

QUESTIONS AND ANSWERS

INVITATION TO TENDER N° ACER/OP/MIT/10/2017

IT system integration services and IT consultancy services for the Agency for the Cooperation of Energy Regulators

Contract notice: OJ/S 129 of 08/07/2017 (262819-2017-EN)

Last update: 29/08/2017

Question N° 1:

We have a question regarding providing of technical and professional capacity for LOT1. If we submit our offer together with a subcontractor or as consortium, can we fulfil the required capacities together with our partner? For example we employ 60 technical staff and our subcontractor has 50. Does that fulfil your requirement of min. 100 employees (excluding the managerial staff)? Also for example is it acceptable that one of us (us or the subcontractor) has the required ISO 27001 certification?

Answer N° 1:

Section 19 of Annex I - Tender specifications states that tenderers must demonstrate that they have the necessary economic, financial, technical and professional capacity to perform the tasks described in the tender specifications.

It also states that if any selection criterion is fulfilled by relying on the capacity of a third party (regardless of the link it has with the tenderer), the tenderer must prove to the contracting authority that it will have at its disposal the resources necessary for performance of the FWC by producing a commitment on the part of those entities to this effect.

Further, if the tenderer relies on the capacity of a third party for technical and professional capacity, it can only do so for the tasks for which this particular capacity is required, for example by providing a document stating clearly the allocation of tasks between entities.

In addition point 19.3 of Annex I - Tender specifications states that for joint applications, the capacities of all members of the joint application, including subcontractors, shall be taken into account.

Question N° 2:

Would winning on Lot 1 the tender "Provision of consultancy services in the areas of security, business continuity and data protection" preclude us from participating in the IT System Integration tenders?

Answer N° 2:

Being awarded a framework contract for Lot 1 of the tender "Provision of consultancy services in the areas of security, business continuity and data protection" (procurement procedure no. ACER/OP/DO/11/2017) does not exclude the economic operator in question from participating in the procurement procedure no. ACER/OP/MIT/10/2017 'IT System Integration services and IT consultancy services for the Agency for the Cooperation of Energy Regulators'.

Question N° 3:

Is there mutual exclusion between winning LOT 1 and LOT 2 of the IT System Integration tenders?

Answer N° 3:

According to Section 1 of Annex I –Tender specifications tenderers may submit offers for one or two lots. Tenderers wishing to apply for more than one lot must submit a separate tender for each lot. There is no exclusion between winning LOT 1 and LOT 2 of the IT System Integration tenders.

Question N° 4:

In accordance with the provision of Annex I.C, the third indent of the first paragraph of paragraph number 2 (on page 2):

» - to disclose this information only to the Recipient's employees or particular employees of subcontractors who are required to have the information for the purpose of this Tender and, as the case may be, for the implementation of the Contract, and have previously signed an agreement in content similar to the provisions thereof;«

Should be Annex I.C (Non disclosure agreement) signed by our subcontractors and registered personnel? If so, should we deliver signed Annex I.C (NDA) to your e-mail before submitting a tender?

Answer N° 4:

Annex I.C (Non disclosure agreement) does not have to be delivered by your subcontractors and registered personnel before submitting a tender. However, the above-mentioned provision of Annex I.C states the Recipient agrees to '*...disclose the respective information only to the Recipient's employees or particular employees of subcontractors who are required to have the information for the purpose of this Tender.*'

This means that information may be shared only with those Recipient's employees or particular employees of subcontractors that need the information for the purpose of this tender and under the condition that the tenderer has an agreement with the Recipient's employees or particular employees of subcontractors with the content similar to Annex I.C 'Non disclosure agreement'.

Question N° 5:

With reference to the Lot 1 (IT System Integration services) and Lot 2 (IT consultancy services), could you please indicate us which is the minimal duration that each one of the multiple framework contracts (work orders) must have?

Answer N° 5:

As stated in Section 8 of Annex I Tender specifications the FWC(s) for each lot shall have an initial duration of two (2) years as from date of signature and may be renewed automatically up to three (3) times, each time for an additional period of two (2) years. The total duration of the FWCs for each lot shall not exceed eight (8) years.

Question N° 6:

Annex I.A1 – Technical specifications for Lot 1, page 6, A. Central Service Desk please clarify:

- (a) Regarding on-site services: Is Service Desk infrastructure to be made available by ACER (is the SDA role to remotely use RCGAssist Service desk tool (reference found in the 'list of services' excel file))?
- (b) If yes, is this tool ITIL compliant?
- (c) Is the call center infrastructure to be provided by ACER?
- (d) In the case of the off-site SDA role, should the basic infrastructure (call center, CTI, ITIL compliant service desk tool, integration with vendors), be provided by the tenderer and the cost included in the man-day?

Answer N° 6:

- (a) No. As stated in Annex I.A1 – Technical specifications (Lot 1) on page 6 'A. Central Service Desk' within the minimum requirements for a Service Desk it is expected that the Contractor shall provide appropriate tools and their customization to manage the Service Desk activities (valid for on-site and off-site SDA activities).
- (b) See reply above – not applicable.
- (c) No. As indicated in Annex I.A1 – Technical specifications (Lot 1) on page 6, point 2.2 'Description of the services': the services listed shall include all related basic infrastructure (e.g. provisioning of specific tools, licenses, HW and SW support, etc.) which is needed by the Contractor to be able to perform the requested services.
- (d) As indicated in Annex I.A1 – Technical specifications (Lot 1) on page 6, point 2.2 'Description of the services': the services listed shall include all related basic infrastructure (e.g. provisioning of specific tools, licenses, HW and SW support, etc.) which is needed by the Contractor to be able to perform the requested services.

Question N° 7:

Annex I.A1 – Technical specifications for Lot 1, page 6, B1 - The Contractor shall actively monitor the utilisation of all the infrastructure and monthly report to the Agency.

- (a) Please clarify - is Monitoring infrastructure to be made available by ACER (a reference to Nagios is made in the 'list of services' excel file)?
- (b) Is the existing Monitoring infrastructure also deployed for the applications?

Answer N° 7:

- (a) No. As indicated in Annex I.A1 – Technical specifications (Lot 1) on page 6, point 2.2 'Description of the services': the services listed shall include all related basic infrastructure (e.g. provisioning of specific tools, licenses, HW and SW support, etc.) which is needed by the Contractor to be able to perform the requested services. Further, in point B1 it is stated: "The Contractor shall install, configure, upgrade, replace, monitor, maintain and eventually possibly remove all the equipment and software used to run ARIS. " and "The Contractor shall provide a full range of System Administration services..."
- (b) Yes.

Question N° 8:

Annex I.A1 – Technical specifications for Lot 1, page 8, B2 Management of Public Key Infrastructure (PKI), including provision of digital certificates

- (a) Please clarify: Is the tenderer only to demonstrate the capability to provide relevant services?

- (b) Please confirm that these services, for the main location, are 'OUT OF PRICE LIST product(s) and/or service(s)' as referenced in point 10.2 of Annex I.

Answer N° 8:

- (a) As stated in Annex I.A1 – Technical specifications (Lot 1) the Contractor shall provide the relevant services as indicated in point B2: "Management of Public Key Infrastructure (PKI), including provision of digital certificates for ARIS users."
- (b) Services related to 'Management of Public Key Infrastructure (PKI)' are not considered 'OUT OF PRICE LIST'. However digital certificates for ARIS users shall be considered 'OUT OF PRICE LIST'. Further, as stated in Annex I - Tender Specifications: *'Should the requested services include products and/or services which are essential for the performance of a specific contract (e.g. to get a fully working system), but which are not listed in Annex II – Financial offer, these shall be indicated as OUT OF PRICE LIST by the Contractor. In such a case, the Contractor shall submit, as part of the offer, a detailed description of the OUT OF PRICE LIST product(s) and/or service(s) with a clear indication of all the costs related to implementing and operating such products and/or services.'*

Question N° 9:

Annex I.A1 – Technical specifications for Lot 1, page 12 - Denial of service (DoS): The Contractor shall respond to the Agency's request for assistance with a Denial of Service (DoS) attack and begin the appropriate diagnostic procedures as soon as reasonably possible and, in any event, in less than one (1) hour from the submission of a report of DoS activity. Please clarify - Is a DoS mitigation infrastructure/service currently deployed for REMIT?

Answer N° 9:

DoS mitigation infrastructure/service is a part of the minimum service level requirements which are mandatory for the Contractor and are applicable to all ARIS components and modules in production and all services provided.

Question N° 10:

In accordance with the point 19.5, first paragraph (on page 28 of Tender specifications): »A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the FWC«. We would like to know if this is a normal self-declaration, which is jointly signed by the consortium members, or we have to sign it in front of notary?

Answer N° 10:

A self-declaration, duly signed by legal representatives of all consortium members, addressing all the points, is sufficient.

Question N° 11:

In accordance with the instructions: In the absence of subcontracting (need to submit): A declaration of the tenderer, duly signed and dated, stating that he does not intend to subcontract and that he will inform the Agency about any change in this situation. The Agency reserves the right to judge if such change would be acceptable. What to do if we cooperate with subcontractors? And what to write to the line in Annex I.F (Reference table)?

Answer N° 11:

Point 19.4 Sub-contracting of Annex I Tender specifications states:

'For those tenders including subcontracting, the tenderer must submit:

- *A declaration of the tenderer, duly signed and dated, stating clearly the identity and roles of the subcontractor(s) as well as the description of the quality control measures the tenderer intends to apply on the tasks to be carried out by (each of) the subcontractor(s) and the escalation mechanisms in case of unsatisfactory performance of a subcontractor.*
- *A letter of intent by (each of) the subcontractor(s), duly signed and dated, stating the unambiguous undertaking to collaborate with the tenderer if the latter wins the FWC and the extent of the resources that it will put at the tenderer's disposal for the performance of the FWC.'*

The tenderer has to indicate in Annex I.F (Reference table) in point 19.4 Sub-contracting the number of the document and the page of the tender where the required documents related to subcontracting are.

Question N° 12:

In tender specifications, section 19.3.1.4, you state "Evidence to be provided: A list of experts specifying the name of each expert for each profile(s) and the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, signed and dated".

Our understanding is that you are expecting a list of experts (including name, surname and profile/s) and one copy of the declaration on honour signed by the representative of our company. Please confirm.

Answer N° 12:

The evidence the tenderer needs to provide regarding the compliance with the selection criterion in point 19.3.1.4 is: (i) a list of experts specifying the name of each expert for each profile(s) and (ii) the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, dated and signed by a legal representative of the tenderer.

Question N° 13:

Regarding the Case Study for Lot 1, there is no mention of a preferable Content Management System (CMS). We understand that the tenderers are expected to compare existing CMS solutions (e.g. Wordpress, Liferay, Drupal), assess their benefits and choose the most suitable CMS for the REMIT portal. Please verify or clarify further.

Answer N° 13:

Your interpretation is correct.

Question N° 14:

Regarding the Case Study for Lot 1, we intend to provide the main mockups of our proposal for the improved REMIT portal in the 25-pages document, as defined in the Tender Specifications. Is it possible for the tenderers to provide supplementary mockups in an annex, not included in the 25-pages limit?

Answer N° 14:

As specified in point 21 of Annex I Tender Specification the tenderer shall submit a detailed proposal for the case study. In principle the proposal shall stay within 25 pages. Please note that according to point 7 of Annex I Tender Specification variants are not permitted.

Question N° 15:

Could you inform us on the hosting location of the infrastructure of the IT systems included in this Call for Tenders?

Answer N° 15:

Point B of Annex I.A1 Technical specifications (Lot 1) states: *“The entire Agency's infrastructure related to ARIS is going to be placed in the internal Agency's datacentre at the Agency's premises by the end of 2017 and will be owned by the Agency, including all the necessary licenses and vendor support. The Contractor shall be able to provide a remote location (i.e. fully functional and properly secured data centre that would allow for ARIS equipment to be migrated/installed there) to host the primary or the disaster recovery site for ARIS infrastructure. The remote location shall be in the territory of the EU.”*

Question N° 16:

Referring to the Tendering specifications, as well as to the Annex I.F Reference Table, part 19.5 and in the event of a joint offer (consortium), our understanding is that the evidence that the tenderer should provide in the offer are:

- A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the FWC.
- A Power of Attorney (Annex I.E) Signed by each Consortium member.

Can you please confirm that these are the only evidence that we need to provide under the 19.5 part of the Annex I.F Reference Table and nothing more or else please specify?

Answer N° 16:

Point 19.5 Tenders submitted by a consortium or grouping of service providers of Annex I Tender specifications as well as point 19.5 in Annex I.F Reference Table state:

‘For those tenders submitted by a consortium or grouping of service providers, the tender must contain:

- A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the FWC;*
- A letter dated and signed by each member stating its commitment to execute the services in the tender clearly indicating its role, qualifications and experience;*
- A document dated and signed by all members specifying the lead of the consortium or grouping of service providers and authorising the appointed lead of the consortium or grouping of service providers to submit the offer.’*

Point 10.4 Joint tender of Annex I Tender specifications states: *‘The FWC shall be signed by all legal entities, or by one of them which has been duly authorised by the others (in this case a power of attorney (see Annex I.E to these tender specifications) shall be attached to the FWC).’* In case all legal entities participating in the consortium agree that only one legal entity signs the FWC, in case the FWC is awarded to the consortium in question, then all legal entities

participating in the consortium need to duly authorise the legal entity in question by way of the power of attorney which is available in Annex I.E.

Question N° 17:

With reference to the point 19.3.1.4 of the tendering specifications we read: "Evidence to be provided: A list of experts specifying the name of each expert for each profile(s) and the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, signed and dated".

The Declaration on Honour on Exclusion and Selection criteria (Annex I_H) is the same form that is already required in Section 18.2 Exclusion from award of contracts (Article 107, Financial Regulation). Therefore, we understand that the respective document needs to be provided only once under "Exclusion criteria" part of our offer but it will cover both exclusion and selection criteria. Could you please confirm our understanding or clarify further?

Answer N° 17:

Your understanding is correct.

Question N° 18:

Please find below the following questions for clarification:

- (a) Should be Annex I (Declaration of honour) signed by our subcontractors?
- (b) Is it allowed to submit an offer with copies of original documents? For example, documentation submitted by a subcontractor.
- (c) Can you specify the date of validity for professional risk insurance (for LOT 1 and LOT 2).

Answer N° 18:

- (a) The third paragraph of point 18.3 of Annex I Tender specifications states: *'In the case of tenders involving subcontracting, the tenderer proposed for award of the FWC must furnish, within the time-limit specified by the awarding authority and prior to the signature of the FWC, the declaration on their honour and/or the evidence listed above regarding exclusion criteria for participation in or award of the FWC, in respect of each of the subcontractors in respect of whom the Agency requests such evidence'*.
- (b) According to point 3 of the invitation letter tenders must be submitted exclusively on paper, in one (1) original and two (2) copies. All documents that require a signature (i.e. that need to be duly signed by a legal representative) need to be presented as original documents.
- (c) For **LOT 1** the professional risk insurance cover(s) concerning the services covered by the FWC with a limitation of EUR 1,000,000 per claim shall remain valid for a period of eighteen (18) months after the FWC expires or after the FWC is terminated.
For **LOT 2** the professional risk insurance cover(s) concerning the services covered by the FWC with a limitation of EUR 500,000 per claim shall remain valid for a period of eighteen (18) months after the FWC expires or after the FWC is terminated.

Question N° 19:

Please find below the following questions for clarification:

- (a) Should be a declaration of the tenderer (point 19.4, first paragraph of Annex I), duly signed and dated, stating clearly the identity and roles of the subcontractor(s) as well as the description of the quality control measures the tenderer intends to apply on the tasks to be carried out by (each of) the subcontractor(s) and the escalation mechanisms in case of unsatisfactory performance of a subcontractor – also signed by our subcontractors?
- (b) Should be signed subcontracting and consortium contracts included in our offer?

Answer N° 19:

- (a) A declaration of the tenderer, duly signed and dated, stating clearly the identity and roles of the subcontractor(s) as well as the description of the quality control measures the tenderer intends to apply on the tasks to be carried out by (each of) the subcontractor(s) and the escalation mechanisms in case of unsatisfactory performance of a subcontractor, shall be signed by the legal representative of the tenderer.
- (b) As stated in point 19.4 of Annex I Tender specifications in case of subcontracting the tender must contain:
 - ‘- A declaration of the tenderer, duly signed and dated, stating clearly the identity and roles of the subcontractor(s) as well as the description of the quality control measures the tenderer intends to apply on the tasks to be carried out by (each of) the subcontractor(s) and the escalation mechanisms in case of unsatisfactory performance of a subcontractor.*
 - A letter of intent by (each of) the subcontractor(s), duly signed and dated, stating the unambiguous undertaking to collaborate with the tenderer if the latter wins the FWC and the extent of the resources that it will put at the tenderer’s disposal for the performance of the FWC’.*

As stated in point 19.5 of Annex I Tender specifications in case of tenders submitted by a consortium or grouping of service providers the tender must contain:

- ‘- A document stating clearly the composition and constitution of the grouping or similar entity (company/temporary association/...), or the legal form their cooperation will take, should they be awarded the FWC;*
- A letter dated and signed by each member stating its commitment to execute the services in the tender clearly indicating its role, qualifications and experience;*
- A document dated and signed by all members specifying the lead of the consortium or grouping of service providers and authorising the appointed lead of the consortium or grouping of service providers to submit the offer’.*

Question N° 20:

In accordance with points 19.2.1. and 19.2.2. (Annex I, page 25, Economic and financial capacity): is it explicitly required to be insured for the currently FWC or it would be permitted insurance concluded with our company (Public and Product Liability Certificate of Insurance)?

Answer N° 20:

As stated in Annex I Tender specifications the tenderer has to have a valid professional risk insurance cover(s) concerning the services covered by the FWC with a limitation of EUR 1,000,000 per claim. The Contractor’s professional risk insurance cover(s) shall remain valid for a period of eighteen (18) months after the FWC expires or after the FWC is terminated.

Please note that 'Public and Product Liability Certificate of Insurance' is not a professional risk insurance cover.

Question N° 21:

We have a renewable insurance policy, which is valid from 1.1. to 31.12. for each year (automatically extended), the limits are listed on the insurance policy.

From the insurance policy - following is evident:

Scope of cover: This insurance covers subject to the limits and conditions of the above mentioned insurance covered contract the legal liability of the policyholder and/or the co-insured in respect of bodily injury and property damage caused by: manufactured or supplied products and operations carried out.

Should a consortium partner also provide a copy of a valid professional risk insurance?

Answer N° 21:

The valid professional risk insurance cover(s) concerning the services covered by the FWC need to include a limitation of EUR 1,000,000 per claim. It is sufficient that the lead member of the consortium presents such a valid professional risk insurance cover(s).

Question N° 22:

LOT 1: IT System Integration services: 19.2.1.1 A valid professional risk insurance cover(s) concerning the services covered by the FWC with a limitation of EUR 1,000,000 per claim. The Contractor's professional risk insurance cover(s) shall remain valid for a period of eighteen (18) months after the FWC expires or after the FWC is terminated.

Question: In the case of a consortium, the professional risk insurance must be provided by all consortium members or only by the leader?

Answer N° 22:

Please see answer N° 21.

Question N° 23:

This question is in regard of the Tender Specification: "19.2.2.1 A valid professional risk insurance cover(s) concerning the services covered by the FWC with a limitation of EUR 500,000 per claim. The Contractor's professional risk insurance cover(s) shall remain valid for a period of eighteen (18) months after the FWC expires or after the FWC is terminated."

Can such an insurance be purchased by the project awardee immediately after being notified that they had the highest score, and immediately prior to signing the project?

I have never heard of an insurance policy covering consultancy services, and what insurance policy would be acceptable to ACER would have to be agreed ad hoc.

Answer N° 23:

Section 19 of Annex I Tender specifications states: '*Tenderers must demonstrate that they have the necessary economic, financial, technical and professional capacity to perform the tasks described in these tender specifications...*'. One of the criteria for LOT 2 related to economic and financial capacity, which the tenderers needs to fulfil at the time of the submission of the tender, is '*A valid professional risk insurance cover(s) concerning the services covered by the FWC with a limitation of EUR 500,000 per claim. The Contractor's*

professional risk insurance cover(s) shall remain valid for a period of eighteen (18) months after the FWC expires or after the FWC is terminated.'

Please note that tenderers who do not meet the selection criteria will not be considered. Further, please note that tenderers who do not provide the documents required in the tender specifications with regard to the exclusion and selection criteria may be excluded. Therefore in case the tenderer fails to provide, for LOT 2, a valid professional risk insurance cover(s) concerning the services covered by the FWC with a limitation of EUR 500,000 per claim at the time of the submission of the tender, the tender in question will be considered unsuitable¹ and therefore rejected from the procurement procedure.

Question N° 24:

In the Technical Specifications of LOT 2 - IT consultancy services, section 2.2 it is written "Support the Agency's activities related to obtaining an ISO/IEC 27001 certification (e.g. design and implementation of information security management system (ISMS), auditing, supervising external contractors); "

Does the consultant have to be the certifier at the end of this process? If not (which seems to be the case), will the consultant collaborate with a third-party certifying agency on this?

Answer N° 24:

'Support the Agency's activities related to obtaining an ISO/IEC 27001 certification (e.g. design and implementation of information security management system (ISMS), auditing, supervising external contractors)' implies that the Contractor shall provide relevant consulting services as support to the Agency in its activities aimed to obtain an ISO/IEC 27001 certificate (being compliant with ISO/IEC 27000 family of standards). The Agency plans to collaborate with a third-party certifying agency directly but may involve the Contractor in certain activities.

Please note that point 4.2 of Annex I Tender specifications states: *'The Contractor shall perform the services in full knowledge and consideration of the Agency's IT environment and in accordance with the requirements provided in Annex I.A1 for Lot 1 and Annex I.A2 for Lot 2 of these tender specifications, but also in accordance with technical norms, standards and procedures based on best professional practices in the information technology and/or telecommunications fields (i.e. ITIL, ISO 9000 and ISO 27000 standards)'. Further, point 4.3 of Annex I Tender specifications states: 'The Contractor shall align its working procedures to international standards on Information Security Management Systems (with particular reference to the ISO/IEC 27001 standard)'. In addition, point 19.3.1.2 (LOT 2) of Annex I - Tender specifications requires from the tenderers to have 'a valid ISO 27001 or equivalent certification in the field of information security'.*

In addition, section 5 of Annex I.A2 - Technical specifications - Lot 2 states the requirement for the professional profile *'IT senior consultant – Auditor (SCA)'* for whom one of the minimum requirements is to possess a *'Valid ISO 27001 lead auditor certification'*.

¹ Article 134(2) of Commission Delegated Regulation No 1268/2012 of 29 October 2012 on the rules of application of Regulation 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union as amended.

Question N° 25:

- (a) Could you please provide us with an indicative distribution between on-site and off-site services?
- (b) Could you please indicate which services are expected to be provided on-site?

Answer N° 25:

- (a) The distribution between *on-site* and *off-site* services shall depend on specific requirements for services to be ordered and based on the needs at the time the request for services shall be launched.
- (b) The *on-site* and *off-site* services shall depend on specific requirements for services to be ordered and based on current needs at the time the request for services shall be launched and may include any service listed in the procurement documents.

Question N° 26:

With reference to Annex I, section 19.3.1.3 *“Three (3) years’ experience in the business domain (i.e. IT system integrator services) with two (2) contracts, each in the value of at least EUR 1,000,000.00, concluded by the tenderer during the last three (3) years.”* Could you please clarify the following?

- (a) We understand that with the 2 contracts we should cover the services A, B, C, D and E of Lot 1 collectively. Is our understanding correct?
- (b) We understand that ongoing projects started within the 3 years period can be presented as references. Is our understanding correct?

Answer N° 26:

- (a) The tenderer must have three (3) years’ experience in the business domain (i.e. IT system integrator services) with two (2) contracts, each in the value of at least EUR 1,000,000.00, concluded by the tenderer during the last three (3) years and in at least one of the services (A, B, C, D and/or E) but not necessarily in all of the services.
- (b) Your understanding is correct.

Question N° 27:

With reference to Annex I, section 19.3.2.3 *“Three (3) years’ experience in the business domain (i.e. IT consultancy as defined in these tender specifications) with two (2) contracts, each in the value of EUR 500,000.00, concluded by the tenderer during the last three (3) years.”* Could you please clarify the following?

- (a) We understand that with the 2 contracts we should cover the services A, B, and C of Lot 2 collectively. Is our understanding correct?
- (b) We understand that ongoing projects started within the 3 years period can be presented as references. Is our understanding correct?

Answer N° 27:

- (a) The tenderer must have three (3) years’ experience in the business domain (i.e. IT consultancy as defined in these tender specifications) with two (2) contracts, each in the value of EUR 500,000.00, concluded by the tenderer during the last three (3) years and in at least one of the services (A, B, and/or C) but not necessarily in all of the services.

(b) Your understanding is correct.

Question N° 28:

With reference to Annex I, section 20.1.1

“- List of supported vendors and basic information on SLAs that the tenderer has in place with the HW and SW vendors.”

Could you please clarify the following?

- (a) Could you please define if there any pre-requisites regarding the vendors supported? The number of supported vendors or the level of partnership will give the more points to the Tenderer?
- (b) Could you please explain what *“basic information on SLAs”* do you expect from the Tenderers? SLAs are product oriented and are directly given by the vendors.
- (c) If yes for which products do you expect the SLAs?

Answer N° 28:

- (a) There are no further pre-requisites than what is stated in the procurement documents.
- (b) This shall include a list of basic information on SLAs that the tenderer has with the vendors supported, hence in the case that the SLAs are given by the vendors the basic information for those SLAs should be included.
- (c) The SLAs shall be provided for all products relevant to this tender and its technical specifications. Point 4 (page 11) of Annex I – Tender Specifications ‘Subject of the contract’ states *‘Annex I.D includes the detailed technical documentation of the ARIS components and modules and information security policies and procedures’* and *‘Access to documents included in Annex I.D will be provided by the Agency by e-mail upon request by potential tenderers’*. All information that may be shared regarding the system is included in this documentation.

Question N° 29:

With reference to Annex I.A1, section 2.2 Description of the services, “A. Central Service Desk”. Could you please clarify the following?

- (a) Do you expect the Central Service Desk to be established on-site or can be provided off-site?
- (b) Do you require on-site interventions?
- (c) Could you please provide further details regarding the approximately 2,000 requests per year (type, average effort, resolution time, etc.)?
- (d) Which tools are currently used by ACER for the provision of such a service? Do you prefer any specific solutions?

Answer N° 29:

- (a) The Central Service Desk shall be established *off-site*. Point 12.1 ‘Place of work’ (page 20) of Annex I – Tender specifications states: *‘The principle place of performance of the FWC shall be at the Contractor’s premises (working off-site)’*.

- (b) Point 12.1 'Place of work' (page 20) of Annex I – Tender specifications states: *'The principal place of performance of specific contract(s) shall depend on each specific contract and shall be indicated in the relevant request for services (the place may either be at the Agency's premises in Ljubljana, Slovenia or at the Contractor's premises)'*. Therefore, the Agency may request *on-site* services.
- (c) The capacity to managing approx. 2,000 requests per year includes any request that is relevant to the system; the type, the effort, the resolution time etc. may vary from period to period.
- (d) There is no preference for specific solutions. Point 2.2 'Description of the services' (page 6) of Annex I.A1 – Technical specifications (Lot 1) states: *'The services listed shall include all related basic infrastructure (e.g. provisioning of specific tools, licenses, HW and SW support, etc.) which is needed by the Contractor to be able to perform the requested services'*.

Question N° 30:

With reference to Annex I.A1, section 2.2 Description of the services, "B. Infrastructure and Operations of ARIS". Could you please clarify the following?

- Do you expect the abovementioned services to be provided on-site in Ljubljana or off-site (remotely)?

Answer N° 30:

Point 12.1 'Place of work' (page 20) of Annex I – tender Specifications states: *'The principle place of performance of the FWC shall be at the Contractor's premises (working off-site)'* and *'The principal place of performance of specific contract(s) shall depend on each specific contract and shall be indicated in the relevant request for services (the place may either be at the Agency's premises in Ljubljana, Slovenia or at the Contractor's premises)'*. The Agency may request *on-site* services. Further, 'B1. Management of the System Infrastructure & Software' (page 6) of Annex I.A1 – Technical specifications for Lot 1 states: *'The Contractor shall install, configure, upgrade, replace, monitor, maintain and eventually possibly remove all the equipment and software used to run ARIS'*. Therefore some services may require *on-site* presence.

Question N° 31:

With reference to Annex I.A1, section 2.2 Description of the services, "E. Application Management of ARIS". Could you please clarify the following?

- (a) Do you expect the abovementioned services to be provided on-site in Ljubljana or off-site (remotely)?
- (b) Do you require on-site interventions?
- (c) Could you please define the list of tools currently used by the Agency for application management?

Answer N° 31:

- (a) The abovementioned services shall be provided *off-site*. Point 12.1 'Place of work' (page 20) of Annex I – Tender specifications states: '*The principle place of performance of the FWC shall be at the Contractor's premises (working off-site)*'.
- (b) Point 12.1 'Place of work' (page 20) of Annex I – Tender specifications states: '*The principal place of performance of specific contract(s) shall depend on each specific contract and shall be indicated in the relevant request for services (the place may either be at the Agency's premises in Ljubljana, Slovenia or at the Contractor's premises)*'. Therefore *on-site* services may be requested.
- (c) Point 4. 'Subject of the contract' (page 11) of Annex I – Tender specifications states: '*Annex I.D includes the detailed technical documentation of the ARIS components and modules and information security policies and procedures*' and '*Access to documents included in Annex I.D will be provided by the Agency by e-mail upon request by potential tenderers*'. All information that may be shared regarding the system is included in this documentation.

Question N° 32:

We understand that for the selection criteria (all items under the points 19.2 and 19.3) there is no specific templates and Tenderers are free to use their own template. Could you please confirm?

Answer N° 32:

Your understanding is correct; the tenderers may use their own template.

Question N° 33:

With reference to the Selection Criteria – 19.1 Legal Capacity. In case of a joint tender, could you please clarify whether Annex I.I, Annex I.J and the Certificate of enrolment on the professional/ trade register must be provided only by the Leader, or by all members of the consortium?

Moreover, for the tenders including subcontracting, shall the subcontractors provide the aforementioned documents?

Answer N° 33:

Annex I.J and the Certificate of enrolment on the professional/ trade register must be provided by all members of the consortium.

In case the tenderer relies on the capacity of a third party for economic, financial and/or technical and professional capacity, then the third party in question (e.g. subcontractor) needs to provide Annex I.J and the Certificate of enrolment on the professional/trade register.

Question N° 34:

With reference to the Selection Criteria – 19.2 Economic and Financial Capacity (LOT 1). In case of subcontracting, could you please clarify whether the subcontractors must provide a copy of a valid professional risk insurance, as described in 19.2.1.1, along with a statement of overall turnover and related services turnover, as described in 19.2.1.2, or these documents must be submitted only by the tenderer?

Answer N° 34:

The tenderer has to provide a copy of a valid professional risk insurance cover(s); not the subcontractor. In case the tenderer relies on the capacity of a third party (e.g. subcontractor) for economic and financial capacity (i.e. a turnover concerning the services covered by the Contract) then the third party in question (e.g. subcontractor) needs to provide evidence related to this.

Question N° 35:

With reference to the Selection Criteria – 19.2 Economic and Financial Capacity (LOT 2). In case of subcontracting, could you please clarify whether the subcontractors must provide a copy of a valid professional risk insurance, as described in 19.2.2.1, along with a statement of overall turnover and related services turnover, as described in 19.2.2.2, or these documents must be submitted only by the tenderer?

Answer N° 35:

The tenderer has to provide a copy of a valid professional risk insurance cover(s); not the subcontractor. In case the tenderer relies on the capacity of a third party (e.g. subcontractor) for economic and financial capacity (i.e. a turnover concerning the services covered by the Contract) then the third party in question (e.g. subcontractor) needs to provide evidence related to this.

Question N° 36:

With reference to the Annex I A2, Section 5.1 and 5.2, some profiles (IT Senior Consultant, IT senior consultant – Auditor, IT consultant) require the following experience “*At least X years’ experience in the domain of studies in scope of this tender (e.g. Information Security, Quality Assurance, Energy Trading, etc.).*” We understand that X years of experience one domain (e.g. Information Security) is sufficient in order to cover this requirement. Could you please confirm?

Answer N° 36:

For all the profiles listed above it is sufficient to have experience in the minimum duration as mentioned in one of the domains mentioned.

Question N° 37:

With reference to the Exclusion Criteria, Section 18. Our understanding is that the evidence in support of Annex I.H – Declaration on Honour shall not be provided as part of our proposal but will be submitted upon request and in case of award. Please confirm our understanding is correct or clarify if not.

Answer N° 37:

Your understanding is correct; evidence will need to be provided by the tenderers to whom the contract will be awarded prior to the signature of the contract.

Question N° 38:

Invitation to tender no. ACER/OP/MIT/10/2017 LOT 2:

- (a) Is it acceptable that "A-and B-level expert working off-site" not be EU member state citizen?
- (b) Is it acceptable that "A-and B-level expert working on-site" not be EU member state citizen?

Answer N° 38:

Each expert proposed by the tenderer needs to fulfil all minimum requirements regarding qualifications, professional experience and knowledge and skills for the relevant profile as specified in Annex I.A2 – Technical specifications for Lot 2. Further, for each expert proposed the tenderer shall indicate clearly the type of level profile assigned to the respective expert.

The tenderer shall indicate for each expert proposed whether the expert is employed by the tenderer or not.

Each expert not employed by the tenderer shall be treated as a sub-contractor. For such cases, the tenderer shall include in its tender all documentation required for subcontracting.

Tenderers are free to choose their subcontractors from any country. Thus, in principle all economic operators can act as subcontractors of a tenderer who has himself access to the EU procurement procedures (see Section 6 of Annex I – Tender specifications for detailed information).

Question N° 39:

In document Annex I_A1_Technical specifications_Lot 1, under section 5, Professional Profiles; 5.2 B-level profiles: Infrastructure Engineer (IE); there is a specified Minimum experience stating: "At least one (1) valid certification for each of the following: storage, network and virtualization management."

We are understanding this that the professional profile offered to the Agency under this B-level profile should have certifications for all three IT fields: storage, networking and virtualization management. To maintain strong professional focus and latest technology knowledge of staff typically engineers / consultants are organized in pillar like professional specializations, meaning that engineers have in depth knowledge in typically two fields of IT and not more. Is it possible to propose a list of specialized engineers for mentioned topics, covering all the requested fields of IT professionalism (2 or more FTE per IT field) which will enable Agency access to in depth knowledge in specific IT fields, or Agency is strictly looking for profiles covering all three IT fields in single FTE.

Answer N° 39:

The tenderer may propose more than one expert for '**B-level profile: Infrastructure Engineer (IE)**' under the condition that each expert proposed: **(i)** has at least one (1) valid certification in the fields listed (i.e. storage and/or network and/or virtualization management) and all experts proposed collectively fulfil the requirement '*at least one (1) valid certification for each of the following: storage, network and virtualization management*' and **(ii)** each expert proposed fulfils all other minimum requirements regarding qualifications, professional experience and knowledge and skills for '**B-level profile: Infrastructure Engineer (IE)**'.

Question N° 40:

With reference to Q&A No 16, our understanding is that the Annex I_E Power of Attorney is not applicable in this phase and should not be included in our offer. Can you please confirm?

Answer N° 40:

Yes, your interpretation is correct.

Question N° 41:

Referring to your answer in Question 10, our understanding is that we need to provide a single document stating clearly the composition and constitution of the grouping....", signed by all consortium members. Can you please confirm?

Answer N° 41:

Yes, your interpretation is correct.

Question N° 42:

Please clarify the following:

- (a) section 19.3.1.4 of Tender specifications states as evidence to be provided for the team
»A list of experts specifying the name of each expert for each profile(s) and the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, signed and dated.«. Same instructions are in Annex I.F Reference table. In Annex I_B1_Case study, Section 3. Instructions for preparing the proposal is stated: »For the purpose of this case study the tenderers should not submit the CVs of the experts proposed. Instead a short description of each expert's qualification, professional experience and knowledge and skills is required.«. Is enough to provide the list of experts or should we provide also a short description of each expert's qualification, professional experience and knowledge and skills?
- (b) do team members that are supposed to have knowledge of English language of some level according to CEFRL have to have certificate for it or not?

Answer N° 42:

- (a) For the purpose of the verification of the selection criteria the tenderer has to include in its tender a list of experts specifying the name of each expert for each profile(s) and the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, signed and dated.

As stated in point 19.3.1.4 of Annex I - Tender specifications the tenderer to whom the FWC is to be awarded shall provide, within a time-limit specified by the Agency and prior to the signature of the FWC, the evidence in support of their declaration in respect to fulfilling this selection criterion, namely Curricula Vitae (CV) showing clearly qualifications and professional experience for the relevant professional profile(s) and indicating clearly the type of profile(s) assigned to the expert.

For the purpose of the Case Study the tenderer has to include **in the Case Study** a short description of each expert's qualification, professional experience and knowledge and skills.

- (b) A CV for each of the proposed expert has to state the level of knowledge of English language according to CEFRL. There should be no certificates attached.

Question N° 43:

Regarding question N° 42 (a): in section 5. Professional Profiles of document Annex I_A1_Technical specifications_Lot 1 is stated: »The Contractor shall be able to provide a qualified team of experts covering the profiles listed below for the delivery of services under each specific contract for the entire duration of the FWC. The Contractor, as part of the offer for each specific contract, shall provide full details on the experts, including the CVs for each proposed expert. Each CV shall show clearly the qualifications, professional experience and knowledge and skills as specified below for the relevant profile and shall indicate clearly the type of level profile(s) assigned to the respective expert.«. Should we provide CV's as a part of the offer?

Answer N° 43:

For the purpose of the verification of the selection criteria the tenderer has to include in its tender a list of experts specifying the name of each expert for each profile(s) and the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, signed and dated.

As stated in point 19.3.1.4 of Annex I - Tender specifications the tenderer to whom the FWC is to be awarded shall provide, within a time-limit specified by the Agency and prior to the signature of the FWC, the evidence in support of their declaration in respect to fulfilling this selection criterion, namely Curricula Vitae (CV) showing clearly qualifications and professional experience for the relevant professional profile(s) and indicating clearly the type of profile(s) assigned to the expert.

The Contractor shall, as part of the offer **for each specific contract, that is at the time the Agency shall issue a request for services**, provide full details on the experts, including the CVs for each proposed expert. Each CV shall show clearly the qualifications, professional experience and knowledge and skills as specified below for the relevant profile and shall indicate clearly the type of level profile(s) assigned to the respective expert.

Question N° 44:

Please clarify should in case of tenders submitted by consortium and/or with subcontractors a dated cover letter be submitted and signed only by lead member or also by consortium partners and/or subcontractors?

Answer N° 44:

A dated cover letter need to be submitted and signed by the lead member.

Question N° 45:

Case study Lot 1 – Analysis and assessment of a suitable Content Management System (CMS). In order to assess the cost of the CMS solutions under evaluation, is it possible to disclose the expected number of REMIT portal page views per month?

Answer N° 45:

The current number of REMIT portal page views per month is approx. 1,500 Unique Page Views and approx. 3,000 Page Views. Please note that this may vary.

Question N° 46:

If subcontractor of the tenderer plans to subcontract a specific task to a third company (Subcontractors-subcontractor; body lease model for specific tasks), how we shall formally introduce such relationship?

Answer N° 46:

Subcontracting is only for the tenderer and is the prerogative of the tenderer. The tenderer therefore has to include in its tender all the documentation as stated in point 19.4 - Annex I – Tender Specifications.

Please note that in case of subcontracting the Contractor shall retain full liability towards the contracting authority for the implementation of the FWC.

Question N° 47:

Regarding ACER/OP/MIT/10/2017 - LOT 2 (or in general). As part of the technical proposal, CVs have to be proposed for each profile.

- (a) It is our understanding that more than one CV can be proposed for a profile / on-site, or profile / off-site
- (b) Can one same CV be proposed for the one-site and off-site versions of the same profile?
- (c) Can one same CV be proposed for two profiles if it meets these two profiles' formal requirements?

Answer N° 47:

FOR LOT 2:

- (a) The team delivering the services shall include as a minimum two (2) experts for each professional profile as described in Annex I.A2 – Technical specifications for Lot 2. Therefore at least two (2) CVs for each professional profile as described in Annex I.A2 – Technical specifications for Lot 2 need to be proposed. Please note that profiles are described in Annex I.A2 – Technical specifications for Lot 2, namely four (4) A-level profiles on pages 10 to 13 and one (1) B-level profile on page 13 of Annex I.A2 – Technical specifications for Lot 2.
- (b) Profiles are described in Annex I.A2 – Technical specifications for Lot 2, namely four (4) A-level profiles on pages 10 to 13 and one (1) B-level profile on page 13 of Annex I.A2 – Technical specifications for Lot 2. The profile does not distinguish between on-site and off-site.
- (c) As stated in Section 5 (page 10) of Annex I.A2 – Technical specifications for Lot 2 each expert may be associated to one (1) level profile only.

Question N° 48:

Are forms 'Annex I_J_c_Legal entity_public law body' and 'Annex I_I_Financial identification' to be filled by the tenderer and consortium partners, or also by subcontractors?

Answer N° 48:

Subcontractors do not need to fill in, sign and date the forms 'Legal entity' and 'Financial identification'.

Please note that if the tenderer is registered in the national register of companies then the tenderer needs to fill in, duly sign and date the form 'Annex I_J_a_Legal entity_private_public law body with legal form'.

Question N° 49:

With reference to 20161216_ARIS_Lutech_TESAR_SYST_ArchitecturalDesign_v3.4 in the Annexes, page 9/88, we kindly request that you provide us with the document: [D224] - 20141119_ARIS_Lutech_TESPC_T1PO_REMIT Portal TechSpecs_EN_2.0. We consider this document of high importance to our reply to the Case Study.

Answer N° 49:

The information available in the procurement documents and its annexes is sufficient for the purpose of the case study.

Question N° 50:

Question is related to Annex I_B2_Case study_Lot 2.pdf, Section 4, bullet d): A description of the approach for acceptance testing of REMIT Portal, including details on five (5) functional and two (2) non-functional tests.

Question: Does ACER requests that tenderer performs five (5) functional test cases/sets for five (5) functionalities and two (2) non-functional test cases/sets for REMIT Portal or does ACER requests that tenderer performs five (5) functional testing test iterations and two (2) non-functional testing iterations during provision of services for one year?

Answer N° 50:

The case study shall include a description of the approach for acceptance testing of REMIT Portal, including details on five (5) functional requirements tests and two (2) non-functional requirements tests.

Question N° 51:

I would have one question for you related to tender "IT system integration services and IT consultancy": can the individual subcontractor be part of two consortiums (two different offers for Lot 1 and Lot2)?

Answer N° 51:

Subcontracting is the prerogative of the tenderer. In case of subcontracting the Contractor shall retain full liability towards the contracting authority for the implementation of the FWC. Therefore an individual subcontractor may be a subcontractor of two consortia.

Please note that tenderers wishing to apply for more than one lot must submit **a separate tender for each lot**.

Question N° 52:

Referring to question and answer 21: Can the required insurance (i.e. the insurance that meets all the requirements of the tender documentation) for the entire consortium (for all the partners) be provided by any consortium partner or must it be provided by the managing/prime partner?

Answer N° 52:

The valid professional risk insurance cover(s) concerning the services covered by the FWC need to include, for LOT 1, a limitation of EUR 1,000,000 per claim. It is sufficient that one member of the consortium (either a lead of the consortium or a partner) presents such a valid professional risk insurance.

The valid professional risk insurance cover(s) concerning the services covered by the FWC need to include, for LOT 2, a limitation of EUR 500,000 per claim. It is sufficient that one member of the consortium (either a lead of the consortium or a partner) presents such a valid professional risk insurance.

Question N° 53:

Annex I_G contains a field asking for “Description of statutory social security cover (at the level of the Member State of origin) and non-statutory cover (supplementary professional indemnity insurance)” with a bottom note 1 saying that “for natural persons”.

Can you confirm that legal entities are not required to provide the above mentioned information?

Moreover, in case of natural persons, could you kindly elaborate on what exactly is meant by “statutory social security cover” and “non-statutory cover” and what tenderers need to provide?

Answer N° 53:

We confirm that legal entities are not required to provide the information regarding ‘*Description of statutory social security cover (at the level of the Member State of origin) and non-statutory cover (supplementary professional indemnity insurance)*’ stated in Annex I_G Identification of the tender.

A natural person participating in the procurement procedure as a natural person needs to provide evidence of statutory social security cover at the level of the Member State of his/her origin and evidence of non-statutory cover (supplementary professional indemnity insurance).

Question N° 54:

With reference to the Selection Criteria – 19.1 Legal Capacity, Annex I.I. Our understanding is that the Financial Identification Form (Annex I.I) shall be provided only by the Leader. Please confirm.

Answer N° 54:

A duly filled in, signed and dated Financial Identification Form (Annex I.I) needs to be provided by the tenderer. In case of a consortium the Financial Identification Form (Annex I.I) needs to be provided only by the Leader of the consortium.

Question N° 55:

With reference to your answer to Question 26. Our understanding is that projects started before 2014 but are still ongoing and cover the value requirement (1M€ for Lot1, 500K€ for Lot2) will be considered as acceptable. Could you please confirm our understanding?

Answer N° 55:

For LOT 1 - in relation to point 19.3.1.3 of Annex I - Tender specifications the tenderer must have:

- (a) three (3) years' experience in the business domain (i.e. IT system integrator services)
and
- (b) two (2) contracts, relevant to these tender specifications, each in the value of at least EUR 1,000,000.00, concluded by the tenderer during the last three (3) years (i.e. 2014, 2015 and/or 2016).

For LOT 2 - in relation to point 19.3.2.3 of Annex I - Tender specifications the tenderer must have:

- (a) three (3) years' experience in the business domain (i.e. IT system integrator services)
and
- (b) two (2) contracts, relevant to these tender specifications, each in the value of at least EUR 500,000.00, concluded by the tenderer during the last three (3) years (i.e. 2014, 2015 and/or 2016).

Question N° 56:

In the tender specifications you specify that the current location of ARIS IT assets is on ACER premises datacenter.

Do we understand correctly that presence on ACER premises is required if HW failure in order to fulfil 99,95 uptime requirement?

Answer N° 56:

Point 12.1 "Place of work" (page 20) of Annex I – Tender Specifications states: *'The principle place of performance of the FWC shall be at the Contractor's premises (working off-site). The principal place of performance of specific contract(s) shall depend on each specific contract and shall be indicated in the relevant request for services (the place may either be at the Agency's premises in Ljubljana, Slovenia or at the Contractor's premises)'* and *'In cases where the performance of a specific contract shall take place at the Agency's premises, this shall be considered as 'working on-site'.*

Question N° 57:

No public cloud – access problem: In the tender requirements (In tender requirements (Annex_I_A1_technical_requirements_lot1, page 6) you specify that "The Contractor shall be able to provide a remote location (i.e. fully functional and properly secured data centre.....)

further you specify that audits will be performed.

Do we understand correctly that for this audits to be performed, Agency's representatives will require physical access to the premises where ACER IT systems will be situated to perform full audit process for auditing implementation of all Agency's information security policies?

Answer N° 57:

Point 2.1 "General requirements" (on page 5) of Annex I_A1 - Technical specifications_Lot 1 states: *'The Agency's staff and/or consultants shall have, if authorised by the Agency, physical access to the equipment on which REMIT information is stored without any additional cost'.*

Question N° 58:

In tender requirements (Annex_I_A1_technical_requirements_lot1, page 5) you specify that "The Contractor shall be able to act as a purchase channel for any equipment or third party software, including SW and HW licenses and vendor support services, necessary for the successful operation and evolution of ARIS).

Do we understand correctly that we need to provide partnership statuses for all SW and HW vendors of ARIS's HW and SW equipment and statement that we are able to provide all required HW and SW licences.

Answer N° 58:

As indicated in point 20.1.1 "Technology, Performance and Security" (page 29) of Annex I – Tender Specifications the tenderers shall include in their offer: *'Description of Hardware and Software technologies supported (hypervisors, operating systems, database management systems, document and content management systems, networking, storage, servers, etc.)'* and *'List of supported vendors and basic information on SLAs that the tenderer has in place with the HW and SW vendors'.*

Further, point 2.1 "General requirements" (page 5) of Annex I_A1_Technical specifications_Lot 1 states: *'The Contractor shall be able to act as a purchase channel for any equipment or third party software, including SW and HW licenses and vendor support services, necessary for the successful operation and evolution of ARIS and within the scope of this tender. Any such equipment or third party software shall be requested as OUT OF PRICE LIST item according to point 10.2 of Annex I - Tender Specifications'.*

In addition, point 10.2 "Ordering procedure" (page 15) of Annex I – Tender Specifications states: *'Ordering is the process through which the Agency acquires products and/or services. It starts with the request for services and ends with the signature of a specific contract. Specific contracts shall be used to order services under the FWC(s)' and 'Should the requested services include products and/or services which are essential for the performance of a specific contract (e.g. to get a fully working system), but which are not listed in Annex II – Financial offer, these shall be indicated as OUT OF PRICE LIST by the Contractor. In such a case, the Contractor shall submit, as part of the offer, a detailed description of the OUT OF PRICE LIST product(s) and/or service(s) with a clear indication of all the costs related to implementing and operating such products and/or services'.*

Question N° 59:

In tender requirements (Annex_I_A1_technical_requirements_lot1, page 6) you specify that "The Contractor shall be able to provide a remote location (i.e. fully functional and properly secured data centre.....).

Based on other requirements of the tender do we understand correctly that properly secured data center means that the requirements for the datacentre are: ISO27001, ISO22301 certification and full access to ensure the availability of information, facilities and systems of information processing at any time?

Answer N° 59:

As indicated in point B3. "Information Security Management" (page 8) of Annex I_A1_Technical specifications_Lot 1: *'The Contractor shall ensure and be able to demonstrate that his working methods and operating procedures are compliant with the REMIT Information Security Policy which is based on ISO/IEC 27001 family of standards'*. Further, *'The Contractor shall perform the following [...] setup and maintain procedures in support of security policy, including [...] ensuring continuity of services, in compliance with contractual service levels'*.

In addition, point 2.1 "General requirements" (page 5) of Annex I_A1_Technical specifications_Lot 1 states: *'The Agency's staff and/or consultants shall have, if authorised by the Agency, physical access to the equipment on which REMIT information is stored without any additional cost'*.

Question N° 60:

Is it correct that provider of services in LOT1 has to ensure capability from technical perspective to protect from denial of service all Agency services published on Internet? This also includes VPN connections between ACER and NRA in Europe?

Answer N° 60:

Your interpretation is correct. As indicated in point 3. "Service Level Requirements" (page 12) of Annex I_A1_Technical specifications_Lot 1 the minimum service level requirements, including Denial of service (DoS), are mandatory for the Contractor and are applicable to all ARIS components and modules in production and all services provided.

Question N° 61:

Service desk (SD) is an important part of Agency's IT System Integration services. We can provide 2 solutions: first one is from "Gartner's magic-quadrant" leader for SD platforms and another one is SD platform from a provider (small company with annual revenues not higher than XX EUROS). The platform of this is limited in functions and has difficulty with flexibility, scalability and user experience is also very low but could be cheaper solutions at first look. Question: Will the Agency take this into consideration and give higher points when evaluating proposal, as listed in Tender Specification, in section 22.1.1 Technical quality for LOT 1 (Technical tender (points 1.1., 1.2. and 1.3.) and Case study) if a bidder will offer industry leading SD solution (Gartner's magic-quadrant leader)?

Answer N° 61:

For LOT 1 technical quality of tenders will be evaluated as described in point 22.1.1 of Annex I – Tender specifications.

Question N° 62:

Do we understand correctly that a provider of data centre facilities must be official Agency's contractor or contractor's subcontractor to reduce risk and increase legal ability for the Agency's representatives to perform all listed activities in section "B3. Information Security Management", page 8 (Annex I.A1 – Technical specifications for Lot 1)?

Answer N° 62:

Any services order by the Agency shall be provided by the Agency's contractor (i.e. a sole contractor, a consortium or grouping of service providers or a contractor with subcontractors). Further, point 10.5 of Annex I - Tender specifications includes detailed information about subcontracting which shall apply to the FWC(s).

Question N° 63:

According to section 5.2 B-Level profiles regarding profile for Infrastructure Engineer (IE) it is requested to provide experts with minimum experience: At least one (1) valid certification for each of the following: storage, network and virtualization management.

As the role for Infrastructure Engineer is highly operational and should provide experts in specific fields It is highly unlikely to find multiple personnel who have at least one certificate from three completely different technologies. Would it be possible to provide more than one expert who can jointly fulfill requested certificates?

Answer N° 63:

Please see answer N° 39.

Question N° 64:

Since Agreement is to be concluded for a period of 5 years and since Contractors are not fully familiar with Agency's systems and future requirement – does the Agency allow possibility to resolve IP transfer on a case to case basis?

Contractors also predict that they could use already existing libraries of their own which would lower the cost for the Agency and improve quality (already proven solutions). Consequently all IP rights could be transferred to the Agency non-exclusively, but as broadly as required by the Agency. Could this be acceptable to the Agency?

Answer N° 64:

Please note that Section 8 of Annex I - Tender specification states: *'The FWC(s) for each lot shall have an initial duration of two (2) years as from date of signature and may be renewed automatically up to three (3) times, each time for an additional period of two (2) years. The total duration of the FWCs for each lot shall not exceed eight (8) years. The Agency reserves the right to cancel the FWC with the Contractor whose services are deemed to be of a quality below the required standards'.*

Intellectual property rights arising from the FWC are in particular governed by Section II.13 of Annex III - Framework Contract for Services. Concerning pre-existing rights, please note that pursuant to Article II.13.2 of Framework Contract for Services *'Unless provided otherwise in the special conditions, the Union does not acquire ownership of pre-existing rights under the*

FWC. The contractor licenses the pre-existing rights on a royalty-free, non-exclusive and irrevocable basis to the Union, which may use the pre-existing materials for all the modes of exploitation set out in this FWC or in specific contracts. All pre-existing rights are licensed to the Union from the moment the results are delivered and approved by the contracting authority.'

With regards to the ownership of results, according to Article II.13.1 of Annex III Framework contract for services '*The Union acquires irrevocably worldwide ownership of the results and of all intellectual property rights under the FWC*'.

In addition, Article II.13.1 of Annex III Framework contract for services states: '*The Union acquires all the rights from the moment the contracting authority approves the results delivered by the contractor. Such delivery and approval are deemed to constitute an effective assignment of rights from the contractor to the Union*'.

Question N° 65:

With reference to your answer to Question No 47: Our understanding is that the submission of CVs is not part of the technical proposal and only the Tenderer to whom the FWC is to be awarded shall provide CVs. Could you please confirm our understanding?

Answer N° 65:

FOR LOT 1:

Each tenderer shall, in order to prove that he/she fulfils the selection criterion in point 19.3.1.4 of Annex I Tender specifications provide a list of experts specifying the name of each expert for each profile(s) and the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, signed and dated.

The tenderer to whom the FWC is to be awarded shall provide, within a time-limit specified by the Agency and prior to the signature of the FWC, the evidence in support of their declaration in respect to fulfilling this selection criterion, namely CV(s) showing clearly qualifications and professional experience for the relevant professional profile(s) and indicating clearly the type of profile(s) assigned to the expert.

Further, point 3 of Annex I.B1 – Case study for Lot 1 states: '*For the purpose of this case study the tenderers should not submit the CVs of the experts proposed. Instead a short description of each expert's qualification, professional experience and knowledge and skills is required*'.

FOR LOT 2:

Each tenderer shall, in order to prove that he/she fulfils the selection criterion in point 19.3.2.4 of Annex I Tender specifications provide a list of experts specifying the name of each expert for each profile(s) and the declaration on honour on exclusion and selection criteria (Annex I.H) duly filled in, signed and dated.

The tenderer to whom the FWC is to be awarded shall provide, within a time-limit specified by the Agency and prior to the signature of the FWC, the evidence in support of their declaration in respect to fulfilling this selection criterion, namely CV(s) showing clearly qualifications and professional experience for the relevant professional profile(s) and indicating clearly the type of profile(s) assigned to the expert.

Further, point 3 of Annex I.B2 – Case study for Lot 2 states: *‘For the purpose of this case study the tenderers should not submit the CVs of the experts proposed. Instead a short description of each expert's qualifications, professional experience and knowledge and skills is required’.*