



REPUBLIC OF BULGARIA
MINISTRY OF REGIONAL DEVELOPMENT

QUESTIONS AND ANSWERS

Ex-ante evaluation and SEA of IPA Cross-border cooperation programmes managed by the Republic of Bulgaria 2014-2020

Sofia, Bulgaria

Reference: Lot 1: 2007CB16IPO006– TA – 2014-1
Lot 2: 2007CB16IPO007– TA – 2014-1
Lot 3: 2007CB16IPO008– TA – 2014-1

Question 1:

Please give a clarification concerning the requirement stated in “Instructions to tenders”, part “Service contract notice”, point 11 – Number of tenders, where it is written that “No more than one tender can be submitted by a natural or legal person whatever the form of participation. The tenderer may submit a tender for one lot only, for several lots or for all of the lots, but only one tender per lot.”

From the requirements stated in that manner it could be understood that the participant in the tender procedure may submit only one tender that may include one, two or all three lots.

In the tender documentation, in “Instructions to tenders“, point 14.1 of “Notification of award“ it is specified: ,”The key experts proposed in the participant’s offer (for one lot) must not be a part of any other tender offer (for the same or other lot/s) being submitted for the tender procedure in subject.“

Regarding the fact that in point 11, Number of tenders, it has been specified that an applicant may submit only one offer, the requirement stated in point 14.1 should mean that an expert should not be a part of the offer of another participant (can participate in only one offer).

Please give a confirmation on the correctness of our understanding related to the requirements stated in both parts of “Instructions to tenders“- namely “Service contract notice“, point 11 and “Number of tenders“, point 14.1.

Answer:

Having in mind that **one tender procedure** for ex-ante evaluation and SEA divided into three separate lots has been launched and for each separate lot the tenderer should submit individual technical and financial offer (in compliance with p.11 Number of tenders “The tenderer may

submit a tender for one lot only, several lots or all of the lots, **but only one tender per lot.**”) and the requirement outlined in Art.14.1 (“The key experts proposed by the successful tenderer (for one lot) must not be part of any other tender (for the same or other lot/s) being submitted for the tender procedure in subject.”), the key expert/s proposed in one tender must not be part of any other tender for this tender procedure.

Therefore, in case a tenderer is successful in more than one Lot, and is therefore invited by the Notification of Award to submit CVs, it is not possible for this Tenderer to use the same key expert/s for the different Lots he has been awarded a contract. Since the three contracts will be implemented in parallel, the CA would like to be confident in the smooth and timely implementation of all contracts.

Question 2:

Related to the document “Draft Contract and special conditions”, in part „Annex II: Terms of reference“, point 6 6.Requirements, item 6.1.1 Key experts, about Key expert 2 it has been specified: “The proposed Key expert 2 should be accredited for conducting SEA procedures and relevant documents shall be provided. The accreditation should be in accordance with the relevant EU and national legislation. Any expert accredited in an EU member state may provide SEA services“.

*In Bulgaria the environmental assessment activity is regulated in **the Law on Environmental Protection - Chapter Six. Environmental assessment and environmental impact.***

In accordance with Article 83. (1) The assessments under Article 81, paragraph 1 are awarded by the Contracting authority of the plan or the programme or by the sponsor of the proposal in accordance with Article 81, paragraph 1, point 2, to a team of experts headed.

(2) The Leader and team members under paragraph 1 could be Bulgarian or foreign nationals having a “Master” degree.

(3) (suppl. Official Journal, issue number 46 by 2010, entered into force on 18.06.2010.) During the consultation on the evaluation procedure of environmental impact assessment (EIA) competent environmental authority or an authorized officer may, at his/her discretion or upon request to recommend to the contracting authority the team under paragraph 1 to include experts with specific competence, depending on the specific project or location.

Considering those rules it is clear that at present in Bulgaria there is no formal mechanism for accreditation, registration or licensing of these experts.

By 2010 there was an order for the registration of these experts settled in a regulation (Regulation No 1 of February 26th, 2003), adopted on the basis of Article 83, paragraph 10 of the Law on Environmental Protection. With the amendments of the Law, being promulgated in issue number 103 of Official Journal of 2009, the requirements to those experts have been modified and paragraph 10 has been cancelled. Presently article 16, paragraph 1 the Regulation on the conditions and procedures for environmental assessment of plans and programmes refers the experts’ requirements to the text stated in Article 83, paragraph 2 of the Environmental Protection Act, mentioned above.

With a view to that fact it becomes clear that according to the national legislation there is no regime under which the expert to be “accredited to perform procedures on environmental assessment” and in this sense, such a requirement should appear restrictive to Bulgarian subjects. In this context is it acceptable the qualifications of the expert to be proven by references

demonstrating the conduction of assessments of environmental impact?

Answer:

The requirement that the proposed key expert for SEA must be accredited for conducting SEA procedures in line with the relevant EU and national legislation, stipulates that this requirement is bounded with the relevant national legislation of the country of origin of the proposed expert. If such accreditation or equivalent is required, documentary proof should be provided. If the proposed SEA expert is with Bulgarian citizenship, the relevant Bulgarian legislation should be respected, namely: the SEA expert shall meet the requirements of Article 16 of Ordinance for the rules and conditions for implementation of SEA for plans and programmes, SG 3, 2006, and no accreditation is needed.

Question 3:

Does the Contracting Authority require 3 different working teams composed of different key experts for each of the 3 lots of the tender?

Answer:

Please refer to the answer of Question 1

Question 4:

Is it possible a key expert to participate in more than one Lot and if yes, in how many?

Answer:

Please refer to the answer of Question 1

Question 5:

Would you, please, let us know whether the Contracting Authority in compliance with Article 8 of the SEA ordinance (Ordinance for the rules and conditions for implementation of SEA for plans and programmes, SG 3, 2006) has already submitted a request to the competent authority (the Ministry of Environment and Water) to issue a decision on whether the IPA Cross-border cooperation programmes will require SEA and in case SEA is require to define requirements for its scope? If such request has been submitted could you, please, let us have the answer of the competent authority?

Answer:

In compliance with the Art. 8 of the Regulation (EU) No 1299/2013 of The European Parliament and of the Council of 17 December 2013, all cooperation programmes for 2014-2020 period shall be subject of ex-ante evaluation, which shall incorporate, where appropriate, the requirements for strategic environmental assessment set out in Directive 2001/42/EC of the European Parliament and of the Council, taking into account climate change mitigation needs. In this respect the Contracting Authority considers SEA of IPA cross-border cooperation programmes 2014-2020 as required. Thus, no official request for a decision on the need of SEA has been sent to the competent authority (the Ministry of Environment and Water) so far. After finalizing the tender procedure and awarding the contracts, the respective SEA procedure (in line with the Ordinance

for the rules and conditions for implementation of SEA for plans and programmes, SG 3, 2006) will be launched.

Question 6:

The TOR requires that the KE2 SEA expert should have “Solid knowledge of environmental related EU regulatory framework and content-related requirements for SEA (Certification for SEA of equivalent is required).” Since 2010, according to the Bulgarian legislation, it is required the SEA and EIA experts to be registered/certified. With this regard could you please clarify what is the meaning of the requirement: Certification for SEA or equivalent is required?

Answer:

Please refer to the answer of Question 2

Question 7:

We would like to know whether Contractor will accept the candidate (a firm or consortium as a whole) has experience concerning the following fields of specialization:

- evaluation of programmes/plans;*
- SEA of programmes/plans/EIA of major infrastructure projects;*

If the candidate (a firm or consortium as a whole) had managed the following contracts:

- 1) Contract for the development of an integrated plan for urban regeneration and evolution*
- 2) Contract for Environment assessment of General development plan*
- 3) Contract for Environmental impact assessment of investment proposal for mining*

Answer:

The tenderer’s capacity declared toward the selection criteria (as specified in the Contract Notice) is subject of administrative and compliance assessment of the submitted tenders and following the provisions under p. 3.3.5. “Additional information during the procedure” from PRAG rules, the Contracting Authority cannot give prior opinion on each tenderer’s compliance with the selection criteria.

Question 8:

We would like to know whether, by the pursuance of the contracts listed below, Rila Consultant EOOD (the tenderer) had managed to match the selection criteria.

Contracts and services executed by Rila Consult EOOD during the period 2007-2013:

- 1) Contract for the development of an integrated plan for urban regeneration and evolution – 206 152.89 EUR (June 2012 – September 2013)*
- 2) Contract for Environmental assessment of General development plan*
- 3) Contract for Environmental impact assessment of investment proposal for mining*

Answer 8:

Please refer to the answer of Question 7