



Finance Contract:	SERBIAN INLAND WATERWAY INFRASTRUCTURE Finance Contract between the Republic of Serbia and European Investment Bank (Official Gazette of the Republic of Serbia - International Contracts No. 02/2019)
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## Clarification No.9 to TD

### Volume 1:

### Section 2: Form of Tender for a works contract

### Section 4: Questionnaire

QUESTIONS	ANSWERS
<p><b>Question No 1</b> In Vol_1_S2_Form of Tender, does Tenderer's Declaration(s) need to be stamped by all members of Joint Venture? Or it just need to be stamped by leader partner?</p>	<p><b>Answer No 1</b> In Vol_1_S2_Form of Tender under point 3. Tenderer's Declaration(s) the first paragraph states, quote:" As part of their tender, each legal entity identified under point 1 of this form, including <b>every consortium partner</b>, as well as each capacity providing entity and each subcontractor providing more than 10% of the Contract Amount, <b>must submit a signed declaration</b> using the format together with the Declaration of honor on exclusion and selection criteria (Annex 1a)." end of quote. Every member of a Joint Venture must provide a declaration that is legally binding upon each member of Joint Venture/Sub-contractor(s) with more than 10% of the Contract amount.</p>



<p><b>Question No 2</b></p> <p>In Vol_1_S2_Form of Tender, ANNEX 1a : (1) (f) it has been established by a final judgment or final administrative decision that the person has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95. what does this exactly mean? Is it a non-criminal statement? Does this regulation only refer to the representative of leader partner of Joint Venture or all members of Joint Venture?</p>	<p><b>Answer No 2</b></p> <p>The regulation in question is Council Regulation (EC, EUROATOM) No. 2988/95 of 18 December 1995 can be downloaded at <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31995R2988">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A31995R2988</a>.</p> <p>This requirement is obligatory for all members of a Joint Venture and/or sub-contractor(s) with more than 10% of the contract amount.</p>
<p><b>Question No 3</b></p> <p>In VOLUME 1-SECTION 4-ADDITIONAL NOTICE TO TENDERERS : “5. Financial data and declarations submitted by the tenderer must be given in RSD or national currency.” But in Form 4.4 FINANCIAL STATEMENT, it says “Please provide all of the information required in EURO or national currency (NC) equivalent.”, and at the bottom line of this form it says “its access to credit facilities (maximum amount of credit facility to be stated in RSD or NC equivalent)”,</p> <p>Therefore, what kind of currency should be taken as rule currency in all tendering documents?</p>	<p><b>Answer No 3</b></p> <p>Volume 1, Section 1 – Instructions to Tenderers, Clause 12.2 under Economic and Financial capacity of the Candidate under 1. <b>states, quote:</b> “The <b>average annual audited turnover</b> of the tenderer (individual applicant of consortium members as a whole) must be, in each of three (3) previous financial years for which the accounts are closed, and reported as required at least 55.000.000,00 <b>EUR</b> (Fifty five million euro) <b>or local equivalent at date of individual yearly audits using the converter to EUR</b> rate from <a href="https://www.nbs.rs/export/sites/default/internet/latinica/scripts/odate.html">https://www.nbs.rs/export/sites/default/internet/latinica/scripts/odate.html</a>. Also included shall be the verified report of a legally acceptable Accountant in their respective countries to demonstrate the annual turnover for these three (3) previous financial years. In case of consortium, the consortium leader must meet at least 50% while the other members have to meet each at least 10% of the requirement” end of quote.</p> <p>The same Clause under 3. states, <b>quote:</b> “The candidate shall demonstrate that it has access to sufficient <b>lines of credit</b> and other financial facilities to cover the required construction cash flow (ignoring pre-financing advances) for a period of not less than 6 months. In any case, the amount of credit available must exceed the equivalent of 13.750.000, 00 EUR (thirteen million seven hundred and fifty thousand euro).</p>



	<p>The statement of available funds in <b>EUR or equivalent in other currency</b> must be provided by the Bank named in the Financial Identification Sheet or other Financial Institution. The statement must clearly indicate that the above-mentioned credit facility is available specifically for this named project”.</p>
<p><b>Question No 4</b></p> <p>In VOLUME 1-SECTION 4, Vol_1_S4_4_5_2/3/4, there're 3 kinds of legal entity as private/public law body with legal form, public law body. We're a joint venture formed by state-owned state companies, what kind of legal entity are we? Is it public law body?</p>	<p><b>Answer No 4</b></p> <p>The question does not give enough information for a clear answer. The type of legal entity shall be defined by the official registration documents.</p>
<p><b>Question No 5</b></p> <p>In VOLUME 1-SECTION 4, Vol_1_S4_4_7, Form 4.7, do we have to fill information of all members of Joint venture at the first line?</p> <p>The Tenderer / Subcontractor:</p> <hr/> <p><i>(name, registered seat and registration)</i></p> <p>Or we just need to fill information of the leader partner of Joint Venture? And stamp at the bottom of form need to be stamped by all members of Joint venture or leader partner of JV?</p>	<p><b>Answer No 5</b></p> <p>The instruction to fill this form, as well as who fills it and how it should be understood are clearly stated in the footnote of the form itself, quote:</p> <p><b>Note:</b></p> <p><i>In case that the Tender is submitted by a Consortium, Form 4.7 shall be copied in a sufficient number of copies, completed, certified by the seal and signed by the authorized person <u>for each Consortium member who is entrusted with the part of procurement activity which requires the respective licence</u>. The activities (work description) of each Consortium member in implementing the contract, are defined in the point 4.6.5.7 of the VOLUME 1, SECTION 4, FORM 4.6.5 - DATA ON CONSORTIUM.</i></p> <p><i>In case of a Tender with subcontractor(s), Form 4.7 shall be submitted <u>for the subcontractor who is entrusted execution of the part of procurement which requires possession of the licence(s) 12.2 of the Volume 1, Section 1, Instructions to Tenderers</u>, if that is the case.” End of quote.</i></p>