CEDEFOP | **European Centre for the Development of Vocational Training**

OPEN INVITATION TO TENDER

AO/ECVL-RES/PHT-ASIA/Europass/004/2012
'Development and maintenance services for Europass web resources'

CLARIFICATION (2) – QUESTIONS AND ANSWERS

Dear Madam/Sir,

In regards to the above mentioned Open Tender Procedure please find below the answers of Cedefop to the requested Clarifications, raised by some potential tenderers:

Question 1

Tender Specifications 2.4.3: if the contractor is supposed to be responsible for the availability and good performance of operating systems etc., can we assume that the contractor would have the necessary remote access and would be provided with a monthly time and material budget for these activities?

Cedefop Answer to Question 1

The contractor will have the necessary remote access to ensure the good performance of the Europass web resources. The budget for each signed Order Form or Specific Contract will be secured through prior commitment by Cedefop of the corresponding funds, but the monthly resources necessary for these activities should be included in the proposal (see also award criterion 2.3).

Question 2

Tender Specifications 2.10: can we assume that the time to react and the time to recover are only measured during the working hours of Cedefop?

Cedefop Answer to Question 2

As specified at par. 2.10.1, "*the selected contractor should resolve problems and bugs that are attributable to them within 1 week from the announcement of the issue by Cedefop. In case of mission-critical service requests (e.g. down-time of the system), the resolution should not exceed 24 hours*". This is a maximum and is irrespective of Cedefop's working hours schedules. See also par. 4.3, "*In this regard, the tenderer must define in their technical proposal: a) appropriate response time for corrective actions, b) incidents management methodology, (…)*".

Question 3

Tender Specifications 2.11 and Contract I.3.4: We are not sure whether we understood the reimbursement principle for the meetings. Tender Specifications 2.11 describes a certain number of meeting to be reimbursed according to the Contractor's Financial Offer, however the Kick-Off Meeting is not to be reimbursed and additional meetings for the EX tool in 2012 shall be included in the respective order form. However, Contract I.3.4 refers to the Annex IV (CEDEFOP rules on reimbursement of travel etc.).
  a.   Are the meetings reimbursed according to the Financial Offer or according to Annex IV?
  b.   Are all meetings or only the meetings set out in Tender Specifications 2.11 remunerated according to Annex IV of the Contract?

Cedefop Answer to Question 3

As per point 2.11 of the Tender Specifications (Meeting and travel expenses), Meetings expenses (i.e. travel and accommodation) will be reimbursed to the contractor on the basis of the contractor's Financial Offer (see excel sheet, "Price per meeting"). The expenses for these meetings shall be covered under the budget of the respective signed Order Forms, i.e. will be paid by Cedefop.

According to point 5.3.1 in the Tender Specifications (*Additional Information concerning price*) the price for travel and accommodation for meetings should be all inclusive and should cover all daily expenses (please see also 2.11 of the Tender Specifications). This price will be used during the contract life to reimburse meeting costs depending on the actual number of days of the meeting/s.

Moreover in the Draft Contract, Special Conditions, Article I.3.4. (*Reimbursement of expenses*), it is clearly specified that any extra travel and subsistence expenses, besides those relating to meetings specifically foreseen in the Tender Specifications (point 2.11) and which might be needed to perform the tasks related to the contract, shall be subject to Cedefop's prior approval and shall be reimbursed by Cedefop separately, according to its relevant rules (Annex IV of the Draft Contract), in addition to the total price specified in each order form or specific contract.

In summary therefore, the contractor's offer (as taken up in the relevant Order Form) applies for the reimbursement of meetings already foreseen in the Tender Specifications, and the standard Cedefop's reimbursement rules will apply for any extra meetings that might be deemed necessary (and agreed between Cedefop and the Contractor) during implementation of the contract.

Question 4

Contract I.9.2, I.9.3, Annex A1 to Annex I (b) of the Contract: Annex A1 to Annex I (b) of the Contract states that the Contractor "holds full right to the delivered" result, Contract I.9.2 requires Contractor to transfer all rights to the Union, even though pre-existing intellectual property rights exist. Contract I.9.3 only allows partial vesting of rights if such a partial vesting was envisaged in the tender specification. However, the published tender specification do not allow for such a partial vesting. Therefore, the Contractor is contractually obliged to transfer full title to all possible results under the framework contract.

Yet, it is very likely that in specific assignments, as common in software development in general, third parties' frameworks or libraries or other open source software will be used, or in case of websites photographs/icon/graphics of third parties' commercial databases. Certain open source software licenses (so called copyleft open source software licenses, e.g. GPL) require even amendments or linkage with other software to be under same licensing conditions (viral effect).

Can we therefore assume that the Contractor is only obliged to transfer the intellectual rights for any third party material (software, photographs/icon/graphics etc.) or any amendments of copyleft open source software (or its linkage with other software) according to the respective applicable licensing conditions?

Cedefop Answer to Question 4

Indeed, the Contractor is only obliged to transfer the intellectual rights for any third party material (software, photographs/icon/graphics etc.) or any amendments of copyleft open source software (or its linkage with other software) according to the respective applicable licensing conditions. Such detailed arrangements could be reflected in the version of Annex A1 as filled-in/completed by the potential contractor before contract signature.

Question 5

Contract II.2.3: Is section II.2.3 subject to the maximum amount set out in II.2.2?

Cedefop Answer to Question 5

YES (by default), and is normally limited to the actual 'cost' generated to Cedefop by the possible "action, claim or proceeding from a third party"; however these provisions have a mostly theoretical bearing for this kind of contract, as development of software and tools can hardly cause material damage to a third party - at most it could cause intellectual property damage, but this is extensively (and proactively) addressed in Article I.9.

Question 6

Contract II.12: Does "relevant purchase" re fer to the part of the specific contract / purchase order which is delayed?

Cedefop Answer to Question 6

YES (signed Order Forms or Specific Contracts are the only binding elements in the implementation of a Framework Contract, so application of such clauses is limited to them).

Question 7

We have tried, but could not find anywhere specification documents for European Commission Authenticating Service (ECAS), from the developers' point of view (APIs, standards followed etc). Is there any publicly available document or site providing this information?

Cedefop Answer to Question 7

There is currently no publicly available information from developer's point of view on ECAS, since its development and integration is an internal EU matter and doesn't normally concern the general public. Such information will be provided to the successful tenderer on signature of the contract. It can nevertheless be considered that it is using standards-compliant SSO technologies.

Please note that the missing link for "this nice tutorial" on page 4, footnote 2 is
http://www.programkontoret.se/Global/program/leonardopraktik/Handbok_registrering_Mobility_Tool_2011.pdf