



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Resources
Human Resources & Finances

Brussels,
taxud.r.1(2016) 4441301

Subject: Call for tenders TAXUD/2016/AO-05 – replies to questions

Dear Madam, Dear Sir,

Enclosed you will find the reply to the question received on 28/07/2016 (question 10).

This letter is being posted on the website of the Directorate-General for Taxation and Customs Union, at the following URL (“Questions & Answers” section):

http://ec.europa.eu/taxation_customs/common/tenders_grants/tenders/ao_2016_05_en.htm

Questions received subsequently will be answered in further letters which will be placed regularly on the same website. Prospective tenderers are invited to monitor this site attentively.

As mentioned in the invitation letter (ref. Ares(2016)2801905 date 16/06/2016) published with the tender documents, requests for additional information received less than six working days before the closing date for submission of tenders, i.e. after **04/08/2016** (date updated), will not be processed.

The deadline for submission of tenders has been extended to 12/08/2016.

Yours sincerely,

(e-signed)
Stéphane Mail Fouilleul
Head of Unit

Question no. 1

Task 1. The title of the first task under point 4.1. refers to the analysis of the application of Articles 306-310, whereas the paragraph below refers to the application of provisions seen in light of the CJEU judgement in the case C-189/11 regarding B2B supplies and the margin calculation. Could the Commission clarify whether the analysis is limited to the application of the special VAT scheme to B2B supplies and the margin calculation, or should the analysis cover all provisions contained in articles 306-310?

Reply

The analysis is limited to the application of the special VAT scheme to B2B supplies and the margin calculation.

Question no. 2

Task 2. The task includes an analysis / estimate of:

- VAT treatment of business models;
- Non-deductible input VAT and VAT paid on the profit margin for services supplied under the special scheme;
- Deductible input VAT and VAT charged to the customers for services supplied under the normal VAT rules.

Could the Commission clarify whether this analysis / estimate should be given per Member State or globally for the EU?

Reply

The analysis and estimates should be carried out globally for the EU.

Question no. 3

Task3. Could the Commission clarify the following terms?

(1) Itemise VAT

The contractor is required to describe how travel agents itemise VAT in each invoice when acting in their own name and how they itemise VAT when operating under normal VAT rules.

Could the Commission clarify whether this means how agents calculate the VAT payable or how the VAT is shown on an invoice? In most countries agents are not allowed to show VAT on the invoice for a supply falling under the special scheme.

(2) Undisclosed agent

The contractor should analyse the CJEU judgements in terms of their impact on in-house services supplied by travel agents and on services supplied by them acting as an undisclosed agent (intermediary).

Did the Commission mean disclosed agent in the last part of the sentence?

(3) Mixed supplies

The contractor should conclude about the competitive disadvantages with regard to mixed supplies and in-house supplies.

Could the Commission clarify what is meant by a “mixed supply”? Bought-in and in-house services in one package? Bought-in and intermediary supplies in one package? Both or other?

Reply

- (1) The tender specifications ask the contractor to clarify:
 - how travel agents itemise VAT in each invoice when acting in own name;
 - how travel agents operating under the normal VAT rules are able to itemise VAT in each invoice.

This means the contractor should clarify:

- how travel agents calculate the VAT payable when acting in own name and if VAT can be disclosed on the invoice;
 - how travel agents operating under the normal VAT rules calculate the VAT payable and how the VAT is shown on an invoice.
- (2) Indeed, the sentence should read: "The contractor should analyse the CJEU judgements in terms of their impact on in-house services supplied by travel agents and on services supplied by them acting as a disclosed agent (intermediary)."
 - (3) The tender specifications ask the contractor to conclude about the competitive disadvantages with regard to mixed supplies and in-house supplies.

A “mixed supply” occurs where the travel agent charges a single inclusive price for a number of separate supplies of services that do not fall under the special scheme. This is different from a single supply that can consist of a single supply, but also a mixture of different services, to which a single rate of VAT applies and that should normally fall under the special scheme.

The contractor should clarify, if certain mixed supplies or certain single supplies do not fall under the special scheme in certain Member States. With regard to in-house supplies, the contractor should identify Member States, where travel agents can be taxed under the normal rules when supplying bought-in and in-house services in one package and if travel agents have replaced bought-in supplies by in-house supplies in order to be taxed under the normal VAT rules.

Question no. 4

Task 4.

- (1) Assessment of distortions of competition

The contractor is asked to assess under the various options the impact of proposed changes (if any) in terms of alleviating distortions of competition identified under task 3 and the impact of each option should be compared to the current rules as applied or the current rules, if correctly applied (options 1 and 2).

Could the Commission clarify whether this is a qualitative or quantitative assessment?

(2) Options

The tender specifications say that the study should cover at least 8 options.

Could the Commission please clarify whether the contractor is limited to the 8 options indicated in the tender specifications plus the 2 sub-options required for options 4 and 8, or whether the contractor can propose other options as well?

Reply

- (1) The specific paragraph refers to a qualitative assessment.
- (2) The tender specifications indicate that a further fine-tuning of the options may be required after the interim report. This means, in particular, that there is the possibility to include other options or sub-options identified by the contractor in the final report.

Question no. 5

Geographical scope. Point 4.6. of the tender specifications (page 10) refers to 28 Member States.

With the UK referendum in favour of leaving the EU, could the Commission confirm that the UK will still be considered as an EU Member State for the purpose of the study?

Reply

We confirm that the UK should still be considered as an EU Member State for the purpose of this study.

Question no. 6

In point 4.5 of the technical specifications is stated the following:

“The tenderer must demonstrate and provide assurance that the team which will conduct a specific task will consist of at least two senior VAT experts, of whom one can also act as the project manager, each having at least five years of professional experience with regard to the special scheme for travel agents. In addition, the team needs to include at least one junior economist with recent experience in evaluation and impact assessment-related services (for a definition of staff categories, please see section 4.1 in Annex 1: Questionnaire).”

In 4.1.1. of the questionnaire (Annex I) is stated:

“Tenderers are requested to provide a minimum of three (3) but not more than four (4) CVs. Tenderers should submit one (1) CV for a project manager, at least one (1) CV for a senior VAT expert and one (1) CV for a junior economist (no CVs are required for support staff).”

As there are 4 tasks provided in the tender, our question is the following. Do we have to provide:

- 3 not more than four CV's per task?
- 3 not more than four CV's for the overall project?

Reply

The tenderers are requested to provide at least three, but not more than four CV's for the overall project consisting of four tasks.

Question no. 7

No specific estimated budget is indicated in the specifications. Could you communicate such a budget? Or the motivation why such a budget has not been indicated?

Reply

A clear planning and volume of the tasks to be implemented have been clearly described in the tendering specifications. Therefore, no budget indication is provided. The tenderer is requested to propose his/her financial offer by filling in the price table provided as annex 3 to the tendering specifications.

Question no. 8

Looking at the questionnaire (point 4.2.) for the call for tenders TAXUD/2016/AO-05 Study on the review of VAT special scheme for travel agents and options for reform, we see that DG TAXUD requires that a mechanism needs to be put in place to ensure access to one (1) external reviewer for the study. In that respect we have the following questions:

- Does the Contractor need to propose an external reviewer or will the Commission appoint an external reviewer to whom the contractor needs to give access to the final report for review?
- Is the external reviewer a person external from the project team or from the contractor as a whole?

Reply

The Commission will appoint the external reviewer, but the contractor is requested to put in place a mechanism to ensure access to one (1) external reviewer for the study. Consequently, the contractor will have to propose at least one external reviewer, who is external to the contractor as a whole and who will support the contractor by ensuring the quality of the study. The suggestion of a reviewer will need to be substantiated, at least in form of a CV, supplemented with arguments detailing the reasons why this person would be qualified for the external peer review.

The external reviewer is expected to provide an assessment of the methodology applied in the project, of the quality of data collected, of the analysis, and of the validity of the conclusions drawn in the draft final report. The contractor will be invited to integrate in the final report, the comments made by the external reviewer or provide reasoning where suggestions by the external reviewer are not being taken into account.

Question no. 9

We refer to the above Tender and to the document frequently asked questions and notably to Question 6 and your reply “The tenderers are requested to provide at least three, but not more than four CV's for the overall project consisting of four tasks”.

We were wondering:

- (1) how to interpret this reply considering the wide scope of the project which includes analysis of legislation and case law of 30 States at least (28 +2). We assumed that this task would require involving around 30 experts possibly with VAT background (one per country to be covered)
- (2) how to interpret this reply considering that task 2 includes an economic assessment, while task 3 includes an evaluation assessment and task 4 includes assessing policy options and thus mastering impact assessment techniques and deploying a team for the data collection.

In addition we note that point 4.5. of the tender specifications states: “The tenderer must demonstrate and provide assurance that the team which will conduct a specific task will consist of at least two senior VAT experts, of whom one can also act as the project manager, each having at least five years of professional experience with regard to the special scheme for travel agents. In addition, the team needs to include at least one junior economist with recent experience in evaluation and impact assessment related services “

A reading of this paragraph would rather show that you would need at least three specific profiles for each task and not for all the study, although we agree that the tender specifications do not exclude the possibility to indicate the same three profiles for all the tasks.

Furthermore, we note that the tasks are rather different and we respectfully submit that it would be beneficial to have different profiles for carrying out each specific task.

In addition, the tender specifications require proving access to an external reviewer. Considering the different nature of the tasks, it was our understanding that you would need a specific reviewer for each task.

We also note that the clarifications contained in the tender specifications would entail a substantial rethinking of the structure of tenderers’ offers, including of related financial aspects.

In the light of the considerations above, we were wondering whether the Commission could consider an extension of the deadline for submitting offers for this tender.

Reply

The reply to question 6 is self-explanatory. The required CVs are requested in the scope of the selection criteria and are only needed to assess the technical capacity of the tenderer to carry out the study.

Neither questions received so far, nor replies, are of such nature that an extension of the deadline for submitting offers for this call for tenders would be required. Nonetheless, the Contracting Authority will grant an extra week to finalise offers for this call for tenders. The deadline will therefore be extended to 12 August 2016. A corrigendum to the contract notice will be published in the Official Journal shortly.

Question no. 10

Should we fill in and sign the service contract or that is something to be done once the Contract Award Notice is published?

We are not sure whether if we should enclose or not this document “service contract” in our submission of the offer.

Reply

You should not sign nor enclose the Model Direct Service Contract (annex 9 to the tendering specifications) in your offer. The Model Direct Service Contract is published for information purposes only at this stage.