



Puławy, 31.03.2010

Answers to the questions of the Economic Operators concerning open tendering for: The Supply of equipment, machines and devices within the project of "The Construction of CO₂ supercritical plant extraction research center" –

The set consisting of carbon dioxide pump item PP1, carbon dioxide pump drive system item PP1M and pulsator item PZ2, including spare parts and start-up supervision.

Under Article 38 paragraph 1 and 2 of the Act of 29th of January 2004 – Public Procurement Law (consolidated text Journal of Laws of 2007, No 223 item 1655 with further amendments), the Awarding Entity hereby gives answers to the following questions asked by the Economic Operators.

Question No 1:

The Economic Operator is the company, which does not produce CO₂ pumps and so far has not supplied such pumps. In accordance with Article VIII paragraph 1 item 1 of the Specification of Essential Terms of Contract the Economic Operator is obliged to present written obligation of the Producer to make technical potential and personnel available for performing the Contract. However, under paragraph 2.2 item b, the Economic Operator is obliged to prove that within the last 3 years prior the procedure for the Contract (and if the business entity operation period is shorter during this period) he performed at least 1 supply for a plunger pump with a discharge pressure at least 50 MPa and capacity of 5m³/h for CO₂ supercritical extraction plant, specifying the values, object, execution dates and recipients and documents confirming diligent performance of the supply. Lack of references shall exclude the Economic Operator from the further procedure. Shall the requirement concerning reference be deemed fulfilled if the Economic Operator presents references of supplies performed by the Producer?

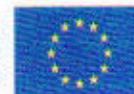
Answer:

The question concerns two different situations: the first one refers to experience of the Economic Operator gained prior the procedure (references chapter VIII paragraph 2 item 2.2. sub item b of the Specification), and the second one referring to the phase of the performance of the Contract, during which the Economic Operator is capable of disposing of other entities, which has to be proved for the date of submittal of the offers, that the disposal of the other entities is provided (chapter VIII paragraph 2 item 22 c of the Specification, which refers to chapter VIII paragraph 1 item 1).

RE: references– chapter VIII paragraph 2 item 2.2. sub item b).

Experience already gained is the component of the entrepreneurship, which shall not be used as the separate object from the consolidated assets of the entrepreneurship during transactions. Beyond doubt the components of the asset of the entrepreneurship include professional experience, know-how and organizational skills. Therefore the assets of the entrepreneurship include components such as reputation of the entrepreneurship, which is identical as reference,





and experience relating to the performance of similar supplies. Therefore, it is concluded that experience shall not be disposed of or transferred to the other entity. It results from the fact that experience is the matter of fact not the legal issue. Experience is individual property of the particular entrepreneurship which usually include knowledge and skills gained during business operation. Thus, experience is irrevocable from legal entity of the entrepreneurship. Bearing in mind the above the Economic Operator is obliged to prove his own experience. The exception to this rule is the capacity of reference to experience of the other entity in case of concluding the Consortium Agreement with other economic operator for the purpose of joint participation in the procedure and then whilst submitting the joint offer only one of the consortium members shall be able to prove the required number of supplies in order to fulfill the requirement specified in chapter VIII paragraph 2 item 2.2 sub item b).

Question No 2:

Will it be acceptable if the persons mentioned in chapter VIII paragraph 3 item 2.3 and 2.4 are the employees of the Producer and not the employees of the Economic Operator?

Answer:

The persons specified in chapter VIII paragraph 3 item 2.3 and 2.4 can be the employees of the other entity than the Economic Operator who is submitting the Offer.

Question No 3:

The Economic Operator is a natural person carrying out 1 person business activity. The accounts made for the Tax Office are prepared under general principles (Account Book) and the Economic Operator is not obliged to make financial report. Will the document made and signed by the Economic Operator showing the balance of obligations and amounts due for 31.12.2009 with the copy of annual PIT36L for 2009 be acceptable as the "other document specifying turnover, obligations and debts" as per item 2.5?

Answer:

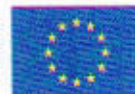
If the Economic Operator is a natural person carrying out business activity, the financial report prepared by the Economic Operator and the copy of the annual PIT 36 L for 2009 confirmed in compliance with the original by the Economic operator shall be sufficient in order to fulfill the requirement specified in chapter III paragraph 2 item 2.5.

Question No 4:

Will it be acceptable if the information issued by the bank of the Economic Operator for the day not earlier than 06.02. concerning the sum of money on this bank account confirmed only the information that for 06.02.2010 the sum of money on this bank account was not less than 50.000 PLN?

Answer No 4:

Information issued by the bank account of the Economic Operator confirming that for the date of 06.02.2010 (not earlier than 3 months before the final date for submission of the offers) the sum of money on this bank account was not less than 50.000 PLN shall be sufficient for fulfillment of the requirement specified in Article III paragraph 2 item 2.6.



Question No 5:

Are we allowed, for the purpose of this tender, to present references for plunger pumps supplied by other companies within our group?

Answer :

The wording used by the Economic Operator i.e „supplied by other companies of within our group” is vague, however those companies should be regarded as entities of separate rights and liabilities. The references are issued by name for particular entity, which means that particular entity did not participate in gaining the experience covered by the reference. Experience already gained is the component of the entrepreneurship, which shall not be used as the separate object from the consolidated assets of the entrepreneurship during transactions. Beyond doubt the components of the asset of the entrepreneurship include professional experience, know-how and organizational skills. Therefore the assets of the entrepreneurship include components such as reputation of the entrepreneurship, which is identical as reference, and experience relating to the performance of similar supplies. Therefore, it is concluded that experience shall not be disposed of or transferred to the other entity. It results from the fact that experience is the matter of fact not the legal issue. Experience is individual property of the particular entrepreneurship which usually include knowledge and skills gained during business operation. Thus, experience is irrevocable from legal entity of the entrepreneurship. Bearing in mind the above the Economic Operator is obliged to prove his own experience. The exception to this rule is the capacity of reference to experience of the other entity in case of concluding the Consortium Agreement with other economic operator for the purpose of joint participation in the procedure and then whilst submitting the joint offer only one of the consortium members shall be able to prove the required number of supplies in order to fulfill the requirement specified in chapter VIII paragraph 2 item 2.2 sub item b).

DYREKTOR



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