

CLARIFICATION TO TENDER: N° 01

“Cloud Security - Governmental clouds & Incident Reporting”

ENISA P/29/12/TCD

Questions & Answers

<p>Q1:</p>	<p>[Company name] is interested in submitting a proposal, but we'd need from you guidance on point 3.2 Financial and Economic Capacity of the Tender Specification. In particular on this point:</p> <p><i>“If, for any valid reason, the service provider is unable to provide the references requested by the contracting authority, he may prove his economic and financial standing by any other document which the contracting authority considers appropriate, following a request for clarification before the tender expiry date.”</i></p> <p>[Company name] has been constituted in 2012 and it is in operation since June 2012. Therefore we cannot produce documents requested at points a) and b).</p> <p>We have been in a similar situation vis a vis EC Financial Service during 2012, since we have participated in 4 FP7 consortia. The 4 projects got funded and the EU Financial Service validated our financial condition based on 3 years business plan?</p>
<p>A1:</p>	<p>Indeed the tender documentation is quite clear that an entity requires a minimum of 2 full years of financial records to be provided in order to be considered eligible to bid for the tender procedure. This requirement is based on establishing that the potential contractor is on a sound financial footing for a minimum period of time. Please note that the rules applicable to ‘procurements’ such as this tender, are very different to ‘grant’ procedures which are not considered to be procurement procedures. Thus the EC FP7 programme you refer to, which is a grant procedure cannot be used as an example in the assessment of eligibility for this tender. In your specific circumstance, the only other possibility to prove financial stability is if one or more of the principal directors of your organisation can provide financial records for an entity that they were previously involved in, also as principal actors, immediately before the setup of your current entity.</p>

<p>Q2:</p>	<p>Please note that [Company name] is a legal entity established in [EU Member State], but dependent on '[Company name Global]'. Can we consider ourselves falling into the category at 3.2 point c):</p> <p><i>"If tenderers will call on the competences of another entity (for example, a parent company), a written undertaking by the said entity certifying that it will make available to the tenderers the resources required to implement the contract."?</i></p> <p>Should that be the case, what should [Company name] exactly provide as supporting documentation? Would be it enough a declaration from our Authorised Representative saying that '[Company name Global]' will make available to the tenderers the resources required to implement the contract? It is not clear to me the meaning given to "certifying"?</p>
<p>A2:</p>	<p>Article 3.2 part c) could be used in your case if it can be shown that the financial records (audited accounts) of '[Company name Global]' mention [Company name] as a legally associated entity and that its financial position is incorporated into the parent company's overall results in some way. If the last audited year does not include information on [Company name] as a new entity then any legal incorporation document from either (or both) entitles which show the relationship will be acceptable.</p> <p>Please note that we will still need the financial records of '[Company name Global]' for the minimum 2 years in any case.</p> <p>If this clear evidence can be provided, then a letter signed by the authorised person on behalf of '[Company name Global]', stating that '[Company name Global]' will make available to [Company name] the resources required to implement the contract", then this will be acceptable in order to satisfy the selection criteria.</p>
<p>Q3:</p>	<p>As stakeholder relations advisor, I wanted to ask you which type of companies do you think are interesting to work on such task? Are you expecting big cloud providers or telecom operators? Or do you think a [Company A and B] consortium suitable for doing such work?</p>
<p>A3:</p>	<p>For this tender we have no preference for a type of company. We will assess the expertise and the experience of the organisation and individuals involved. It is important that the contractor has a good overview and contacts in the cloud computing sector (with cloud computing vendors), and it is important that the contractor has a good overview of the customers of cloud computing services, their needs, requirements, and (legal/regulatory) constraints.</p> <p>We do not have a preference for a specific type of company - depending on the expertise and experience this work could be done by, for example, a cloud provider, a consultancy firm, another type of IT service provider, an industry association of vendors, an association of customers, an analysis company, a consortium of sorts, and so on.</p>