



**TITLE OF THE TENDER: LINE 4 – SECTION A’
“ALSOS VEIKOU – GOUDI”
RFP-308/17**

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This Clarifications Document is issued in accordance with paragraph 6.3 of the Invitation to Express Interest. It contains responses to the questions that have been raised by the Bidders until 17/5/2017, as well as clarifications on the Tender Documents.

The content of the Clarifications Document are considered to be an integrated part of the Invitation to Express Interest.

A. RESPONSES TO QUESTIONS

Question 1

A foreign legal entity not falling – on a self-standing basis – in any of the cases referred to in article 5.1 a, b, c and d of the Invitation to Express Interest intends to participate in a joint venture / association with Greek Companies; the seat shall be in Athens – Greece and the leader of the joint venture / association shall be a Greek Company.

Kindly clarify whether the aforesaid participation is accepted or not and whether it in accordance with the stipulations of article 5.1 of the Invitation to Express Interest.

Response 1

The aforesaid participation is not accepted, since the natural or legal entities or their associations referred to in article 5.1 of the Invitation, as this article is complemented by virtue of this Document (Chapter B, B.1.1), are eligible to participate in the aforesaid tender.

Question 2

Kindly clarify whether a rolling stock manufacturer/supplier can be a specialized sub-contractor of a Joint Venture.

If the response to question 1 is positive ("yes"), kindly clarify whether a rolling stock manufacturer/supplier can be a specialized sub-contractor of more than one Joint Ventures.

3. Moreover, kindly clarify whether the rolling stock manufacturer/supplier can participate in a Joint Venture as a member of it and in another Joint Venture (s) as a specialized sub-contractor.

Response 2

- a) It is clarified that a rolling stock manufacturer/supplier can be registered in the Tender as specialized sub-contractor of a Joint Venture. However, since the subject manufacturer/supplier lends his experience to the candidate, applicable shall be the provisions of article 14 ("Invocation of Third Party Resources") and all relevant requirements concerning third parties of the Invitation to Express Interest.
- b) Given that an Association (Joint Venture) invokes the experience of a rolling stock manufacturer/supplier, the latter cannot lend his experience to another association (joint venture) too.
- c) It is clarified that a rolling stock manufacturer/supplier participating in an Association (Joint Venture) as its member cannot participate in another Association (Joint Venture) as a third party of as a sub-contractor.

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Question 3

Article 11.3.2 of the Invitation to Express Interest determines the required technical experience (scope of works, minimum quantities, etc.) that the Candidates must possess in order to participate in the pre-qualification procedures.

A Company, which will participate in the subject Tender as a member of a Candidate, intends to submit a project construction certificate in which (project) it participated as a member of a Joint Venture; the technical experience of the subject Company derives from this certificate.

Kindly clarify whether the subject technical experience will be taken into account on the basis of the Company's percentage of participation in the Joint Venture or if it is going to be accepted as a whole regardless of its participation percentage (i.e., the overall value of the project, of the quantities, etc., shall be taken into consideration).

Given the time limitation for the preparation of the Participation Envelope, kindly respond in time to the aforementioned question.

Response 3

The technical experience of a Company, which participated in Projects as a member of a Joint Venture, shall be evaluated for the works that it has executed in the subject projects, in combination with the works which it will state (article 10.2 of the Invitation to Express Interest) that it will execute as a member of a candidate association (joint venture) in this Tender; e.g. a Company, which participates in this Tender as a member of an association (joint venture) and states that it will execute the trackwork related activities, shall be evaluated as to its technical experience in trackwork related activities, which it has executed as a member of a joint venture (or on an individual basis). Furthermore, it is clarified that in case a work category is executed by one company only, then this experience - in its entirety - shall be taken into account only for this company. In case a work category is jointly executed with other company (-ies), then the experience is allocated to each one of the companies, if the relevant experience certificates prove the allocation of the works that have been executed by each company at the level of a self-standing section of work; in any other case, the subject experience is added 100% to each one of the companies that executed these works.

In view of the above, the certificates to be submitted for proving technical experience, in case the works are executed by a joint venture, must present the specific works executed by each member of the joint venture.

Question 4

As you are well aware of, having established a Joint Venture with Scot Wilson Railways, we successfully executed the contracts concluded between us, namely TSA-271/03, TSA-312/05 and TSA-313/05. In the framework of the aforementioned contracts, we studied *inter alia* the following items:

1. The northern extension of Line 2 "Akadimia – Galatsi", scheduled at the time, which included at a preliminary design stage some of the stations of Line 4, currently put to tender.

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2. The General Final Design of the TBM tunnel in Aghia Varvara – Piraeus Extension.

In view of our participation in an engineering group, as described under article 11.4 of the subject tender, kindly inform us on the following issues:

With regard to item 1 above: whether there irreconcilable conflict by virtue of article 24, Law 4412/2016.

As regards item 1 above, through our participation in the aforesaid Joint Venture, OMETE covers – on a self-standing basis – as far as experience is concerned – criterion 11.4.2.a, which refers to the design for the boring of underground tunnels with the TBM.

Response 4

- a) As per article 24, Law 4412/16, there is no conflict of interests arising from the participation of the company in the subject Tender.
- b) Meeting the experience related requirements stipulated in the criteria falls under the responsibility of the Tender Committee.

Question 5

With regard to foreign companies, which are entitled to submit the required documents/back-up documentation in copies ratified by a lawyer based on the original document, please find attached hereto for your information a relatively recent (08/2016) Invitation to Tender of the Ministry of Transport and Networks. This procedure protects the bidders against an eventual loss of an original copy from their participation envelope. In other words, bidders keep the original copies of the documents/ back-up documentation and submit to the Tender Committee copies ratified by a lawyer.

Response 5

Kindly see addition B1.3, Chapter B of this document.

Question 6

We refer to article 5.2.2 of the Invitation to Express Interest, on the basis of which the Candidates established in a member-state of the European Union must be registered in the Registries referred to in Annex XI of Appendix A, Law 4412/2016.

In the aforesaid Annex and as far as Italy is concerned, there is a reference to Registry "Camera di Commercio, Industria, Agriculture e Artigianato", as well as to other Registries, which, in our opinion, do not concern the basic business activity of the construction Companies.

As regards the other Registries, mentioned in the above paragraph, we would like to stress the following:

- As regards "Registro delle commissioni provincial per l' artigianato": It concerns companies, which do not form part of the construction industry, such as craft enterprises, etc.

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- As regards "Consiglio nazionale degli ordini professionali": It also concerns companies, which do not form part of the construction industry, such as self-employed professionals, etc.
- As regards "Albo nazionali dei gestori ambientali": It concerns companies engaged in the sector of management and disposal of litter.

In Italy, for our Company to satisfy the pre-conditions for registration in the Professional Registry of Construction Companies, we had submitted to AM – in the framework of a previous tendering process for the Athens Metro – two registration certificates issued by the following registries: a) "Camera di Commercio" and b) SOA (Società Organismo di Attestazione); these certificates made a detailed description about the categories of projects and the competences of the construction companies per category and they had then been accepted by AM.

We would appreciate if you could clarify to us whether AM accepts or not the two aforementioned certificates.

Your prompt answer would be greatly appreciated, so that we can verify whether GHELLA SpA falls under the stipulations of paragraph 5.2.2 or 5.2.3 of the Invitation, so that it collects the documents stipulated either in paragraph 5.2.2 or in paragraph 5.2.3.

Response 6

It is clarified that, as far as Italy is concerned, registration in Registry "**Registro della Camera di Commercio, Industria, Agricoltura e Artigianato**", included in Annex IX, Appendix A of Law 4412/16, satisfies the requirements of article 10.4.2 of the Invitation to Express Interest for proving competence of the construction companies for exercising the professional activity.

B. CLARIFICATIONS ON THE TENDER DOCUMENTS

B1. INVITATION TO EXPRESS INTEREST

B1.1 Article 5

Article 5, paragraph 5.1, is supplemented as follows:

- 5.1** Eligible to participate in the Tender shall be physical or legal entities or their associations, whose business activities involve **building, hydraulic and electromechanical works** or associations of physical or legal entities with rolling stock companies whose business activities involve building, hydraulic and electromechanical works and are established:

- a) in a member – state of the European Union, or
- b) in a member – state of the European Financial Area (EFA), or
- c) in third countries that have signed and ratified the Public Procurement Agreement (PPA), to the extent that the contract under award is covered by Annexes 1, 2, 3, 4 and 5 and the general notes of Appendix I related to the EU of the aforesaid PPA, or
- d) in third countries that do not fall under the above items and have concluded a bilateral or multilateral agreement with the European Union on issues pertaining to the procedures for the award of public contracts.

AND

They prove that they fulfil the terms of this Invitation.

B1.2 Article 5

Article 5, paragraph 2, is supplemented as follows:

- 5.2.4** As regards the competence for exercising the business activity of Rolling Stock Candidate Companies, these must be registered in one of the Professional or Trade Registries kept in the member where they are established.

B1.3 Article 10

The following paragraph is added to article 10, paragraph 5:

- 10.5.4** With regard to back-up documentation, certificates, documents, etc., to be submitted by the Bidders, applicable shall be the provisions of article 1, Law 4250/14 about the abolishment of the obligation for ratification of photocopies, except in cases in which, according to the terms of this Invitation, the submission of original photocopies is required.

With regard to public documents and back-up documentation drafted in a foreign language, applicable shall be the Convention of Hague dated 05.10.1961, ratified by Law 1497/1984 (A' 188).

More specifically, all public documents concerning foreign economic operators to be submitted by the candidates in the framework of this Tendering process, shall be

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legally ratified and must be officially translated, as per the stipulations of article 16 of the Invitation, as this article is supplemented via this Document (Chapter B, B1.7).

Moreover, any public document and back up documentation concerning a foreign company can be submitted in the form of a ratified photocopy deriving either from a document legally ratified by the competent Consulate of the bidder's country or from the original document bearing the "Apostille", in line with the Convention of Hague dated 05.10.1961. These documents must be ratified by a Lawyer in the sense of articles 454 of the Code of Civil Procedure and 36 of the Code on Lawyers (L.4194/2013).

B1.4 Article 10

Article 10, paragraph 3, is supplemented with the following item 6:

- 6) If the Candidate intends to award to third parties a part of the Contract in the form of sub-contracting work, then the sub-contractors as well shall submit the ESPD, regardless of the amount of the sub-contracting work.

B1.5 Article 10

Article 10, paragraph 4, is supplemented as follows:

- 10.4.4** The rolling stock Candidate-Companies must submit a valid **certificate** regarding their Company's registration in the Trade and Industrial Chamber or in the relevant Professional or Trade Registries of the country where they are established, under the terms provided for by the legislation of the country where they are established.

B1.6 Article 10

Article 10, paragraph 10.6, is added as follows:

10.6 Sub-Contracting Work

Candidate economic operators must state in their offer the part of the contract they intent to award in the form of sub-contracting work to a third party, as well as the proposed sub-contractors.

During stage B of the Tender, AM shall check whether the reasons for disqualification, as these are described in article 9 herein, apply to the subcontractors, and whether subcontractors possess the relevant qualifications to execute the part of the project that they will undertake.

It is noted that AM shall demand the economic operators to proceed with the mandatory replacement of a sub-contractor if, during the aforementioned verification process, it arises that reasons for disqualification apply and the subcontractor in question fails to meet the relevant qualifications to execute the section of the project undertaken.

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B1.7 Article 16

The 2nd paragraph of Article 16, is supplemented as follows:

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The official translation that is accepted is the translation ratified by the Greek Consular Authorities or by the Translation Service of the Ministry of Foreign Affairs, or by a Lawyer, as per the provisions of the Code on Lawyers (L.4194/2013) **or by the competent body authorised to this end** of the country of origin of the bidder. The translation includes the stamps of the Public Authorities that issue or ratify the documents, as well as the Apostille.

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