



S2R.19.OP.01: Railway operators, staff and passengers expertise

QUESTIONS AND ANSWERS

Open Procedure - S2R.19.OP.01

11/07/2019 (version 2)

NB: in order to respect the confidentiality between the interested parties, questions submitted and answers provided must be written down in an anonymous way. Therefore, the S2R JU reserve the right to modify the question submitted by the interested parties or delete the parts are not consider to be written in an anonymous way.

QUESTION	ANSWER
1. As concerns the tender in subject, we kindly ask you whether the participation as partners of RUs and IMs is possible and/or recommended, or not.	The question is understood to refer to Lot 1. In this respect, Lot 1 requires to demonstrate the ability to involve “representatives from entities operating the railway systems”: this means representatives of RUs and/or IMs of different railway segments including urban. This has been left broad to allow tenderers submitting tenders which can combine representatives coming from different entities, though direct tenders or consortia, including making use of subcontracting under the conditions defined in the tender specifications. It is up to the tenderers to decide to involve the RUs and/or IMs or only their representatives or a combination of them.



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<p>2. In section 6.5.1 (Evaluation of the quality of the offer), page 27, the quality criteria are set forth. However, it is not clear to us what the technical proposal should describe. How will the ‘feasibility, relevance and effectiveness of the proposed approach’ be evaluated in quality criteria 1 (Quality and appropriateness of the tender)? Should there not be a hypothetical request for services to respond to, or how should the approach be developed?</p>	<p>Please note that this is a tender for a single framework contract (FWC). The FWC sets out the main elements such as the technical characteristics of the services and the criteria (exclusion, selection and award) for choosing the contractor. When the need will arise, the FWC will be implemented through specific contracts concluded with the same contractor and based on the direct application of the terms of the FWC. Therefore, the same criteria above mentioned will apply during the whole implementation of the FWC. In particular, as stated in the tender specifications (section 5.5.1) , the quality criteria 1 (“Quality and appropriateness of the tender”) will be evaluated on the basis of the feasibility, relevance and effectiveness of the proposed approach to provide expert knowledge to the S2R JU and its Programme (e.g. how strong is the tender regarding the provision of expertise, dealing with problems, covering specific request for services etc.) during the execution of the tasks described in section 3 (technical specifications) the contractor must perform under specific contracts and within a given period.</p> <p>As the framework contract does not entail specific request for services to be provided directly (exact tasks and delivery times cannot be indicated in advance) but rather the basic terms for a series of specific contracts to be concluded over</p>
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		<p>a given period, the technical tender should not describe a specific service but rather the tender's general approach, plan, envisioned procedure etc. to provide the high quality expertise (i.e. personnel with expertise in the area of the respective Lot) according to the tasks indicated in the respective Lot (e.g. project advice, reporting etc.).</p>
3.	<p>On page 13 of the Tender Specifications, paragraph 5.1 "Participation", you state "<i>...Therefore this procurement procedure is not open to economic operators established in GPA countries.</i>" As all member states of the EU are included in the GPA, the above would imply that economic operators based in one of the EU member states would not be allowed to participate. We therefore believe the above phrase to be incorrect. Can you please confirm?</p>	<p>The Agreement on Government Procurement (GPA) is a plurilateral agreement within the framework of the World Trade Organisation (WTO), meaning that not all WTO members are parties to the Agreement. As indicated in the Appendix I to the WTO GPA, any EU institution or body other than the Commission, the EEAS and the Council cannot open their procurement procedures to economic operators established in GPA countries. The S2R JU, as a body of the European Union other than the Commission, the EEAS or the Council can therefore not open this procurement procedure to economic operators established in GPA countries. According to the tender specifications, section 5.1, "participation in this procurement procedure is open on equal terms to all natural and legal persons coming within the scope of the Treaties, as well as to international</p>

	<p>organisations”. This includes all legal entities registered in the EU and all natural persons having their domicile in the EU, i.e. in one of the 28 EU Member States as listed in Art. 52 of the TEU. In addition, the procedure is open to all natural and legal persons established in Overseas Countries and Territories (OCT) as listed in the Annex II of the TFEU and to all natural and legal persons established in Iceland, Norway and Lichtenstein, as per the EEA Agreement.</p> <p>As per the Treaties, the procedure is therefore open to natural and legal persons in the 28 EU Member States, Iceland, Norway and Lichtenstein even if these countries are parties to the GPA. Thus, Appendix I to the WTO GPA shall be understood in the sense that the S2R JU cannot open this procurement procedure to economic operators established in GPA countries other than the 28 EU Member States, Iceland, Norway or Lichtenstein. Summing up, this procurement procedure is open to:</p> <ul style="list-style-type: none">• All legal entities registered in the EU and all natural persons having their domicile in the EU;• international organisations• natural and legal persons established in Overseas Countries and Territories (OCT) and• natural and legal persons established in Iceland, Norway and Lichtenstein.
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