

Subject: Development and Deployment of Quality Indicators Software Solution

RFB No: RS-SSHP-8338YF-G-RFB-20-3.1.3.3/ **Clarification no. 2**

Date: 5.11.2020

Dear all,

With respect to the RFB No. RS-SSHP-8338YF-G-RFB-20-3.1.3.3/Clarification no. 2, please find below the answers to the questions submitted by the interested bidders.

Item:	Question	Ref to the Procurement documents	Answers	Clarification or Amendment to the RFP
1.	<p>Please clarify the tender documentation regarding the Manufacturer's Authorization form (listed in Section IV - Bidding Forms), or the requirement in point 5.7 (p. 57 TD, Section III - Evaluation and Qualification Criteria) related to the mentioned form.</p> <p>Is the bidder / JV obliged to submit the stated form if he designs the software himself?</p> <p>In this case, who is the party defined in the TD as Original Equipment Manufacturer (OEM)?</p> <p>If the bidder / JV does not have a contractual relationship with the original equipment manufacturer (OEM), how can the bidder document that he is not excluded from procuring "these items from the manufacturer's distribution channels and offering these items for supply" in Serbia?</p>	TD	<p>Please be informed that requirement under:</p> <p>(a) Item 5.7 (i) is related to "... hardware and other powered equipment ..." as per bidding documents there are no requirement for such equipment in the bidding documents.</p> <p>(b) Item 5.7 (ii), (iii) and (iv) are of proprietary nature and the bidder has to comply with instruction provided.</p>	Clarification
2.	<p>In accordance with questions and answers from October 22nd, 2020, we need the additional clarification:</p> <p>On Question 18: "Can you explain to us by using the example of a consortium of three companies the requirements regarding the financial security. 5.3 FINANCIAL SITUATION - 5.3.3 Financial Resources -.</p>	TD	<p>We regret to inform that said criterion remains as it is. Each member of the JV has its own criterion to be meet. It goes without saying that this is only way available to the Purchaser to get prospective bidders who poses appropriate experience (also supported with human and financial power).</p>	Clarification

<p>Specifically, does this mean that three companies would have to provide financial security in the amount of 680,000.00 EUR?</p> <p>In case the answer is positive, please point out to us the rule of the World Bank according to which such a guarantee is binding, and whether and how it is brought into the estimated value of the procurement.”</p> <p>Your answer was: “5.3 FINANCIAL SITUATION - 5.3.3 Financial Resources is not a requirement for a commercial bank(s) guarantee. It is a statement from the commercial bank(s).</p> <p>We refer to the WB standard procurement documents available on the web page https://www.worldbank.org/en/projects-operations/products-and-services/brief/procurement-new-framework</p> <p>The estimated cost of the task is not available to the prospective bidders.”</p> <p><i>Please reconsider the possibility of reducing the value of available funds required in Section III - Evaluation and Qualification Criteria, in item 5.3.3 Financial Resources so that you reduce the availability of assets to the bid amount, and/or that the available funds limit may correspond to the nominal value of the submitted bid and to allow that at least the holder of the project in the JV could meet the required condition.</i></p>		<p>In light of the following statement from your email: “... <i>that at least the holder of the project in the JV could meet the required condition ...</i>” we draw your attention to an option that “single entity” bid and fulfil all requirements and, eventually, in case the contract is awarded to him, sub-contract other firms from the same field.</p>	
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<p>Namely, due to the bad epidemiological situation in the country as well as in the surrounding countries and uncertainty regarding the duration of the lock-down that is already in force in a large number of countries, there is a great financial burden on companies facing the consequences of the Covid-19 epidemic. The requested change would reduce unnecessary financial risk for companies, especially taking into account that the value of the submitted bid would not correspond to the amount of EUR 400.000.</p> <p>It is known that the World Bank Rules do not explicitly provide for the percentages and limits of financial resources that should be made available in relation to the estimated value of the procurement. However, the Rules stipulate that the criteria for evaluating bids (which include financial resources) must be determined to be, inter alia, proportionate and appropriate to the type, nature, market conditions, complexity, risk, value and purpose of the procurement.</p> <p>In addition, the World Bank Rules oblige the contracting authority, more precisely, the Republic of Serbia, as the beneficiary of the subject matter financing, to take care that the defined conditions for participation in certain procurements within the project are not unnecessarily strict and thus restrict competition.</p> <p>The TD stipulate that the maximum number of members in the JV cannot exceed 3 (three). If you look at the table on</p>			
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<p>p. 53, in section 5.3.3 Financial Resources and add up the percentages in which the members of the JV must meet the required condition, it is noticed that with the increase in the number of members in the JV there is a potential disproportion and illogicality in this case.</p> <p>The World Bank Rules do not provide for explicit restrictions in this regard and the World Bank's Standard Procurement Document for Request for Bids - Information Systems leaves the discretion to the contracting authority to decide when preparing the invitation to bid whether the requirement for the existence of adequate financial resources (in a certain portion – e.g. 50% or 70%) must be met by each partner in the consortium itself, and additionally the consortium as such. The contracting authority used this possibility in a specific case and stipulated that each of the consortium members must meet 50% of the subject matter requirement and at least one member must meet 70%, which would for, e.g. 3 members in the JV the total of unnecessary 170% of available funds (considering the current limit of EUR 400.000).</p> <p>As in the above, the contracting authority must move within the limits of general principles which stipulate that the prescribed requirements must be proportionate and justified in relation to the public procurement itself.</p>			
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	Taking into account the above, we consider the proposal to change the TD justified.			
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Please confirm that you have received these Clarifications.

Sincerely,

Second Serbia Health Project