

Information Notice 3.xlsx

Title : European tender – C5200 Engineering Advisor, Amsterdam Airport Schiphol
TenderNed : 130378
Notice nr : 03
Date : 9-6-2017
Status : final

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Nr	Type	Document	Reference to tender document (page, section)	Question	Answer
1	Question	Request for Proposal	Page 11/49, § 1.4	It is understood that the schedule of the tender is indicative and outdated. Is it possible that a new realistic schedule be provided ?	The following additional information can be provided with regards to the schedule of the tender: Deadline for submitting Proposals: Thursday, 13 July 2017, before 12:00 noon; Assessment of Proposals: Starts Thursday, 13 July 2017, end date is dependent on the integrated design terminal tender; Interviews with Core Team Members: will be scheduled in weeks 30 and 31 (please also refer to Information Notice 2); Information provided on all remaining steps remains unchanged.
2	Question	Request for Proposal	Page 32/49, § 5.2.2, C.2	Can you confirm that a registration at NLingenieurs is considered equivalent to KIVI?	Yes, a registration at NLingenieurs is considered equivalent to KIVI.
3	Question	Request for Proposal	Annex I, page 1	It is understood that the peer reviews scope of services for the 'pier and airside' section (design deliverables) does not include the masterplan design and the preliminary design stages where terminal building includes all of the (4) design stages from masterplan to technical. (as per the Annex I - pricing schedule). This is not consistent with the RFP requirements related to task 1 where it is stated as all design deliverables should be reviewed for all of the design stages. We assume Annex I is leading on this subject. Can you confirm?	Annex I indeed is leading on this subject; on the target signature date for the Engineering Advisor Agreement the masterplan design and the preliminary design stages for the 'pier and airside' section will already have been completed.
4	Question	Request for Proposal	Annex I, page 1,2	The A3/A4 reports to be included in the peer reviews do not include a size (e.g. no of pages). Is there an assumption for the maximum no. of pages of these reports?	At this point, unfortunately no further information is available other than the information already included in Annex I. Tenderers may assume that the size of these documents will be typical for sizes of these documents made for comparable capital programme projects throughout the various design stages.
5	Question	Request for Proposal	Annex I, page 4	The Tenderer is asked to submit costs for the Core Team. In worksheet "Rates for Specialists", the four key roles of the Core Team are again included. In Appendix 1 – Scope of Services - Section 2.3.4 – the list of specialists is given with roles a,b,c, & d defined a Core Team Member – Is this double charging, or should their rates be omitted from the "Rates for Specialists" worksheet.	In Appendix 1, Scope of Services, Section 2.3.4, the definition of roles a, b, c and d in the list of specialists as Core Team Members is incorrect. These specialists are not Core Team Members, but specialists additional to the Core Team Members - in case we require additional capacity. Therefore, please do include rates for specialists a-d in Annex I; not being Core Team Members.
6	Question	Request for Proposal	Annex K Staff Profiles, pg.3,4,5,6/9	It is understood that the Core Team Members each are required to have 10 years of terminal/aviation design experience with 15 years of total experience. We would like to offer you the best of our team members who satisfy these two criteria but also as many of the other criteria which you ask for in the CVs. In order to enable us to find the best all-round candidates we would like to propose to you to reduce the need for aviation experience by replacing the terms "terminal / aviation" and "airport terminals" on pages 3, 4, 5, and 6 with the term "Complex Project" as defined on page 31, clause 7, of the RFP. Please confirm if this is acceptable.	No, this is not acceptable. Both experience with terminal / aviation design engineering and the development of airport terminals is required of Core Team Members. However, even though SNBV prefers Core Team Members to have 10 years of terminal/aviation design experience with 15 years of total experience, it will also consider Core Team Members with 7 years of terminal/aviation design experience and 10 years of total experience.

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7	Question	Request for Proposal	Annex L, section 1	Is there any limitation on size (i.e. max no.of words, pages) of the plan of approach / essays to be submitted?	There is no format given for the Plan of Approach, Tenderers are free to choose the format they see fit. The part of the Plan of Approach related to Award Criterion A may encompass no more than 12 single-sided A4 sheets (printed on one side only) with a maximum of 500 words each, including supporting images, illustrations, diagrams etc. As for the part of the Plan of Approach related to Award Criterion B may encompass no more than 10 single-sided A4 sheets (printed on one side only) with a maximum of 500 words each, including supporting images, illustrations, diagrams etc., but excluding the required CV's as described on page 35/49, point 4.
8	Question	General Conditions	N/A	The agreement reflects the basis upon which SNBV and the Consultant are contracting for the provision of services. As such, would SNBV consider inclusion of the following new provision, which we hope is not contentious? "Add new Clause 9: No term of this Agreement confers or purports to confer on any third party any benefit or right to enforce any term of this Agreement."	The proposed provision shall not be included.
9	Question	Particular Conditions	Page 4/33, 1.1.24 and Page 17/33, 3.8	In the event that we fail to comply with our contractual obligations, SNBV can withhold payment and ultimately if we are in contractual breach, our comprehensive global insurances would operate to cover any liabilities incurred. Against this background, would SNBV agree to remove the Bank Guarantee requirement?	No, SNBV does not agree to remove the Bank Guarantee.
10	Question	Particular Conditions	Page 6/33, C 1.6.6	Given the obligation imposed on us to appoint a nominated Sub-Consultant, that is in circumstances where we would not have undertaken our own due diligence on such nominated Sub-Consultant, we would seek to incorporate additional protections appropriately as follows. Can SNBV please confirm that this is acceptable? "Add new Clause 1.6.7: In the event of a claim against a nominated Sub-Consultant under this Agreement, the Consultant's liability shall be limited to the amounts recoverable by the Consultant from the nominated Sub-Consultant and the Consultant shall have no greater liability in respect of such a claim. The Client agrees to waive all claims against the Consultant in respect of a nominated Sub-Consultant's services in so far as the compensation which might otherwise be payable exceeds the amount recoverable by the Consultant from the nominated Sub-Consultant."	It is acceptable to add the following new Clause 1.6.7: "Add new Clause 1.6.7: In the event of a claim against a nominated Sub-Consultant under this Agreement, the Consultant's liability with respect to that claim shall be limited to the amounts recoverable by the Consultant from the nominated Sub-Consultant."
11	Clarification	Particular Conditions	Page 10/33, 1.14.2	As a global organisation, we adopt a rigorous approach to ensure confidentiality on all our projects. As such, we take any breach of confidentiality provisions extremely seriously. That being said, unilateral threat of penalties without substantiation of fault is onerous. Therefore, would SNBV clarify that such penalties only become payable in the event we are 'adjudged' to have breached confidentiality?	This is not correct. Once a breach of confidentiality has been identified by the Client, the Consultant shall forfeit an immediately due and payable penalty.

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12	Question	Particular Conditions	Page 12/33, 2.1.2	There will be multiple stakeholders working on the Project and SNBV will presumably provide us information or documents produced by such third parties. Therefore, an independent obligation to scrutinise such third party information/deliverables represents an undue burden on us and a shift of responsibility away from such third parties. In light of this, can SNBV confirm that our obligation to scrutinise Rely Upon Information does not include information originating from SNBV's other contractors or consultants?	No, we cannot confirm this as Rely Upon Information can include information originating from SBNV and/or its other Contractors/Consultants if the information is designated as Rely Upon Information in accordance with clause 1.1.19.
13	Question	Particular Conditions	Page 14/33, 3.3.2	<p>Can SNBV please clarify the intention of the following:</p> <p>"The Consultant will act as the highest body of knowledge in relation to the Services it provides and will carry end responsibility for ensuring that the deliverables supplied to him for reviewing reach an adequate quality level. The Consultant therefor guarantees its utmost endeavours to scrutinize Rely upon Information in order to provide the Client with high quality advice; not only in relation to peer reviews, but also when answering any queries it receives."</p> <p>The wording is onerous and our intepretation is that it suggests an absolute obligation to guarantee deliverables meet a particular quality level. This is akin to fit for purpose obligation which falls outside of our PI insurance cover and in any event such obligation should rest with the contractors. Further, as our obligation is to exercise reasonable skill and care under Clause 3.3.1, the wording creates ambiguity by introducing subjective wording e.g. 'highest' and 'high quality'. On that basis, please can SNBV confirm that the above can be deleted?</p>	The cited text cannot be deleted. It's the Consultant's obligation to ensure that its utmost endeavours have been put into scrutinizing information as a highly qualified and knowledgeable body. All reviews conducted by the Consultant need to comply with high quality standards, as to ensure that the review process has been conducted in the best possible way. Consultant's responsibility is limited to the Services Consultant delivers, and does not extend to the end result of the deliverables itself.
14	Question	Particular Conditions	Page 15/33, 3.5.4	As per item 3 above, we adopt a rigorous approach to confidentiality and our employees are under confidentiality obligations under their employment contracts. As such, we do not think it is appropriate to require personnel to sign NDAs on an individual basis. Therefore, would SNBV agree to remove this requirement?	NDA's on an individual basis will only be required for Consultant's personnel that will gain insight into the Client's highly confidential documents.

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15	Question	Particular Conditions	Page 19/33, 3.10	We appreciate that SNBV may employ other parties for the reasons stated in this provision and that such appointment does not automatically entitle us to a Variation. However, can SNBV confirm that we shall be entitled to a Variation even when the Client has named a third party under Clause 3.9 if the conditions under Clause 4.3 are met? If so, we would request the following amendment: Replace: "Any appointments pursuant to this paragraph, and the activities of such appointed party or parties do not entitle the Consultant to any Variation." with: "Any appointments pursuant to this paragraph, and the activities of such appointed party or parties do not alone entitle the Consultant to a Variation, unless the conditions under 4.3 entitling Consultant to a Variation are otherwise satisfied."	SNBV does not approve of the requested amendment.
16	Clarification	Particular Conditions	Page 21/33, 4.3.2	Whilst we accept that it is not always possible to agree the fee/programme implications of a variation in advance, it nonetheless cannot be reasonably expected that we will be required to complete variations pursuant to unilateral instructions from SNBV without any agreement on the programme and fee implications. Would SNBV clarify that there shall be no requirement on us to comply with variations until agreement on the programme and fee implications.	In addition to the provisions made in 4.3, SNBV will endeavour to agree the fee/programme implications of a variation in advance. However, the Consultant shall not delay any Services whilst awaiting a response from SNBV.
17	Clarification	Particular Conditions	Page 21/33, 4.3.8	As per clarification above.	Please refer to ID 16.
18	Question	Particular Conditions	Page 21/33, 4.4.1	Could SNBV please confirm that we would also be entitled to extension of Time for compensation and/or of additional fees as referred to in Clause 4.4.1, if delay is caused by or attributed to the Client's contractors or for circumstances beyond our reasonable control?	Adjust Clause 4.1.1 to: "4.1.1 The Consultant shall be entitled to an extension of the Time for Completion and/or compensation of additional fees if and to the extent that completion of the Services is or will be delayed by any delay, impediment or prevention caused by or attributable to the Client and/or Client's contractors.
19	Question	Particular Conditions	Page 22/33, 4.6	The equitable right to suspend services for non-payment provided for under the standard FIDIC terms has been deleted. In accordance with internationally recognised principles, we would seek such right. Would SNBV please confirm whether we can include the following provision? "Add new Clause 4.6.4: If the Client fails to make payment in accordance with the terms of the Agreement, the Consultant may, upon thirty days' written notice to the Client, suspend performance of services until such outstanding amounts are paid. The Consultant shall have no liability for delay or damage caused by such suspension."	The following Clause will be added: "Add new Clause 4.6.4: If the Client fails to make payment in accordance with the terms of the Agreement, the Consultant may, upon sixty days' written notice to the Client, suspend performance of services until such outstanding and agreed amounts are paid. The Consultant shall have no liability for delay or damage caused by such suspension."
20	Clarification	Particular Conditions	Page 24/33, 4.10	Could SNBV please clarify that in the event of termination due to force majeure as set out in Clause 4.10 that we will not have a right to receive any compensation other than fees and expenses owed for services rendered up until the date of such termination.	Yes, this is correct.

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21	Question	Particular Conditions	Page 26/33, 5.2.3	Could SNBV please confirm that the notice of its intention to withhold payment will include the reasons for such withholding and that the issue date will be prior to when the payment was initially due?	Replace Clause 5.2.3 in the Particular Conditions with: "The Client shall not withhold payment of any fee properly due to the Consultant without giving the Consultant a notice of his intention to withhold payment with reasons." Furthermore, SNBV will endeavour that the issue date will be prior to when the payment was initially due. However, this cannot always be guaranteed.
22	Clarification	Particular Conditions	Page 26/33, 6.2	Could SNBV please confirm that the limit of liability in Clause 6.2 applies to Consultant's obligation under Clause 6.5 to indemnify the Client for third party claims? In light of the scale of the project and the number of stakeholders and contractors, it is of particular concern that the limit of liability in Clause 6.2 include indemnification to the Client for claims from other project stakeholders on the basis of the Consultant's professional errors or omissions in providing its services.	SNBV approves the replacement of Clause 6.1 with the following text: "6.1 Each Party shall be liable to the other Party for damages suffered by the other Party as a result of a failure to perform any of his obligations under this Agreement that is caused or attributable to that Party, including Consultant's failure to exercise the duty of care stipulated in Clause 3.3.1. Damages include all damages, losses, liabilities (also vis-à-vis third parties), costs (including reasonable legal costs and reasonable experts' and consultants' fees), charges, expenses, claims and demands assessed in accordance with Title 6.1.10 of the Dutch Civil Code, excluding any loss of profit, loss of revenue, loss of contract, loss of goodwill or loss of claim."
23	Clarification	Particular Conditions	Page 27/33, 7.1.1	Given the confidential nature of such documents, we are unable to disclose the terms of our insurances. As such, can SNBV please confirm that the Consultant can provide insurance 'certificates' rather the policies?	Yes, SNBV accepts that Consultant may provide insurance 'certificates' rather than policies as long as all major insurance subjects are covered in the certificate.
24	Question	Appendix 1 - Scope of Services	Page 6/12, C1.3.2	The requested (seconded) Core Team Members are mentioned to have "several years" of experience in the Scope of Services document. We will assume that this is as per the Annex K Staff Profiles (15). Please confirm.	Yes, this assumption is correct.
25	Question	Appendix 1 - Scope of Services	Page 7/12, C2.1.5	In chapter 2.1.5 it is stated that the Core Team Members will be present to provide the scope of services 14 days after the agreement is signed. Is there a planning of the stages of the tender after submission and a target signature date?	There is, but as indicated under § 1.4, Request for Proposal, the Award date of this Appointment is aligned with the award date of the integrated design terminal tender (as the same Consultant cannot be awarded both Agreements). Therefore, only provisional information about the target signature date can be provided at this point. Provisionally, we expect to be able to sign the Engineering Advisor Agreement in the last week of August.
26	Question	Appendix 1 - Scope of Services	Page 9/12, Section 2.4	The role and intensity of each of the Core Team Members will differ throughout the project, as the design development and as will the required skill sets. The need for Civil/Structural will diminish toward the later stages whilst the demands on the Bldg services engineers will increase significantly in the same later period. Will it be permissible to move and replace Core Teams in accordance with the discipline specific demands of the project life cycle?	It is SNBV's strong preference that Core Team Members remain the same people as long as possible; to ensure that accrued knowledge is maintained and continuous improvement in the quality of delivered Services is realised. Nevertheless, movement and replacement of Core Team Members will be permissible, but only in consultation with SNBV and in accordance with the provisions made in C2.5.4.

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27	Question	Appendix 1 - Scope of Services	Page 10/12, C2.4.3	We take the secondment of team members very seriously and would need time to find staff members with the correct experience to join the Capital Programme organisation. For this reason we find the request to provide CVs of potential staff to be seconded within two (2) work days too short. We would request this to be adjusted to seven (7) working days.	It is our preference that CVs of potential staff to be seconded to SNBV be provided within two (2) work days. Nevertheless, SNBV is willing to extend this term to seven (7) days. Please note that the receipt of any further demand for secondment of a professional expert submitted to the Consultant still needs to be confirmed to SNBV within two (2) work days.
28	Question	Appendix 1 - Scope of Services	Page 10/12, C2.4.6	Please include the following line item at the end of Clause 2.4.6. SNBV will give the Consultant thirty (30) days' notice of the decision to discontinue the secondment.	The following line item may be included at the end of Clause 2.4.6: 'If not more than two (2) work weeks have passed since a seconded professional expert started work for SNBV, SNBV will give the Consultant at minimum one (1) day notice of the decision to discontinue the secondment. If two (2) work weeks or more have passed since a seconded professional expert started work for SNBV, SNBV will give the Consultant at minimum fourteen (14) days' notice of the decision to discontinue the secondment.'
29	Question	Appendix 1 - Scope of Services	Page 10/12, C2.5	Please confirm that the Core Team referred to in Section 2.5 is the same Core Team referred to under Task 3 (Section 2.4).	Yes, the Core Team referred to in Section 2.5 is the same Core Team referred to under Task 3 (Section 2.4).
30	Question	Appendix 1 - Scope of Services	Page 10/12, C2.5.2	It is understood that the Core Team Members form part of the Project Team that is responsible for the delivery of of Services that fall under Task 1. In the development of the Lump Sum of Task 1, we will assume that these Core Team Members will be available for the services in Task 1 and that they will not have any other duties to the Capital Programme that will limit their ability to carry out these services. Please confirm if this is a correct assumption.	Yes, this assumption is correct.
31	Question	Appendix 2 - Personnel, Equipment, (...)	Page 6/9	It is understood that at least one core team member is required to be fluent in Dutch Language. This is not consistent with the Request for Proposal, Annex K Staff Profiles (where it is indicated as desirable but not mandatory). We assume that the Annex K is leading on this subject and that Dutch Language ability will be scored more highly (rather than being mandatory). Please confirm.	Yes, this assumption is correct.
32	Question	Appendix 3 - Remuneration and Payment	Page 7/9	Retention of 5% is inappropriate in the context of professional services. As such, would SNBV agree to amending the payment provisions such that 100% of the payment becomes due upon submission of deliverables?	No, SNBV cannot agree to amending the payment provisions as proposed.
33	Question	Appendix 6 - Model Bank Guarantee	Page 3/5, A.	The Guarantee is supposed to be an independent undertaking and therefore the agreement should not be attached. Please delete this the section "a copy of which is attached to this guarantee".	The section "a copy of which is attached to this guarantee" will be deleted.
34	Question	Appendix 6 - Model Bank Guarantee	Declaration 1. Page 4	In item 1 please change: "the Client or its assignees" into "the Client or its permitted assignees"	In item 1, "the Client or its assignees" will be changed to "the Clients or its permitted assignees".
35	Question	Appendix 6 - Model Bank Guarantee	Declaration 2. Page 4	In item 2 please change: "(fax or letter)" into "(fax excluded)"	In item 2, "(fax or letter)" will be changed into "(fax excluded)".
36	Question	Appendix 6 - Model Bank Guarantee	Declaration 3. Page 4	Please change the text into: "3. The obligations of the Bank pursuant to this guarantee shall remain limited to an amount of EUR (in words) being 5% of the accepted proposal price."	The text under item 3 is changed into: "3. The obligations of the Bank pursuant to this guarantee shall remain limited to an amount of EUR (in words) being 5% of the accepted proposal price."