

Brussels,

Subject: Procurement procedure reference No. 14.CPS.OP.131: "Command, control and communication tool for EATF flying events" - CLARIFICATIONS 4

4.1

Q: Please find below a question relating to Call For Tender: "Command, control and communication tool for EATF flying events" - reference No. 14.CPS.OP.131.

Reference: Document - 14-cps-op-131-invitation-and-tender-specif - 3.5.2. Stage 2 - application of selection criteria (selection of tenderers):

This part of the tender concerns the criteria and evidence relating to the technical and professional capacity and economic and financial capacity of the service provider(s) involved in the tender. It should also contain any other document that the tenderer(s) wish(es) to include by way of clarification.

An economic operator may rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. In that case, evidence shall be provided that it will have at its disposal the resources necessary for performance of the contract, for example by producing a clear undertaking on the part of those entities to place those resources at its disposal.

If the economic and financial selection criteria are fulfilled by relying on a third party, the contracting authority may demand, if that tender wins the contract, that this third party signs the contract (becomes a contractor) or, alternatively, provides a joint and several first-call guarantee.

Question: Does this mean that an international company can bid using a newly created legal entity in an EU member state, relying on the financial capacity and history of its international parent company that is not in an EU member state or third countries which have signed a bilateral or multilateral agreement with the European Union in the field of public procurement?

A:

In case a newly created entity relies on the capacity of its parent company in order to meet the economic and financial and/or the professional and technical selection criteria, evidence shall be provided that it will have at its disposal the resources necessary for performance of the contract, by producing a clear undertaking on the part of the parent company to place those

resources at its disposal. In case the contract is awarded to the newly created company, the parent company shall become either a joint tenderer or a sub-contractor. If the parent company is not in an EU member state or third countries which have signed a bilateral or multilateral agreement with the European Union in the field of public procurement that provides access to the present procurement procedure, the parent company shall become a sub-contractor of the newly created entity.

In case a newly created entity relies on the capacity of its parent company in order to meet the economic and financial and/or the professional and technical selection criteria, the parent company may be required to sign the contract (becomes a contractor) or, alternatively, to provide a joint and several first-call guarantee. If the parent company is not in an EU member state or third countries which have signed a bilateral or multilateral agreement with the European Union in the field of public procurement that provides access to the present procurement procedure, the parent company may be required to provide a joint and several first-call guarantee.

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