

RESPONSES TO CLARIFICATION QUESTIONS OF INTERESTED PARTIES¹

REGARDING THE INVITATION TO SUBMIT AN EXPRESSION OF INTEREST FOR THE AWARD OF A SERVICE CONCESSION AGREEMENT IN RELATION TO FINANCING, OPERATION, MAINTENANCE AND EXPLOITATION OF EGNATIA ODOS MOTORWAY AND THREE VERTICAL ROAD AXES (THE “INVITATION”²)

Athens, 3.1.2018

A/A	REFERENCE³	QUESTION⁴	ANSWER
1.	5.1, 10.5(v)	<i>“Please confirm that, under the terms of the Invitation, a legal entity having its registered seat in Russia is entitled to participate in the Tender Process.”</i>	The Invitation does not include provisions excluding specifically a legal entity with a seat in Russia from participating in the Tender Process. It is generally noted, however, that Interested Parties are required (within the context of the Template Solemn Declaration included in Annex E of the Invitation) to state, among others, that <i>“there are no corporate, competition-related or other legal restrictions which impede it from submitting the Expression of Interest”</i> .
2.	5.9	<i>“Per this Clause, changes to the composition of the Consortium are not allowed after the lapse of the Relevant Date, with the exception of changes that are due to corporate transformations which have not been effected in relation to the Transaction. Please elaborate a bit more on the cases you envisage to cover under the above exception.”</i>	Reference is made for example to mergers, spin-offs etc. that have not been effected in relation to the Transaction. It is noted that any such change is subject to approval by the Fund, as already provided under clause 5.9 of the Invitation.
3.	7.5(i) & (ii)	<i>“Per these Clauses, any breach of tax or social security related obligations which would lead to the disqualification of the interested party needs to be</i>	Clauses 7.5(i) and (ii) of the Invitation reflect the relevant provisions of Law 4413/2016, implementing EU Directive 2014/23/EU. Such provisions are not contradicting since each of the two cases can by itself constitute

¹ Please note that, in case of conflict between the Greek and the English version of these responses, the Greek text shall prevail.

² Unless otherwise specified herein, capitalized terms used in the present shall bear the same meaning as in the Invitation.

³ Reference is made to articles of the Invitation.

⁴ Kindly note that all questions are included as posed.

		<i>established by a judicial or administrative decision having final and binding effect. This seems contradicting to the provision of Clause 7.5(iii), offering to the Fund the discretion to demonstrate by any appropriate means that the interested party is in breach of its above obligations. Please explain."</i>	grounds for exclusion of the Interested Party.
4.	7.5	<i>"Please confirm that the meaning of last sentence of this Clause is that the eventual performance by the Interested Party of its tax or social security related obligations (or the entry into a binding arrangement with a view to payment) would not lead to its disqualification from the Tender Process. If our understanding is correct, please inform us on the utmost deadline for the performance of the above obligations (or the entry into an arrangement) to occur."</i>	Your understanding is confirmed. It is clarified that any payment of taxes or social security contributions due should have occurred and relevant notification has been submitted to the Fund at the latest by the time the Fund has concluded review of the Expressions of Interest submitted by Interested Parties and prior to the issue of its decision concluding Phase A of the Tender Process.
5.	8.3	<i>"To our understanding, 2ulfillment or not of the financial criterion, in case of a Consortium, is to be established as follows: (i) the average consolidated equity of each Consortium member is multiplied by the percentage of its participation in the Consortium and then (ii) the figures that derived from such multiplications are added and the aggregate sum thereof needs to exceed the amount of 150mil. For example, assuming that a given consortium consists of three members, companies A, B and C, each one of them participating in the consortium with a percentage of 20%, 30% and 50% respectively. To establish the satisfaction of the financial criterion, the following formula needs to apply: [(Consolidated Equity of A in the year 2014 + Consolidated Equity of A in the year 2015 + Consolidated</i>	Confirmed. With respect to the financial years taken into account please refer to article 8.4 of the Invitation.

		<i>Equity of A in the year 2016)/3 x 0,2] + [(Consolidated Equity of B in the year 2014 + Consolidated Equity of B in the year 2015 + Consolidated Equity of B in the year 2016)/3 x 0,3] + [(Consolidated Equity of C in the year 2014 + Consolidated Equity of C in the year 2015 + Consolidated Equity of C in the year 2016)/3 x 0,5] > 150m. Please confirm our above understanding."</i>	
6.	8.6	<i>"In the event that an Interested Party would wish to rely on the financial eligibility of an Affiliate under this Clause, please clarify whether all financial resources required for the fulfillment of the financial eligibility criterion should stem from the respective Affiliate or whether the latter may provide part of the resources required, the remaining part to be provided by the Interested Party. In the same vein, our understanding is that the aggregate amount of financial resources that needs to be demonstrated by the Interested Party under the above Clause for the purposes of satisfying the financial eligibility criterion equals to at least one hundred fifty (150) million Euro, as per the relevant provisions of Clause 8.2. Please confirm our above understanding."</i>	Your understanding is not confirmed. In case an Interested Party (or a Consortium member) relies on the financial eligibility of a third party, such third party alone should fulfill the criteria included in clauses 8.2 and 8.3 of the Invitation.
7.	10.6(iv)	<i>"Given that the audited consolidated financial statements provide, to our opinion, a full and clear picture of an entity's financial standing and in view of the wording of this clause being rather vague, we would appreciate whether you could provide us with an example of any document or information that might fall under this clause."</i>	Under clause 10.6(iv) Interested Parties are required to submit other additional documents or information (i.e. corporate presentations etc.), if such documents are available, to generally support their strong, credible and reliable financial standing. In case such documents are not available, Interested Parties are not obliged to submit such additional documentation. Kindly note that the Fund shall examine fulfillment of the Financial Eligibility Criterion based primarily on the Supporting Documents described under clauses 10.6 (i), (ii) and (iii) taking into account any other

			additional documents that may be submitted under clause 10.6(iv).
8.	7.4, Annex E	<i>"The Solemn Declaration needs to be signed solely by the legal representative of any legal entity exercising control over the Interested Party or by the Board members of the controlling entity as well?"</i>	The Solemn Declaration of Annex E should be signed solely by the persons referred to in article 7.4 of the Invitation as described also in the notes included in the Template Solemn Declaration of Annex E.
9.	5	<i>"If a fund manager prequalifies in Phase I, could a fund managed by the prequalified fund manager be the provider of equity financing for the transaction, rather than the fund manager itself?"</i>	Any Interested Party submitting an Expression of Interest (be it a fund manager, a fund or other) shall be required to participate in the share capital of the SPV in its own name and on its own behalf, in case such Interested Party is subsequently declared Preferred Bidder. In addition, please note that an individual Prequalified Investor may subsequently create a Consortium or, in case the Prequalified Investor is itself a Consortium, proceed with changes in the Consortium line-up (including expansion of the Consortium, with the addition of new Consortium members), under the terms of article 5 of the Invitation.
10.	5	<i>"Is there any ability to replace a prequalified investor with an affiliate at a later date?"</i>	No. Changes to Interested Parties are only allowed under the terms of articles 5.5 to 5.9 of the Invitation. We further refer to our answer to Question no. 2 herein.
11.	9	<i>"If a fund or a fund manager is the entity that will be meeting the technical criteria, will investments held by other funds managed by the fund manager be taken into account when assessing fulfillment of the technical criteria."</i>	Second sentence of article 9.2 of the Invitation refers to a direct holding (as described in therein) of the Prequalified Investor itself. In case the Prequalified Investor is a Consortium such direct holding should be invoked and demonstrated with respect to at least one Consortium member, with a stake of no less than 10% in the total interest of the Consortium. In addition, please note that reliance on the technical capacities of third parties (in the case described, investments held by other funds) is acceptable in accordance with the provisions of articles 9.4, 7.7 and 10.7 of the Invitation.
12.	9.2	<i>"Clause 9.2 refers to a "direct holding of at least 15%" being sufficient to satisfy the Technical Criteria. If the</i>	No indirect holding as the one described in the question posed is acceptable under the terms of the Invitation. Furthermore, we refer to our

		<i>investment is made via intermediate holding companies, would that still be treated as a direct holding? "</i>	answer to previous Question no. 11.
13.	10.4, 10.5, 5.4	«Ένωση προσώπων θα πρέπει στο φάκελο με τα νομιμοποιητικά έγγραφα να υποβάλει και τη σχετική συμφωνία για τη «σύσταση της ένωσης προσώπων» (π.χ. συμφωνητικό κοινοπραξίας) λαμβανομένων ιδίως υπόψη όσων αναφέρονται υπό 5.4. της Πρόσκλησης;»	Interested Parties are required to submit legal representation documents in accordance with articles 10.2(viii) (if case), 10.4(ii) and 10.5. An Interested Party that is a Consortium is not required to submit with its Expression of Interest <i>"the relevant agreement "for the formation of an association of persons" (e.g. a consortium agreement)"</i> as referred to in the question posed.
14.	10.4	«Συνακόλουθα, σε περίπτωση ένωσης προσώπων, η επιστολή εκδήλωσης ενδιαφέροντος (υπό 10.4 της Πρόσκλησης) θα μπορεί να υποβληθεί υπογεγραμμένη από κάθε μέλος της ένωσης χωριστά (δηλαδή να υποβληθούν περισσότερες από μια επιστολές εκδήλωσης ενδιαφέροντος στον ίδιο φάκελο); Σε περίπτωση υποβολής μιας επιστολής εκδήλωσης ενδιαφέροντος θα μπορεί να θεωρηθεί η υπογραφή του εκπροσώπου κάθε μέλους της ένωσης προσώπων από διαφορετικό αρμόδιο πρόσωπο (ιδίως σε περίπτωση που τα μέλη της ένωσης προσώπων εδρεύουν σε διαφορετικά κράτη);»	In case of a Consortium one (1) joint Expression of Interest Letter of the relevant Consortium should be included in the Expression of Interest. The relevant Expression of Interest Letter shall be signed as described in article 10.4(i) of the Invitation. In case the Expression of Interest Letter is signed by the legal representative of each Consortium member, the Invitation does not pose any restrictions with respect to the attestation of one or more signatures by a different competent official.
15.	10.6.(i)	«Για την τεκμηρίωση χρηματοοικονομικής επάρκειας στην παρ. 10.6. (i) της Πρόσκλησης γίνεται αναφορά σε «ενοποιημένες οικονομικές καταστάσεις». Παρακαλούμε διευκρινίστε αν σε περίπτωση που το ενδιαφερόμενο νομικό πρόσωπο ανήκει σε όμιλο εταιριών αρκεί η προσκόμιση των ενοποιημένων οικονομικών καταστάσεων του ομίλου ή απαιτείται και η υποβολή των οικονομικών καταστάσεων του εν λόγω νομικού προσώπου σε «ατομική» βάση».	In case an Interested Party draws up consolidated financial statements, such statements should be submitted. Otherwise, the Interested Party should submit its financial statements on a stand-alone basis.

16.	10.2(vii)	<i>“Regarding financial statements, according to 10.2 (vii) of the Invitation, all amounts shall be in Euro and the exchange rate must be the one of the last banking day of each financial year.</i> <i>If we follow exactly this requirement, for financial year 2015, the ending figures of 2015 in Euro will not match the beginning figures of 2016 in Euro despite these figures are the same in local currency. For example, according to the audited financial statements, the consolidated current fund of our client – legal entity at year end of 2015 was Euro 2 billion (on 31 December 2015, as the balance of 2015) according to the exchange rate between Euro and local currency on December 31, 2015.</i> <i>However, for the financial year 2016, the financial statements have to include the balance amount at the year end of 2015, but the exchange rate need to be that on 31 December 2016, which was different. This will led to the consolidated current fund of our client – legal entity at year end of 2015 became Euro 1.95 billion in the financial statements for 2016.</i> <i>It applies to all other amounts as balance of a calendar year-end and as the beginning amount of the following year.</i> <i>How should be handled this matter?”</i>	As per the Invitation, the exchange rate that must be used for conversion of the required amounts to Euro is the one of the last banking day of each respective financial year.
17.	7.4, 10.5, Annex E	<u>Clarification provided with the Fund’s initiative</u>	The Fund draws the attention of any Interested Parties to the notes included in the Template Solemn Declaration of Annex E of the Invitation. More specifically, in order for an Interested Party to demonstrate fulfillment of the relevant Personal Situation Criterion as per article 7.4 of the Invitation, the Solemn Declaration of Annex E should be signed by each

			person who is a member of the administrative, management or supervisory body of the Interested Party or has powers of representation, decision or control therein. Furthermore, the same Solemn Declaration should also be signed by the legal representative of the Interested Party with respect to all other statements of the Interested Party included in such Solemn Declaration (see esp. (ii) to (v) of the Solemn Declaration of Annex E). Such Solemn Declaration should be submitted in the Expression of Interest either once signed by all the aforementioned persons or such times as the number of the persons in relation to which the aforementioned obligations apply.
18.	10.4(i)	Please confirm that for the purpose of the Invitation in the Expression of Interest Letter, Interested Parties can also appoint an alternate process agent.	As per article 10.4(i) of the Invitation, Interested Parties should appoint and name in the Expression of Interest Letter only one (1) process agent. In case, after submission of the Expression of Interest, Interested Parties wish to appoint a different person as process agent, Interested Parties should notify the Fund in writing by a letter, signed by their legal representative(s), in this respect. Such letter should include full contact details of the (new) process agent as per article 10.4(i) of the Invitation, and should be accompanied by a copy or excerpt of the decision of the Interested Party with respect to the appointment of a (new) process agent as per articles 10.5(iii), 10.2(ix).