contract conditions were used and has Experience in successfully completed works contract for construction of public transport infrastructure project of a value of less than 100 million EUR equivalent for administration of which Yellow Book FIDIC contract conditions, we consider that we are more than enough qualified for The scope of this contract and we ask you to provide fair competition and avoid discrimination.</p>	<p>Answer No 12: The requirements in sub-item 3.2.d) cannot be modified.</p>
<p>Question No 13: We kindly ask you to consider an extension of time for tender preparation, i.e. to postpone the application submission for additional at least 30 days in order to allow us to prepare our best application</p>	<p>Answer No 13: Please see answer No 9.</p>
<p>Question No 14: Our company is very keen to participate in the forthcoming tender and in order to attain a certain quality of our application we are trying to find more high-standard and professional partners.</p>	<p>Answer No 14: Please see answer No 9.</p>

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<p>Considering the importance and complexity of this procurement, we believe that the Contracting Authority would want to allow candidates sufficient time to prepare offers, in order to guarantee the quality of tenders.</p> <p>We kindly ask you to approve a 45 days extension of time for procurement application submission.</p>	
<p>Question No 15: Could you please provide us Tendering No, Invitation for Tender No. and Pre-qualification No., which are not mentioned in the pre-qualification document?</p>	<p>Answer No 15: For the entire procedure use the publication reference: EIB-GtP/ 27/22/OON.</p>
<p>Question No 16: In relation to the APPLICATION FOR EIB-FUNDED WORKS CONTRACT, Form 1.1. Data of Joint Venture, Para 7 Proposed proportion of responsibilities between partners (in %) with indication of the type of the works to be performed by each If Tenderer is participating as an integrated Joint Venture without a clear split of works between partners, could Tenderer fill in Para 7 just percentages of participation between partners?</p>	<p>Answer No 16: No, the requirement applies for all potential types of Joint Ventures.</p>
<p>Question No 17: In relation to the APPLICATION FOR EIB-FUNDED WORKS CONTRACT, Declaration of Honour on Exclusion and selection Criteria, VII Selection Criteria, (10) (d) “ if the above-mentioned person is the sole tenderer or the leader in case of a consortium, declares that: the tenderer, including all members of the group in case of consortium and including subcontractors if applicable, complies with all the selection criteria for which a consolidated assessment will be made as provided in the tender documents. Does consolidated assessment in this statement mean, in case of consortium, that all members collectively should comply with selection criteria?</p>	<p>Answer No 17: Please see answer No 1.</p>
<p>Question No 18: In relation to the APPLICATION FOR EIB-FUNDED WORKS CONTRACT, Declaration of Honour on Exclusion and selection Criteria, VII Selection Criteria, (9) declares that the above-mentioned person complies with the selection criteria applicable to it individually as provided in the tender documents, (b-c) We have only two documents; WORKS CONTRACT NOTICE and APPLICATION FOR EIB-FUNDED WORKS CONTRACT. Neither of those documents hasn't section 12.2 of the Instructions to tenderers with indicated economic and financial criteria Could you please clarify criteria (a), (b) and (c) in VII-SELECTION CRITERIA (9)</p>	<p>Answer No 18: The candidates are requested to make the following listed changes in Section “VII – SELECTION CRITERIA” of “DECLARATION OF HONOUR ON EXCLUSION AND SELECTION CRITERIA”: (a) shall be read as: “It has the legal and regulatory capacity to pursue the professional activity needed for performing the contract as required in section 8 of the Works Contract Notice”; (b) shall be read as: “It fulfils the applicable economic and financial criteria indicated in section 18. 1) of the Works Contract Notice”; (c) shall be read as: “It fulfils the applicable technical and professional criteria indicated in section 18. 2) and 3) of the Works Contract Notice”.</p>

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	If not done by the candidates, the text will be read during the evaluation process as clarified above.
Question No 19: We understand that, Tendering No, Invitation for Tender No. and Pre-qualification No. are “EIB-GtP/ 27/22/OON”. Please confirm.	Answer No 19: Yes.
Question No 20: In tender documentation, WORKS CONTRACT NOTICE, SELECTION AND AWARD CRITERIA, Technical capacity of candidate, it is defined that Candidate must provide experience: a) Experience as a contractor (in any role) in the execution of at least one (1), construction / reconstruction / modernization contract for public electrified railway line (metro and light rail are excluded) each, with the value of Works implemented by the candidate, at least 100 million EUR equivalent, that have been successfully completed. d) Experience in successfully completed at least one (1) works contract for construction / reconstruction / modernization of any public transport infrastructure project of a value of more than 100 million EUR equivalent for administration of which Yellow Book FIDIC contract conditions were used. This high amount is very unusual in local market and put us in bad position in compare with foreign companies. Could you please reconsider these 100 million EUR requirements and accept value at least 90 million EUR for each requirement? We are very sure that this change would provide wider competition and more offers from well qualified companies.	Answer No 20: Please see answers to Clarification Question No 8.
Question No 21: Dear Sir/Madam/all, Our company is very keen to participate in the forthcoming tender and in order to attain certain quality of our application but the upcoming Christmas holidays (both Catholic and Orthodox) affected the document preparation of both our partners and us. Considering the importance and complexity of this procurement, we believe that the Contracting Authority would want to allow candidates sufficient time to prepare offers, in order to guarantee the quality of the offer. We kindly ask you to approve a 45 days extension of time for procurement application submission.	Answer No 21: Please see answer No 9.

<p>Best regards,</p>	
<p>Question No 22: Publication reference: EIB-GtP/ 27/22/OON Project name: Reconstruction and modernization of railway line “Niš-Dimitrovgrad – Section Bypass of Niš Dear Sir or Madam: I would like to request clarification about the eligibility for the experience. As you mentioned in tender document 3.2d, a public transport infrastructure implemented under the condition of the FIDIC Yellow book is required. Our question is, whether an EPC project or a public transport infrastructure project which uses the contract condition of the FIDIC Silver book will be considered eligible. I am waiting for your reply</p>	<p>Answer No 22: Please see answer No 12.</p>
<p>Question No 23: Dear Sir or Madam: As you mentioned in tender document 3.2d, Experience in successfully completing at least one (1) works contract for construction/reconstruction/modernization of any public transport infrastructure project of a value of more than 100 million EUR equivalent for the administration of which Yellow Book FIDIC contract conditions were used. is required. I would like to ask you whether it is possible to add up two projects to reach the 100 million EUR level. I am waiting for your reply.</p>	<p>Answer No 23: Please see answer No 12.</p>
<p>Question No 24: According to the pdf file "ENOTICES_jacevsk (eu.europa.eib)-2022-201518-NF14-EN" published on the JSC official website, the “Time limit for receipt of tenders or requests to participate” for this project has been changed from “Date: 24/11/2022 Local time: 13:00” to” Date: 02/02/2023 Local time: 13:00”. Please confirm whether this means that the Deadline for receipt of applications has also been changed to” Date: 02/02/2023 Local time: 13:00”.</p>	<p>Answer No 24: Please see Corrigendum No. 2, which can be found at the following address: https://infra.rs/medjunarodne-nabavke/.</p>
<p>Question No 25: Since January 21st is a very important holiday in our country, almost all companies will have a holiday from January 21st to February 1st, so there will be obstacles in document preparation and delivery. We sincerely want to participate in this project with the highest quality, so please allow an extension of 20 days for the submission deadline.</p>	<p>Answer No 24: Deadline for receipt of applications cannot be modified.</p>