



Republic of Serbia

**MINISTRY OF FINANCE**

**Department for Contracting and Financing of EU Funded Programmes (CFCU)**

Belgrade, 08/05/2017

**CONTRACTING AUTHORITY'S CLARIFICATIONS No. 1**

**“Additional development of EU Environment approximation for Air, Chemicals and Horizontal acquis”**

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No.	Question	Answer
1	<p>According to Article 21, an economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It must in that case prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the contract, for example by producing a commitment on the part of those entities to place those resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility - notably that of nationality – and must fulfil the same relevant selection criteria as the economic operator. With regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required. With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies, become jointly and severally liable for the performance of the contract.</p>	<p>Please refer to article 21 of the Contract Notice where it states <i>“In the case of applications submitted by a consortium, <u>these selection criteria will be applied to the consortium as a whole unless specified otherwise.</u> The selection criteria will not be applied to natural persons and single-member companies when they are sub-contractors.”</i></p> <p>Considering that <i>"with regard to technical and professional criteria, an economic operator may only rely on the capacities of other entities where the latter will perform the works or services for which these capacities are required"</i>, in this situation the capacity provider is <i>de facto</i> a sub-contractor.</p> <p>Therefore, such capacity provider, providing to the consortium only technical and professional capacities does not have to fulfil selection criteria for economic and financial capacities of the candidate (article 21.1 of the Contract Notice).</p>

Contracting Authority's clarifications no. 1

No.	Question	Answer
	<p>Can you please indicate whether the capacity provider, providing to the consortium only technical and professional capacities has to fulfil selection criteria for economic and financial capacities of the candidate, namely to have:</p> <p>a) The average annual turnover of the candidate over the last three years must be at least 2,000,000 EUR.</p> <p>b) Current ratio (current assets/current liabilities) in the last year for which accounts have been closed must be at least 1.</p>	
2	<p>Regarding the <b>Technical capacity of the candidate</b> (point 21, 3)), point a), we would like to know <b>if several contracts which have similar scope</b> (i.e. Technical assistance for the implementation of Regulation (EC) No 1907/2006 for industrial facilities) <b><u>but developed for various clients, may be included under one eligible reference.</u></b></p>	<p>Yes, several contracts may be included under one reference, however in that case <u>each contract must include the subject field</u> requested under item 21.3 (a) of the contract notice (implementation of EU legislation pertaining to air protection, chemicals management and horizontal environmental legislation).</p>