

Helsinki, 10 January 2012

CLARIFICATIONS 1

Open call for tender ECHA/2011/172 characterisation, chemical representation and modelling of UVCB substances

Question 1.1:

We need to know the meaning of some sentences that are in the file named "Tender specifications" page 21. The passage is: "In case of a tenderer submitting a joint offer who has already set up a consortium or similar entity for conducting the project in case a contract will be awarded, the tenderer should mention this fact in the tender, together with any other relevant information in this connection.

In case of tenderers submitting a joint offer who have not yet set up a consortium or similar entity, the tenderers should be aware that, in case the tenderers are awarded the contract, the Agency may require the tenderer to give a formal status to this collaboration before the contract is signed.

This can take the form of:

- an entity with legal personality recognised by a Member State, or
- an entity without legal personality but offering sufficient protection of the Agency's contractual interests (depending on the Member State concerned, this may be, for example, a consortium or a temporary association)."

Can you specify the meaning of :

- "to set up a consortium". In case of tenderers submitting a joint offer, is it enough to fill and sign the form "powers of attorney"?

- "an entity without legal personality but offering sufficient protection of the Agency's contractual interests". Is it possible to make an example of this entity for Italy? Is it possible to make an entity without legal personality between an Italian private company and an Italian public entity?

Answer:

In case of tenderers submitting a joint offer, depending on the set up that has been chosen by the tenderers, either model 1 or model 2 of "power of attorney" form must be used. Power of attorney - Model 1 should be used in case a grouping has not formed a common legal entity but is designating one of the companies of the group as leader giving mandate to it. Power of attorney - Model 2 should be used in case the members of the grouping have an entity in place i.e. the group has been formed as a separate entity, a group manager has been appointed and a mandate has been given to him/her.

Requirements of the national legislation are to be assessed by the tenderers in light of the above mentioned provisions and the tender specifications.

Question 1.2:

If certain tasks are entrusted to subcontractors, are there some limitations or restrictions? Should the amount envisaged for each subcontractor be a percentage of the total contract value?

Answer:

Subcontracting is not limited or restricted but the tender must clearly state the roles, activities and responsibilities of the proposed subcontractor(s), and the reasons why subcontracting is envisaged.