

REFERENCE OJEU 2016/S 087- 154563 - "SELECTION OF CONSULTANCY SERVICES FOR PROJECT F/P 1789 (2013) IN BOSNIA AND HERZEGOVINA, CLOSING OF COLLECTIVE CENTRES

OPEN PROCEDURE

QUESTIONS & ANSWERS

Ref. Receipt	QUESTION	DOCUMENT REFERENCE	ANSWER	DATE OF ANSWER
e-mail 16/05/2016	<p>According to the instructions in the Tender documents you provided I am asking for a clarification of the tender instructions related to VAT calculation according to the section:</p> <p><i>„The Contractor is solely and fully responsible for Value Added Tax (VAT) and any other applicable taxes, fees and duties charged on the Services. The Contractor shall determine on its only responsibility: (i) the place of taxation of the Services, taking into account that the CEB is a nontaxable person for VAT purposes; and (ii) the applicable VAT system for the Services (taxable, refunded or exempt). The Contractor shall not invoice or charge the CEB for any VAT, taxes, fees or duties, unless: (a) previously indicated in the Contractor's Proposal (Enclosure 2); and (b) required to do so by the relevant national authorities after consideration of: (i) the privileges and immunities accorded to the CEB by its Member States; and (ii) the exemption from VAT in the territory of the European Union through Article 151 of EU Directive 2006/112/EC. Should the Contractor's Proposal (Enclosure 2) feature any erroneous assessment on the taxation of the Services (especially regarding the place of taxation of the Services for VAT purposes), or should the Contractor not complete all formalities required to allow the CEB to benefit from an applicable exemption or refund, the invoiced amount shall be the Contract Price. In this respect, if VAT is applicable, the Contractor is liable for payment of VAT to the relevant tax authorities. The CEB does not assume any contractual liability arising from any tax audit of the Contractor.”</i></p> <p>Having in mind our previous experience with international projects, we conclude that since the services are performed on the territory of Bosnia and Herzegovina the Consultant will have to pay VAT unless there is a special document issued by the relevant State Institution for regulation of indirect taxes that namely these services are exempt from VAT, and according to our knowledge this document has to be provided for local tax authorities by the Consultant at the same time the invoice is sent to CEB as proof that VAT is not applicable to that specific invoice.</p> <p>Is there such a specific document exempting namely these services "OJEU 2016/S 087- 154563 - "Selection of Consultancy Services for project F/P 1789 (2013) in Bosnia and Herzegovina, closing of Collective Centres" from VAT payment, or are you going to provide such exemption before the contract signing? And if there is not one, am I right to assume that we would have to count on the possibility of having to pay VAT from the Sum given in the financial proposal regardless of it not being calculated?</p>	ITB	<p>The CEB is an international organization that may benefit in its Member States from a VAT exemption/refund for services rendered for its official purposes pursuant to Article 7 of the Third Protocol to the General Agreement on Privileges and Immunities of the Council of Europe (Third Protocol).</p> <p>As indicated in the tender documents, the tenderer is fully responsible to determine the place of taxation of the Consultancy Services. The basis to determine whether an exemption applies (i.e., the invoices for the Consultancy Services will bear no VAT) and the requirements/formalities for such an exemption are provided in local tax laws. The CEB does not provide any specific document exempting <i>per se</i> the Consultancy Services in Bosnia and Herzegovina.</p> <p>As indicated in the tender documents, if the tenderer concludes, after consideration of the above, that the invoices for the Consultancy Services need to include VAT, this should be added in their Financial Proposal.</p>	24/05/2016

