FMO

Entrepreneurial Development Bank

## Questions and Answers: Open Procedure for Technical Assistance - NASIRA

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| **Reference number: 20190321TA1** | Framework Contract for Risk Management and Reporting Interventions for NASIRA (TA1) |
| **Reference number: 20190321TA2** | Framework Agreement Technical Assistance Services under the EFSD Guarantee NASIRA (TA2) |
| **Publication Dates** | 07 November 2019 |

| Subject | Question | Answer |
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| Rule of nationality clause – TA1 and TA2 | The RFP documents leave room for interpretation regarding the Rule of nationality application given that this clause (RFP page 8, point 3.1) makes reference to the EU Regulation No 236/2014, yet is also followed by a sentence stating that "Participation is open to (international) organisations based outside or inside the EU". Based on this sentence, it may be understood that participation is open to any international company (which is not subject to sanctions).<br><br>As a consulting firm based in Switzerland, it is vital for us to clarify on this in order to determine our ability to lead a consortium or join a consortium for this bid. Our company has encountered the EU rule or nationality clause in other tenders, which also included several more specific details. In such past experience, tender documents clarified that entities based in Switzerland (a OECD country) were eligible for the provision of services only in Least Developed Countries (LDC) or a Highly Indebted Poor Countries (HIPC), as included in the list of ODA recipients.<br><br>Based on our analysis of NASIRA countries (RFP Annex 1), none of the EU Neighborhood countries are part of the two mentioned lists (LDC, HIPC). The same applies to 11 Sub-Saharan Africa countries (incl. Angola – graduating the LDC list in 2021 (during the timeframe of NASIRA)).<br><br>With the above in mind, it is now uncertain how our entity can participate in the two NASIRA assignments. Should restrictions apply on us as a lead firm, it's unclear if these will also apply to EU-based partners in our consortium. Alternatively, if we join a EU-based lead firm, it's unclear if our input may be limited to services in LDC and HIPC countries only. And as mentioned in the very beginning, the quoted sentence from point 3.1 in the RFP seems to overrule the complex specifications under EU Regulation No 236/2014.<br><br>Taking the above into consideration, we'd like to request for an official confirmation if Swiss entities are eligible to lead a consortium and provide services in all NASIRA countries within the two tenders currently launched for the NASIRA program. | In order to comply with EU regulations, the inclusion of the Nationality Clause 3 allows for any firm based inside or outside of the EU to apply.<br><br>This means that firms based in Switzerland, which is outside of the EU, are eligible to apply. Such firms can also lead a consortium.<br><br>With regard to the provision of services, there is no restriction for entities based inside or outside of the EU. |

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| | We would like to confirm if our organization [based in Canada] complies with the eligibility restriction and rule of nationality as per the contract notices III.1.1) and the Regulation (EU) No. 236/2014. | |
| Applicant minimum turnover requirement – TA1 and TA2 | With reference to RFP point 3.3.1. (Financial and economic standing), we would like to reconfirm if the main requirement here is for the Lead Tenderer to have a minimum turnover of EUR 2.5 million in the previous fiscal year (2018), or if it is also acceptable for the combined turnover of consortium partners to account for this minimum amount (without the Lead Tender having this minimum individually), taking into account the first sentence in point 3.3.1 ("in case of joint tender, the combined capacity of all members of the consortium"). | RFP Point 3.3.1 requires that at least the lead Tenderer needs to comply with this eligibility requirement regarding total turnover. This means that at a minimum, the lead Tenderer on its own must meet this requirement. |
| | In the DPA Agreement, Warranting the integrity and availability of the personal data; and Warranting that personal data will be recoverable in the event of physical or technical Security Incidents<br>Both measures sound the same. | No they are not the same.<br>Warranting that personal data will be recoverable in the event of physical or technical Security Incidents indeed refers to the Backup of local data.<br>However: Warranting the integrity and availability of the personal data; refers to warranting the accuracy and consistency of personal data. What measures are you doing in order to have accurate data and available when require? |
| | We do not understand the type of statement expected from us. Could you please explain?<br>To which extent does the contractor have to communicate on changes in technical and organisational security measures? And to whom? | In case there are changes in technical and organisational security measures, the contractor's legal representative should communicate to FMO if there were any changes and what were the measures taken to make improvements.<br>The legal representative will have to report to FMO any breaches on the DPA. Examples could be cases where your data could have been compromised (ie incidents with |

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| | | hackers, stolen equipment including important data and other) and also state the measures that you have done to remediate the situation. It could also include awareness trainings on security, data protection. |