

EIT Digital IVZW - RFP Accountancy and Project Administration

Second Note of Information March 20th 2018



Number	Document	Section /Pagenr.	Question	Answer
1	First note of information March 2nd 2018	Question / Answer 4	No, all possible audits are in scope of this RFP. Could you please reconsider to exclude tax audits from the scope of this RFP ? From a risk management perspective tax audits are unforeseeable events out of our control and the time and expertise needed to deal with them can vary significantly. In order for us to be able to make a proposal with the best value for money, we advise to exclude them from the scope of this RFP.	Client will not exclude tax audits from the scope of this RFP.
2	Appendix 11 Draft Agreement	Article 2.3	The article mentions that all provisions on Contractors forms are deemed deleted. Can you please specify what is meant by this clause?	Client is referring to standard forms that contractors use. Client does not accept these as a part of the contract.
3	Appendix 11 Draft Agreement	Article 4.11	The last part of this sentence - concerning our ability to provide services to other clients - is too vague ("and/or it doesn't harm (other) interests of Client"). Could you please specify what is meant by this?	As long as Contractor is not putting itself in a position that harms the interests (for example financially or organizational) of Client, there are no objections if Contractor has other customers. Client expects Contractor to proactively warn Client when it is in doubt and/or when Clients interests are indeed harmed.
4	Appendix 11 Draft Agreement	Article 4.14	Can this clause be made reciprocal?	Yes, however Client always has the right to assign to its affiliates without prior approval of supplier.
5	Appendix 11 Draft Agreement	Article 6.6-8	Which other taxes, besides VAT, are assumed to be due on the services?	Client will take responsibility for VAT however the other taxes like income taxes are the responsibility of Contractor. Client has no indication of other taxes that might be due on the services. Client expects Contractor to have a complete insight with this regard. For instance in Italy there might be taxes like F24 which are the responsibility of the Client.
6	Appendix 11 Draft Agreement	Article 7.1	Can you agree that Tenderer can share confidential information with other member firms of the Tenderers network which are bound by confidentiality obligations?	Yes, provided Contractor mentioned them as subcontractors and that Contractor is liable for any breaches of your subcontractors.
7	Appendix 11 Draft Agreement	Article 7.5	From a regulatory perspective, Tenderer is obliged to keep one copy of confidential information for archiving and defence purposes, can you please agree to add this?	Yes, provided that it is only kept for that provision and only for the legally required period. After the expiry of that term Contractor has to act in accordance with this article. Client will adjust this article accordingly.
8	Appendix 11 Draft Agreement	Article 8.1	Can you please agree to add the following clause "Tenderer will own all Tenderers Materials (i.e. Tenderers pre-existing materials and software, any skills, know-how, processes methodologies, or other intellectual property of general application which Tenderer may have discovered or created prior to or as a result of the Services) but Client will have a non-exclusive, non-transferable licence to use Tenderers Materials included in the deliverables for Client's own internal purposes"?	Client agrees partly, therefore we will add a new clause: "Contractor will own all Contractor Materials (i.e. Contractors' pre-existing materials and software, any skills, know-how, processes methodologies, or other intellectual property of general application) which Contractor, demonstrably, has discovered or created prior to the Assignment. Client will have a non-exclusive, non-transferable licence to use these Materials included in the deliverables for Client's own internal purposes. Whenever Contractor can prove that -during the Assignment - created Materials (like IP/Software) are an add-on on existing Materials, than the rights on the Materials will be subject to a separate agreement."
9	Appendix 11 Draft Agreement	Article 10.1 and 2	Due to regulatory reasons, Tenderer is bound to professional secrecy obligations and can therefore not agree to unlimited audit rights. Could you modify this? We will of course cooperate in relation to information requests we receive.	Client will add "all with regard to the professional secrecy obligations of Contractor under mandatory law" to the clause.
10	Appendix 11 Draft Agreement	Article 11.1 - 11.4	Should be made reciprocal : could you please add this? Additionally, clause 11.5 mentions that upon termination of the agreement, Tenderer will continue to perform the services which by their nature should be continued after termination. Which services do you refer to in this respect? These services should be absolutely necessary following the termination of the agreement. Could you please specify that service fees will be paid in this respect?	Yes, Client will make it reciprocal. With regard to clause 11.5 -> Contractor shall provide Client with any assistance reasonably requested by Client to allow the services to continue without interruption or adverse effect following the termination or expiration of the Assignment. Contractor also has to facilitate the orderly transfer of responsibilities to Client and/or the replacement supplier (including by providing all necessary information, access to materials and the personnel of supplier and its subcontractors, and working alongside Client and/or a replacement supplier for a reasonable period of time). Service fees will be paid with regard to the provided services.
11	Appendix 13 Draft GDPR Processor Agreement	Clause 3.1, b)	According to this clause, we will have to inform the relevant client group member that a legal requirement requires us to process client personal data other than on the client's document instructions before processing such data. Could you add the following sentence "unless the law prohibits such information on important grounds of public interest"?	Yes, but the principle is already covered by the clause.
12	Appendix 13 Draft GDPR Processor Agreement	Clause 6	For new subcontractors, we have to notify the Client which can make objections to the proposed appointment. There seems to be something missing in this clause regarding the consequences of the Client's objections, could you please check it?	Indeed, Client will add following to the clause: "it is not allowed to use the services of this subprocessor. If there is no reply within (30) days of receipt of that notice, Contractor may proceed with the subprocessor, provided that Contractor can proof that Client did receive their prior notice."