



EUROPEAN UNION

Delegation to Bosnia and Herzegovina

Sarajevo,

April 2012

Clarification No. 1

Rehabilitation of courtrooms in selected Cantonal and District Courts in Bosnia and Herzegovina to provide for improved physical and technical conditions for processing war crime cases

Publication Ref: EuropeAid/132-710/L/WKS/BA

Tender No. EC/BiH/11/031

Question 1:

Is it possible to bid just for one courthouse, i.e. Court in Mostar, or we have to submit the bid for all courts that are subject of public procurement?

Answer 1:

With reference to the Works Procurement Notice and Instruction to tenderers, please note that the works subject to this particular tender are not divided into lots. Tenderers must tender for the whole of the works required by the dossier. Incomplete tenders, not covering the entire scope of works will not be considered.

Question 2:

Do we have to submit all financial data for nominated subcontractor / subcontractors? If yes, is it obligatory subcontractors to have positive business results in last three years?

Answer 2:

Please refer to Article 3 of the Instruction to tenderers. Please note that every subcontractor/supplier providing more than 10% of the works must prove their compliance with the eligibility criteria as specified under points 3.1 and 3.2 of the same article. Further on, natural persons, companies or undertakings falling into a situation set out in section 2.3.3 of the Practical Guide to contract procedures for EU external actions are excluded from participation in and the award of contracts. Tenderers must provide declarations to the effect that they are not in any of the exclusion situations listed in section 2.3.3 of the Practical Guide to contract procedures for EU external actions. The exclusion situation referred to in subclause 3.4 applies to all members of a joint venture/consortium, all subcontractors and all suppliers to tenderers.

Question 3:

Nominated PM and El. Eng. should be employee of tenderer or they can be external but in Contracted relationship (For example, Individual Agreement about engagement for specific Job or Agreement about internal transfer of skilled manpower for particular job , between two members of larger Group of Companies, etc.).

Answer 3:

The key personnel to be proposed under the tender do not have to be employees of the tenderer on a permanent basis. They could also be outsourced, engaged based on Individual agreements with the tenderer.

Question 4:

Due to specific technical requests, some of the equipment should be originate out of Countries determined in INSTRUCTIONS TO TENDERERS, VOL 1. - Subclause 12.1.11. Is it acceptable or not?

Answer 4:

Equipment owned by the contractor and used by a works contract does not fall under the rule of origin. However, as stated in Article 12.1.11 of the Instructions to Tenderers: "Unless otherwise provided in the contract, **all goods purchased under the contract must** originate in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme specified in clause 3.1 above. For these purposes, "origin" means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the EU Customs Code or to the relevant international agreement applicable". Tenderers must provide an undertaking signed by their representative certifying their compliance with this requirement.

Question 5:

In the part Instructions to tenderers under point 12.1.9 states that the bidder should submit among other things "a list of materials and any supplies intended for use in the works, stating their origin". Since no special form is provided for such a purpose in the tender documentation, are the bidders in obligation to submit precise specification of the offered material and equipment, including the country of origin, for each B&Q item?

Answer 5:

The bidder should submit a list not a specification of materials and any supplies intended for use in the works, stating their origin. There is no special form so please use a form you find suitable. Please be reminded that Tenderers must provide an undertaking signed by their representative certifying their compliance with the origin requirement.

Question 6:

Under the point 12.1.11 states "Unless otherwise provided in the contract, all goods purchased under the contract must originate in a Member State of the European Union or in a country or territory of the regions covered and/or authorized by the specific instruments applicable to the programme specified in clause 3.1 above. For these purposes, "origin" means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the EU Customs Code or to the relevant international agreement applicable. Tenderers must provide an undertaking signed by their representative certifying their compliance with this requirement. For more details see point 2.3.1 PRAG." The tender documentation does not further specify at which point in time exactly it is necessary to submit the certificates of origin for the entire material and equipment which is the subject-matter of the contract. Please clarify.

Answer 6:

Please refer to Article 40: Origin and quality of works and materials of the General and Special conditions applicable for this tender procedure.

Question 7:

Could you please clarify which countries are IPA eligible/covered?

Answer 7:

Participation is open to all legal persons participating either individually or in a grouping (consortium) of tenderers which are established in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme under which the contract is financed. For details please consult the following link: <http://ec.europa.eu/europeaid/eprag/annexes.do?group=A>, next download Annex A2b, Eligibility programmes 2007-2013 and go to Instrument for Pre-Accession Assistance Council Regulation (EC) N° 1085/2006 of 17 July 2006 - OJ L 210/82 of 31.7.2006).