



EUROPEAN UNION

Delegation of the European Union to Bosnia and Herzegovina

Sarajevo, February 2018

**Subject: Tender no EuropeAid/139-512/DD/WKS/BA, Regulation of Brka River in the urban area of Brcko District of BiH – Phase I (EC/BiH/TEN/17/020)**

### **CLARIFICATION No. 1 to the Tender Dossier**

#### **QUESTION no. 1**

- 1) According to Contract Notice Clause 16.2.b) submission of licence in accordance with the relevant law in force in BiH is obligatory for participation to the tender.
  - a) We are an eligible foreign company that participate in an international open bid. We can fulfil as a sole all tender requirements beside licence obligation. To be able to satisfy the aforementioned criteria, we would like to be clarified about how we can obtain required licences at the tendering stage **without registration our legal entity in BiH.**
  - b) Contract Notice clause 16. says that ; *“If a tender is submitted by a consortium, unless specified, the selection criteria will be applied to the consortium as a whole.”* Referring with this instruction we understand that in case of joint venture/consortium, one of the partner company’s individual licences shall be enough to be qualified for this tender. Please confirm.

#### **ANSWER no. 1**

- a) For all details how to obtain such a licence, please be advised to contact the relevant BiH authority, in this case the Government of Brcko District; Department for Public Safety.
- b) Referring to the 16.1 of the Contract Notice *“It (Tenderer) must be duly authorized/licensed to perform the works under this contract in accordance with the relevant law in force in BiH (i.e. in particular the Brcko District Rule Books on conditions for provision of technical design, revision, construction and supervision of 26 and 27.04.2011). The relevant license must be submitted together with the offer”*, in case of joint venture/consortium, one of the partner company's individual licence will be enough for the tenderer to be qualified.

#### **QUESTION no 2**

- 2) Please inform us if there is any restriction about participation of company established in Kosovo to this tender, and if company from Kosovo is eligible as per clause 8 of Contract Notice.

**ANSWER no 2:**

According to point 8 of the Contract Notice: *"Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium - of tenderers) which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) N°236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable Instrument under which the contract is financed (see also heading 23 below) . Participation is also open to international organisations. All supplies under this contract must originate in one or more of these countries. However, they may originate from any country when the amount of the supplies to be purchased is below 100 000 euros per purchased"*, natural persons who are nationals of and legal persons which are effectively established in Kosovo<sup>i</sup> are eligible.

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<sup>i</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244/99 and the ICJ Opinion on the Kosovo declaration of independence