

CLARIFICATIONS N° 2
SERVICE CONTRACT NO CPF III 2017-01
Event Organisation

Clarification request received on 28 December 2016:

Document A – Contract Notice CPF III 2017-01

1. In item 1 of the above document it is written that the Procedure used for this contract is Competitive negotiated.

In item 3.4.2 of the Prag rules it is written that *“The specific annexes for **simplified tenders** must be used (administrative compliance grid, contract, contract notice, invitation letter, instructions to tenderers, list of invited tenderers and tender form) for this procedure. For any other document of the tender dossier the regular service annexes shall be used.*

The documents/annexes uploaded on your website are not taken from the file *“Simplified tender dossier”*, but from the Service Contract Annexes with amount over 300.000 eur.

Since the contract is announced under Competitive negotiated procedure, we are kindly asking to give us clarification which Annexes are valid.

2. In Annex B2a from the Prag rules (page 6, item 3) it is clearly explained that the Reference period for the Technical capacity of the candidate would be the last **3 or 5 years** from submission deadline. The same is written in Annex b2o3 of the Simplified Tender dossier.

In the Document A - Service Contract Notice given in your Tender dossier, in item 13 (Selection and Award criteria) it is written that *“The reference period which will be taken into account will be the **last eight years** from submission deadline”*.

We are kindly asking to give us clarification the number of years that will be taken into account for the Technical capacity of the candidate.

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3. In Annex b2a of the Prag rules (page 6 and 7, item 21.3) it is clearly explained that the **objective of the criterion** "Technical capacity of the candidate" is to examine whether or not the candidate **has sufficient expertise and experience** to be able to handle the proposed contract. Furthermore, an example is given for technical criterion applicable to both legal and natural persons. The same is written in Annex b8o2 of the Prag rules (page 5 and 6, item 21.3 of the Simplified Tender Dossier)

In the Document A - Service Contract Notice given in your Tender dossier we cannot see the requested number of contracts needed to be provided by the Candidate for this tender, as well as the specified fields and the reference period as it is written in the Prag rules:

"The candidate has provided services under at least <insert number> contract[s] [each] with a budget of at least that of this contract in <specify fields> which [was] [were] implemented at any moment during the reference period: < insert >."

Since the contract is announced under Competitive negotiated procedure, we are kindly asking to give us clarification which Annex is valid (b2a or b8o2) and how many contracts are needed as a proof for similar services provided, as well as the budget of these contracts and the reference period".

Document B – Annex II Terms of Reference

1. In item 2.6 of the Prag rules (Terms of Reference and Technical specifications), it is clearly stated that:

*"The Terms of Reference and the technical specifications must allow equal access for candidates and tenderers and must not have the effect of creating unjustified obstacles to competitive tendering. They must be **clear and non-discriminatory**"*

It is also stated that Annex B8 contains skeleton of Terms of Reference which show the minimum details to be provided within each of these section headings. In this skeleton, in item 4.2 it is clearly indicated that:

*"This section should contain only **major managerial, economic, institutional, and technical requirements** (+criteria) for this project".*

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In Document B – Terms of reference given in your Tender dossier, in item 4,2 it is stated that:

“... the tenderers are also required to propose a service fee to be applied to each assignment described in Annex II Terms of Reference of the draft contract during the implementation of the contract. The service fees proposed by tenderers shall be included in the technical evaluation of tender offers under heading ‘Strategy’, and shall not go beyond:

*Assignment (i): Official CEFTA meetings – maximum 10% per Request for Services;
Assignment (ii): Event organisation – maximum 15% per Request for Event Organisation;
Assignment (iii): CPF III staff missions – maximum 5 % per mission.
The Contracting authority reserves the right to ask additional justification from the Contractor to explain the fee rates in the context of complexity of events to be organised.*

The above paragraph in Document B – ToR is in contradiction to item 2.6 of the Prag rules and the Skeleton given in annex B8. The skeleton does not allow including any financial section in the technical specification, while Cefta, as a Contracting Authority requests by the tenderers to apply Service fee for each assignment that will be included in the section Strategy.

Moreover, Cefta is creating discriminatory effect by limiting the proposed Service fee not to go beyond 15% for each assignment. This must be determined individually by each tenderer without limitations and proposed in accordance with the Tenderer policy of operation.

The last sentence of the paragraph stating that *“The Contracting authority reserves the right to ask additional justification from the Contractor to explain the fee rates in the context of complexity of events to be organised”* is not very clear. It does not clarify how the *“additional justification”* will influence on the fee rates given by the Tenderer? Who defines the terms *“complexity of events to be organised”* and how this will be measured? Each provider has its own capacities, network and means of work and the *“complexity of events to be organised”* is very subjective and individual at the same time.

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Document B – Annex III Organisation and Methodology

In Annex B8g of the Prag rules a Skeleton is given for the Annex "Organisation and Methodology".

In Document B – Organisation and Methodology in your Tender, we have noticed that you have deleted item no. 6 "Logical framework" and you have added additional items under no 6 "List of hotels" and 7 "International car transfer".

Moreover, the category "Strategy" in the Skeleton consists of 3 bullets explaining what specific information needs to be provided by the Tenderers in their Proposals. In Annex B8m2 of the Prag rules it is clearly stated that *"The categories to be used to assess the Organisation and Methodology (ie, Rationale, Strategy, Back-up function, Involvement of the consortium members and Timetable of activities) may not be modified if profiles of key experts have been requested.*

In Document B – Organisation and Methodology in your Tender we have noticed that you are requesting the the *"tenderers are also required to propose a service fee to be applied to each assignment described in Annex II Terms of Reference", and that "the service fees proposed by tenderers shall be included in the technical evaluation of tender offers under heading 'Strategy'.*

We consider that Cefta, as a Contracting Authority, if decides to request by the Tenderers to provide service fee for their services, the categories "List of hotels" with prices, as well as prices for "International car travel" may not be included in Category "Strategy" (unless the given prices will have only informative character and will not be evaluated).

Document C – Evaluation Grid CPF III 2017-01

In Document A – Contract notice, in item 4 it is written that this is a "global price contract". In Annex C III of your Tender Dossier you are presenting the Technical Evaluation Grid for this contract.

In Prag rules, Annex B8m2 is presenting the Skeleton of the Evaluation grid for the Global price Contracts. Your Evaluation grid is not in consistency with the Skeleton given in the Prag rules, especially for the following categories:

- Strategy:

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You have indicated 60 points for Strategy in your Tender dossier, while the maximum points given in the Skeleton is 40.

It is clearly stated in the Skeleton that *“The Evaluation Committee must evaluate tenders on the basis of **this evaluation grid**, which includes **maximum scores**”*.

Therefore, we assume that instead of 60, the maximum allocated points for category “Strategy” should be 40.

Also, there is inconsistency with the maximum points given in the Skeleton for all other categories (Rationale, Back up functions, Involvement of consortium members, Timetable of activities).

You have also indicated that for evaluating the category “Strategy” you will take into consideration the *“Tenderer experience, List of Hotels, Service fees proposed and the Key expert Project Coordinator that form part of the technical evaluation”*.

As mentioned above we consider that List of Hotels and the Service fee provided by does not need to be included in “Strategy” since they are related with financial figures (unless they have only informative character and will not be evaluated at all).

The Tenderer experience is already requested in the Contract Notice (as Technical experience), and as mentioned above, Cefta needs to determine the number of projects implemented by the Tenderer as a proof of experience, and based on this number can decide whether the tenderer fulfils the criteria or not, to eliminate the tenderer or to evaluate further. The Tenderer experience should not be included in the Category “Strategy” at all since it is (will be) already defined (unless it has only informative character).

As for the Key expert, it is also strictly written in Annex B12b, under the section *“Instructions and guidelines to evaluators for a **global price contract**”* that *“Even if exceptionally key experts are required there is **no specific evaluation criterion** for the key experts but the assessment is part of the strategy”*.

In item 3.3.10.3 of Prag rules “Evaluation of offers” it is also stated that *“Experts must be evaluated against the requirements stated in the terms of reference. The key experts must fulfil the **minimum requirements** for all the criteria. If it is not the case, the offer should be considered inadmissible and be rejected”*.

In accordance with above we consider that the proposed Key expert can be included in the Strategy and evaluated only based on the minimum requirements, but no points to be allocated for the expert’s experience (since this is not a fee-based contract).

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Clarification published on 17 January 2017:

General explanation:

The CEFTA Secretariat kindly requests all tenderers to take into account that the procurement rules to be applied to the subject tender which was published in the CEFTA Secretariat's website will be the procurement rules of CEFTA Secretariat like any other previous tenders launched by the CEFTA Secretariat.

In this regard, the CEFTA Secretariat prepares each tender dossier according to its procurement rules which are in line with the EU Procurement rules and PRAG Guidelines.

On the other hand, the CEFTA Secretariat is not an EU institution. Thus, there is no possibility to have a direct applicability of EU PRAG Guidelines in the CEFTA procurement rules or in tenders launched by the CEFTA Secretariat. The PRAG Guidelines constitute a best practice for CEFTA tenders. On the other hand, CEFTA Secretariat has the mandate to announce tenders and adjust the levels of experiences for key experts, the details of evaluation criteria or any other technical parts of Tender Dossiers according to the needs of CEFTA Parties in line with its procurement rules.

In conclusion, all tenderers are expected to fulfil all the criteria as announced by the relevant tender dossiers.

Document A – Contract Notice:

1. The annexes of the subject tender are fully in line with the annexes of the simplified tender dossier format for the PRAG Guidelines. As mentioned above the annexes published in the subject tender dossier at the CEFTA Secretariat website are the valid ones.
2. As mentioned in the general explanation, the PRAG Guidelines are duly taken into account by the CEFTA Secretariat as a best practice without having a direct applicability. It is true that the PRAG Guidelines recommend referring to the last 3 or 5 years to measure the technical capacity of a candidate. However, such recommendation is not imperative. The CEFTA Secretariat has extended the reference period to 8 years as mentioned in the published Contract notice in order to enhance competition in the subject tender. By extending the year of experiences, there would be more potential tenderers to be evaluated positively.
3. As mentioned in the general explanation, the PRAG Guidelines are duly taken into account by the CEFTA Secretariat as a best practice without having a direct applicability. The example given by PRAG is not imperative by definition. The Contract notice published on the website doesn't make reference to the past contracts and does not request it.

Document B – Annex II Terms of Reference

1. **Clarification regarding the service fee:** The Terms of Reference set up maximum levels for service fees which could be asked by the contractor corresponding to each type of event. Thus, the maximum levels as regulated by the Terms of Reference will be part of the Contract and the contractor shall not be able to ask the Contractor Authority to pay higher service fees than the levels as mentioned in the Contract.

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The Terms of Reference do not fix the percentages of service fees. Any tenderer is free to offer lower service fees according to its strategy. However, the Tender Dossier obliges the tenders to mention the rates of service fees in their technical offer as part of their strategy. It means that each tenderer is expected to suggest services fees between 0% to the maximum level of service as foreseen by the terms of reference in their technical offer.

The sentence that reads as “The service fees proposed by tenderers shall be included in the technical evaluation of tender offers under heading “Strategy”, and shall not go beyond ...” should be understood as the strategy of each tenderer regarding the service fees. There is no possibility to put the service fees in the financial offer as the rates could be flexible and determined differently for each event up to the maximum level as allowed by the contract. However, each tenderer should have a strategy how to get their services remunerated provided in addition to the direct cost of flight tickets and accommodations to be reimbursed by the contract. Please see the relevant corrigendum on this issue.

The clarification on additional justifications which the Contracting Authority may ask for service fees: The sentence referred regarding the right of the Contracting Authority to ask additional justification from the Contractor is related to clarify the right of the Contracting Authority to ask additional justification for the service fees to be asked by the contractor. It does not mean that the Contracting Authority will ask systematically a written justification for each event. On the other hand, in case the scope of an event is not coinciding by far with the level of service fee asked by the contractor, the Contracting Authority may still have the possibility to satisfy itself through receiving additional justifications with regard to the service fee in relation to an individual event.

Document B – Annex III Organisation and Methodology

The Terms of Reference do not fix the percentages of service fees. Any tenderer is free to offer lower service fees according to its strategy. However, the tender dossier obliges the tenders to mention the rates of service fees in their technical offer as part of their strategy. It means that each tenderer is expected to suggest services fees between 0% to the maximum level of service as foreseen by the terms of reference in their technical offer.

The list of hotels with prices and international car transfers are also requested as part of the organisation and methodology. As those two services would be an important part of the contract, tenderers are expected to show their strategic understanding how to implement the subject contract by providing the requested information on hotels and international car transfers.

The prices to be attached to these lists will not be part of the financial evaluation as these prices can not be fixed contractually though the contractor will be expected to respect the prices indicated in these lists as much as possible.

Document C – Evaluation Grid

Scores in the evaluation grid: The scores provided in the template evaluation grid of PRAG Guidelines are to provide an example of scores, and do not fix the scores per se for each sub-criterion of the technical evaluation. Contracting Authorities may adjust the scores of each sub-

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criterion for the technical evaluation according to the content of tender. The scores in the evaluation grid as published by the subject tender will be applicable.

Score of strategy: As mentioned in the point above, the maximum score of strategy will be 60.

Maximum points for sub-criterion: The maximum points allocated to each sub-criterion will be the ones as published in the subject tender dossier.

Evaluating list of hotels, services fees and key expert as part of the strategy: The scope of this tender is related to the organisation of events. The strategy of each tenderer is expected to provide the list hotels which they have an advance arrangement with as requested by the Terms of Reference, the level of service fees considered to be applied for the events to be organised within the limits set by the Terms of Reference, and matching the qualifications of keys with the ones set by the Terms of Reference. These are the areas which will be evaluated under the strategy.

Tenderer experience: The experience of tenderer will not be part of the evaluation under the strategy. The evaluation grid will be the one which is published by the subject tender.

Key expert: The Terms of Reference list all the required qualification and skills of the key expert. It is expected that key experts to be proposed by tenderers will meet those requirements as minimum. There is one point of qualifications as mentioned in the ToR as an advantage. Key experts who meet that particular skill, will receive additional points. The points to be given to key experts within the scoring of strategy is under the discretion of the evaluation committee. The Evaluation Grid which will be used by the Evaluation Committee is the one published on the CEFTA Secretariat website.
