



17 November 2014

Clarification No 1

Reference: Open call for tenders No EEA/MDI/14/010

Title: *Framework service contract for the GMES Initial Operations/Copernicus Land monitoring services – Validation of products (2 lots)*

Question 1

The call for tender mentions the following in Annex 1, p.7:

“An independent estimation shall entail as well that: [...] 2. The experts validating the data were not involved in the production.”

Could you clarify whether the companies of the experts involved in the production of the GMES land products (ex. Geoland/Geoland2 partners) are eligible in this call?

Can an expert of one company involved formerly in Geoland/Geoland2 take part in the validation of the product that was prepared by another Geoland/Geoland2 partner?

Does this statement refer only to individual experts or does it refer to service providing companies (involved in the production and/or verification and enhancement of Copernicus pan-European Land services) as a whole?

A service provider which was involved in the production of the different products to be validated would probably contradict to the first sentence of section 6.3.1.2 (page 6): “The purpose of validation is to provide an **independent** assessment of data quality [...] including a **neutral check** to its initial specifications”.

Answer 1

To participate in this call for tenders and with a view to achieve the objectives of the resulting contract as specified in sections 6.2 and 6.3 of the tender specifications, tenderers shall indeed not be in a situation of conflict of interest.

To that end, the tender shall provide a clear and comprehensive overview of the service providers intended to be involved, with details on their professional qualifications and roles, as well as their experience (past and present) with details on the contracts/projects they perform/have performed. In addition, tenderers shall provide a declaration on their honour in accordance with the form attached in annex 2, duly signed and dated, stating inter alia that they have no conflict of interest in connection with the contract and that they will inform the EEA without delay of any situation considered a conflict of interest or which could give rise to a conflict of interest (see annex 2 to the tender specifications, point (g)).

Once the contract has been signed, the contractor shall abide by the provisions of Article II.3 of the framework service contract on the prevention and management of conflict of interest (see annex 6 to the tender specifications).

In order to assess the situation with regard to potential conflict of interest, tenderers shall be aware that the scope of this call for tenders addresses the full range of Copernicus land products/services. With regard to the provision of an independent assessment of various aspects of data quality as specified in section 6.3.1.2 of the tender specifications, a situation of conflict of interest may exist if a service provider has worked on the production of e.g. CORINE Land Cover (CLC), and then does also the validation of CLC. However, if that same service provider would be involved in the validation of Urban Atlas (UA, that would not necessarily constitute a situation of conflict of interest. The (potential) situation of conflict of interest will be considered by reference to the individual experts who were involved in the production of the data.

Geoland/Geoland2 are precursors of the GIO land monitoring services. As there is no overlap between Geoland/Geoland2 and GIO land, there should be no conflict of interest for persons that have been participating in Geoland/Geoland2. However, for experts involved in the production of one of the GIO land monitoring services portfolio, a conflict of interest could potentially arise if that person would get involved in the validation of a service he/she has been working on in the GIO land production phase. Nevertheless such person could be eligible for validation of other services in the portfolio, in which he/she has not been involved during the production phase. It is therefore of utmost interest to clearly indicate for which products/services in the GIO land portfolio a potential conflict of interest can emerge.

Question 2

We have freelancers working for our company. Can we consider them as "staff" or do we have to explicitly add them as subcontractors to a consortium? I wonder if there is a general EU procurement rule on that.

Answer 2

For the purpose of implementation of this contract, freelancers who deliver services to the contractor are in principle to be considered as subcontractors.

Where the service provider is a legal person, he shall provide a document containing a list of the professional qualifications of the subcontractor(s) and statement of the means of confidentiality when subcontractors are used.

For the purpose of assessing whether the requirements in relation to the exclusion criteria are met, the tender and each subcontractor must provide a declaration on his/her honour (see annex2 to the tender specifications). Furthermore, if the share of the services to be provided by the subcontractor exceeds 20% of the total value of the contract, the subcontractor is required to fill out a legal entity form (see annex 3 to the tender specifications) accompanied by the requested supporting documents.