

SUBJECT: Further information and clarification of the Contract Documents for the Public Procurement No. 031-2/19 – Procurement of the service for the selection of Technical Support/Technical Consultant for the construction of the faecal sewerage network in Bratmilovce and 15 settlements in the vicinity of Leskovac, within the frame of the implementation phase of the “Wastewater management in Leskovac” Project ORIO 10/SB/01.

On 20 December 2019, the Procurer received an electronic request from a stakeholder for further information and clarification of the Contract Documents for the Public Procurement No. 031-2/19, which was entered into the Registry of the Procurer under the number 3158-404/2019-11 on the same day.

The stakeholder asked the Procurer the following 13 (thirteen) questions relating to the above public procurement, demanding an answer:

„With reference to above mentioned tender with reference number ORIO 10/SB/01 we would like to ask you to reply the following clarification questions and requests:
(all pages and section refer the document named “Konkusna+eng+fin.pdf”)

1. Page 1: Given the christmas celebration periods in Western Europe and in Serbia (orthodox Christmas) we ask for three weeks extention of the deadline, now set at 10th January 2020, to be moved to 31st Jnauary 2020;
2. Page 5: Please provide us with an overview of all available tender documents both in Serbian and English version;
3. Page 6: Mandatory condition 1 suggests that the lead consultant is required to have a registration with the relevant Authorities in Serbia. Can you confirm international bidders with a business registration outside Serbia are also allowed to submit a bid?
4. Page 22: “All offered personnel must be constantly and at all times engaged in the project”: how should Consultant understand this condition as not all of the project time all expertise will be required?
5. Page 26: with regard to the Terms of payment: is the consultant expected to propose a disbursement schedule in function of deliverables?

6. Page 36: Under the heading “1.1 Time limit for completion” is stated: 18 months (including 12-months for reporting any shortcomings). Please confirm if this is the correct phrasing.
7. Page 37: Clause 8.3.2 FIDIC Particular Conditions: Please could you consider to change the arbitration institute into an international arbitration institute since this is an international tender. We propose International Chamber of Commerce Arbitration in accordance with the Rules of Arbitration of the ICC, by one or more arbitrators, in the English language, and with Geneva as place of arbitration or otherwise UNICTRAL arbitration in Geneva;
8. Page 86: We do not understand that the contract language is Serbian since FIDIC White Book and the Particular Conditions (Clause 1.4) are in English and the language of communication is also English and this is an international assignment. Please change into English;
9. Page 92: the Terms of Payment for standard services mentioned the financial offer can be expressed in Dinar and in Euro. Please confirm payment of Consultant’s services will be in the currency of the financial offer.
10. Page 93: Under section ‘Method of Payment’ reference is made to the Grant Agreement. Can we get a copy of this Grant Agreement or at least of the sections clarifying the disbursement schedule?
11. Page 93: Under section ‘Method of Payment’ is stated: “All payments made directly by the Grantor to the Consultant shall be considered a grant to the Ministry of Environmental Protection as the Grantee. Does this mean Grantor will pay Consultant directly according to the agreed disbursement schedule?
12. Page 96: Under section 1. Language is stated: The bid is to be completed in Serbian or English language. Please confirm Consultant can choose from the mentioned languages in the preparation of his proposal, and no translation from one into the other language is required.
13. Page 101: Under section 9, Joint bid: when reference is made to “joint bids”, is the formal establishment of a (project) joint venture meant? “

Acting in accordance with the received Request, in accordance with Article 63 of the Law on Public Procurement (*Official Gazette of the Republic of Serbia*, No. 124/2012,14/2015 and 68/2015, hereinafter: LPP), the Producer shall also provide and publish an answer to the questions as follows:

1. The request of the interested person for the extension of the deadline is founded. The Commission for the public procurement in subject shall discuss the proposal in a timely manner and all interested persons shall be informed about the potential new deadline in a manner stipulated by the Law on Public Procurements.
2. The Contracting Authority published the Invitation to Bid and the Contract Documents in Serbian and English, in accordance the Law on Public Procurements and is not obligated to submit all the bid documents in Serbian and English. On page 102/106 of the Contract Documents, under heading 13.3 Access to the existing documentation, the Contracting Authority offered the option for, stipulated the manner for and the procedure for access for all Bidders to the existing documentation (design documentation), information, reports and drawings as well as the Grant Agreement for the implementation

phase and maintenance and exploitation phase of the “Wastewater Management in Leskovac Project ORIO 10/SB/01“.

3. Foreign bidders registered outside the Republic of Serbia may submit their bids.
4. The Bidder must prove that they will make available at all times for the duration of the project all the aforesaid personnel i.e. that they will be able to engage them at all times as the need arises. They can be replaced by other experts who have only the same or better references than those offered by the Bidder and the Contracting Authority shall give the final consent to this.
5. The consultant is not expected to propose a disbursement schedule in function of deliverables since this is not stipulated by the Contract Documents.
6. The time limit for the completion of this Contract is 18 months (including the period planned and provided for the trainings stipulated under heading 2.1.2.4) + another 12-month period to remedy the shortcomings.
7. The Contracting Authority shall stand by the statements in the Contract Documents and not change the particular jurisdiction of the arbitration institution.
8. The public procurement in subject shall be conducted in accordance with the Law on Public Procurements of the Republic of Serbia (“Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015). The provisions of Article 17 and 18 Law on Public Procurements stipulates the use of language in the public procurement procedure and Article 20 stipulates the manner of communication. The ORIO Agreement stipulates that the public procurement be done in Serbian and English. The Model Contract in the Special Conditions of Contract stipulates the Serbian language as the governing language and the applicable law as the law of the Republic of Serbia. Hence, the Contract is done and entered in in Serbian with the prior translation into English language if the need occurs.
9. The payment of consultancy services shall be conducted in accordance with the payments of the ORIO agreement on grants for the implementation phase and the phase of operation and maintenance for the implementation of the project "Waste water management in Leskovac" (ORIO10/SB/01) signed between the Government of the Republic of Serbia and the Government of the Kingdom of Netherlands 8.10.2018. and in accordance with positive regulations of the Republic of Serbia regulating this matter. The Government of the Kingdom of Netherlands, as a donor, will pay the consulting amount of the temporary or end of the situation to the consultant's bank account. All payments made by a donation provider directly to the consultant are considered a donation to the Ministry of Environmental Protection as a Grantee. The Ministry of Environmental Protection in the implementation of this Agreement implements the obligations stipulated in the Grant Agreement.
10. The answer to this question is already provided in answer 2.
11. Yes, the Grantor will make payments directly to the Consultant in accordance with the agreed disbursement schedule.
12. The Bidder may submit the Bid in Serbian and English.

13. The Bid may be submitted by a group of bidders. In case of joint bids, the Bidders are obligated to submit an agreement according to which they are mutually obligated as well as obligated towards the Contracting Authority to complete the provisions pertaining to the subject of the public procurement. The contents of the Agreement is stipulated in the Instructions and Article 81 of the Law of Public Procurements.

For the Commission
Ivan Lekić


