

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, 2.2.2018

A/A	REFERENCE³	QUESTION⁴	ANSWER
1.	8.4	It is our understanding that the requirement for a person to have audited financial statements for at least one (1) year refers to one (1) financial year and not to one (1) calendar year. In this respect, in the event e.g. of a party having been established mid-2016 and submitting audited financial statements covering the period from the establishment date to the end of 2016, please confirm that said submission would be in line with the Invitation’s relevant requirement.	According to clause 8.4 of the Invitation “ <i>If the Interested Party or a legal entity participating in a Consortium has been established during the last three (3) financial years, the Fund shall, in relation to the Financial Eligibility Criteria set out above, take into account the years in which the Interested Party or Consortium member operates, provided that such person has audited financial statements for at least one (1) year.</i> ” In view of the above any Interested Party shall have audited financial statements for at least twelve (12) months.
2.	8.4	Please also elaborate on the Invitation’s requirement for the last audited financial statement to refer to a period which ended no earlier than the end of 2016. Would submission by a party of audited financial statements covering the period 01/01/2017-31/12/2017 be admissible?	Confirmed. Audited financial statements covering the period 01/01/2017-31/12/2017 would be admissible.

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.

3.	10.4(i)	Please clarify whether the common representative to be appointed by the Consortium members needs to be a legal representative or an officer of any of the Consortium members or might also be a third party as well.	The common representative of the Consortium can be a person other than the legal representative or an officer of any of the Consortium members. It is reminded that according to clause 10.4.(i) of the Invitation, in case the Expression of Interest Letter is signed by a common representative of the members of a Consortium then said person should be duly authorised to that end by all members of the Consortium in front of a notary public or other competent public authority empowered to certify the signatures of the signing parties. In such case the Expression of Interest Letter must also be accompanied by a document on the appointment of the common representative by all the members of the Consortium.
4.	10.4(ii)	In the event that the Consortium members are based in different countries, please clarify that each member may sign, through its legal representative, a separate Power of Attorney before a different Notary Public to provide the common representative with the required authorization.	It is confirmed.
5.	10.6(i)	Στα πλαίσια της παραγράφου 12.1 της Πρόσκλησης Υποβολής Εκδήλωσης Ενδιαφέροντος, θα θέλαμε την παροχή των εξής διευκρινήσεων σχετικά με τα δικαιολογητικά Τεκμηρίωσης Χρηματοοικονομικής Επάρκειας: α) Στην περίπτωση που εταιρία, μέλος ένωσης προσώπων, απαλλάσσεται από 1.1.2015 από την υποχρέωση σύνταξης ενοποιημένων οικονομικών καταστάσεων (αρ. 33 §. 1. Ν.4308/2014), ήτοι έχει δημοσιεύσει για τις οικονομικές χρήσεις 2015 και 2016 μόνο εταιρικές οικονομικές καταστάσεις, παρακαλώ διευκρινίστε αν για την οικονομική χρήση 2014 (έτος η*-2) θα πρέπει να υποβληθούν οι ενοποιημένες ή οι	With regards to (a): In the case described under (a), if the Interested Party falls under the provisions of Article 33 paragraph 1 of Law 4308/2014 and therefore is exempted from the obligation to prepare consolidated financial statements for at least one of the last three (3) financial years, then the Interested Party shall submit the audited company (stand-alone) financial statements of the last three (3) financial years. In such case the Interested Party shall provide to the Fund adequate proof (indicatively a certificate from its auditor): a) ε is exempted by law from the obligation to prepare consolidated financial statements and b) in relation to the time that the said exemption came into effect. With regards to (b):

		εταιρικές οικονομικές καταστάσεις, σύμφωνα με την παράγραφο 10.6(i) της Πρόσκλησης Υποβολής Εκδήλωσης Ενδιαφέροντος. β) Όσον αφορά στη συμπλήρωση των ιδίων κεφαλαίων του έτους n*-2 στον πίνακα του Υποδείγματος 2 (Παράρτημα Στ) της Πρόσκλησης παρακαλώ διευκρινίστε αν για το έτος n-2 το ποσό των ιδίων κεφαλαίων θα προέρχεται από τις εταιρικές καταστάσεις (και όχι τις ενοποιημένες) ώστε να υπάρχει αντιστοίχιση και σύγκριση με τα ποσά των ιδίων κεφαλαίων για τα έτη 2015 και 2016 που θα προέρχονται υποχρεωτικά από τις εταιρικές καταστάσεις. γ) Επιπλέον παρακαλώ διευκρινίστε αν το υπόδειγμα 2 του Παραρτήματος Στ σε περίπτωση ένωσης προσώπων πρέπει να υποβληθεί και από κάθε μέλος της ένωσης ξεχωριστά ή μόνο ένα κοινό για όλα τα μέλη.	The equity of years n-2, n-1 and n should be that of the audited company (stand-alone) financial statements. With regards to (c): According to clause 10.2 (ix) of the Invitation in case of an Interested Party being a Consortium, Template 2 of Appendix F shall be submitted, along with all other Supporting Documents, by each Consortium member.
6.	10.4(i)	According to 10.4 (i) of the invitation, "Each Interested Party shall be obliged to appoint one person as the contact / process agent whom the Fund (via its agents or advisors) can contact for the purposes of the Tender Process". Please elaborate the duties and power of "contact / process agent" as well as any specific requirements for the person to be appointed as "contact / process agent". We understand that formerly there were respective provisions in the laws on public procurement (Greek law n. 3316/2005) or public works (Presidential decree n. 609/1985), which have been abolished. In the abolished provisions, it was stated,	The laws referred to in the query do not apply to the Tender Process. As provided under clause 10.4(i) of the Invitation the process agent shall be the person appointed by the Interested Party whom the Fund (via its agents or advisors) can contact for the purposes of the Tender Process. It is noted that any notifications (written, oral or otherwise) made by the Fund to the process agent during the Tender Process are construed as having been made to the Interested Party. The Invitation does not require for the process agent appointed by the Interested Party to have a residence in Greece.

		inter alia, that process agent is the natural person residing in the area where the registered office of the Managing (awarding) Authority is located. Under these provisions, any notification of documents was duly made by the Managing Authority to the process agent instead of the preferred bidder. While the above provisions have been abolished, we would like to confirm what are the exact duties and power of “contact / process agent” and if residing in Greece would be required for this “contact / process agent”.	
7.	5.1	[...] παρακαλούμε για την παροχή διευκρινίσεων αναφορικά με τα εξής: α. Τη δυνατότητα υποβολής εκδήλωσης ενδιαφέροντος εκ μέρους φορέων του Ελληνικού Δημοσίου, δηλ. νομικών προσώπων δημοσίου δικαίου (ΝΠΔΔ) ή/και νομικών προσώπων ιδιωτικού δικαίου (ΝΠΙΔ) (όπως ή Εγνατία Οδός Α.Ε.) που περιλαμβάνονται στη Γενική Κυβέρνηση, οι οποίοι πληρούν τους όρους και προϋποθέσεις που τίθενται στην πρόσκληση. β. Τη δυνατότητα υποβολής εκδήλωσης ενδιαφέροντος εκ μέρους Ένωσης Προσώπων που αποτελείται από φορείς του Ελληνικού Δημοσίου που περιλαμβάνονται στη Γενική Κυβέρνηση & δευτεροβάθμιων ή/και πρωτοβάθμιων Οργανισμών Τοπικής Αυτοδιοίκησης, οι οποίοι πληρούν τους όρους και προϋποθέσεις που τίθενται στην πρόσκληση. γ. Τη δυνατότητα υποβολής εκδήλωσης ενδιαφέροντος	According to clause 5.1 of the Invitation, any natural person or legal entity as well as any Consortium meeting the terms and conditions set out in the Invitation are eligible to participate in the Tender Process and submit an Expression of Interest. Nevertheless we would like to draw your attention to the following: (i) Interested Parties are required (within the context of the Template Solemn Declaration included in Annex E of the Invitation) to state, among others, that they are “entitled to submit the Expression of Interest” and that “there are no corporate, competition-related or other legal restrictions which impede it from submitting the Expression of Interest”; (ii) Interested Parties should consider any potential conflicts of interests arising out of their participation in the Tender Process.

		εκ μέρους Ένωσης Προσώπων στην οποία συμμετέχουν δευτεροβάθμιοι ή/και πρωτοβάθμιοι Οργανισμοί Τοπικής Αυτοδιοίκησης, κατά το πρότυπο συμβάσεων παραχώρησης Ιταλικών αυτοκινητοδρόμων. δ. Τη δυνατότητα υποβολής εκδήλωσης ενδιαφέροντος εκ μέρους Ένωσης Προσώπων που συναποτελείται από ιδιωτικές επιχειρήσεις ή εταιρείες & φορείς του Ελληνικού Δημοσίου, οι οποίοι πληρούν τους όρους και προϋποθέσεις που τίθενται στην πρόσκληση.	
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