



JAVNO PREDUZEĆE ELEKTROPRIVREDA SRBIJE, BEOGRAD
Carice Milice 2
Number: ~~12.01~~ 2621/19 -15
Belgrade, 07 -08- 2015

Subject: additional clarifications no. 3 in accordance with Article 63 paragraph 3 of Public Procurement Law ("Official Gazette of the Republic of Serbia" number 124/12 & 14/15) in an open public procurement procedure for the procurement services "Financial advisor for acquisitions" - PP number 46/15/DEFP, for which Invitation to Tender was published on Public Procurement Portal on 21.07.2015.

Five and more days prior to expiry date foreseen for submission of tenders in subject public procurement procedure, interested party has submitted to the Employer via e-mail request for additional information, i.e. clarifications, regarding which the Employer, i.e. Public Procurement Committee, in accordance with provision of Article 54 paragraph 12 item 1) of the Law shall provide the following information i.e. clarifications within three days from the day of the receipt of the request:

Question 1:

Thank you for the response. We however would like to have an additional clarification on Article 24:

Exclusivity (article 24): We understand that the purpose of article 24 of the model contract is to ensure that during a two year period following the termination of the Contract, the Service Provider (directly or indirectly) does not:

- i. itself attempt to acquire, and
 - ii. assist a third party who intends to acquire,
- in each case, the ownership or the managerial rights of the assets of the Employer or its subsidiaries.

If our abovementioned understanding of article 24 is correct, in particular the second prong of said article needs to be clarified. As currently drafted "nor engaged as advisors (directly or indirectly) of the potential acquirer of these rights" may be understood to prevent Service Provider to assist any person, even in matters unrelated to the scope of the Tender, simply because such person may potentially be interested in acquiring or managing rights in the assets of the Employer (this could include any energy producer).

Service Provider may further only ensure that its staff complies with the exclusivity provision, to the extent that the relevant persons are still employed by Service Provider.

In order to clarify the scope of article 24 of the model contract, we suggest amending it as follows: "Within the period of 2 (two) years after the termination of this Contract, the Service Provider shall, and shall procure that its staff engaged in the execution of the Contract (to the extent such staff is still employed by Service Provider) shall, neither be engaged (directly and indirectly) in activities aiming to acquire the ownership or managerial rights over the assets of the Employer or its subsidiaries nor represent or advise (directly or indirectly) any other party in relation with the acquisitions of these rights."

Could you please confirm that our understanding is correct.

Answer 1:

The Employer will consider given proposal of interested person and appropriately amend the provision of Article 24 of Model Contract if possible.

These additional clarifications are submitted by email to the applicant and are published on Public Procurement Portal and web site of the Employer.

PUBLIC PROCUREMENT COMMITTEE 46/15/DEFP



Attachment:

- Additional clarifications No.3 in Serbian/English language

Attn:

- Records Management Office
- Public Procurement Committee e-mail delivery