CLARIFICATIONS TO PARTICIPATION QUERIES NO.2 DATED 22/10/2026

Engineer/Supervision of the Design and Build Works Contracts for Section 3 – Paraćin–Trupale–Medjurovo within the framework of the Belgrade–Niš Railway Modernization Project

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Question No 122: **Application form – FORM 5 – 5.2 EXPERIENCES** **Contract Notice, section III.1.3)** As an introductory comment, the large number of requests for clarifications and the total number of questions posed (121) indicates a great interest of potential bidders, which is no surprise given the importance the project and the indicated value of supervision services. On the other hand, it indicates a sizable number of ambiguities related to qualification criteria given in the Contract Notice and the accompanied documentation. We may notice that a large number of questions and comments suggested that the selection criteria were too restrictive, individually and/or collectively (Questions No. 53, 58, 60, 119, 120, to name a few) reasoning that they are not proportional to the contract scope and value, not in line with guiding EU Directives, requirements for works contractor, etc. The Client has kindly taken time to meticulously address all of the received comments and questions, and repeated a number of times that the criteria are not as restrictive as bidders claim, that there is a plenty of maneuver space for (consortia primarily) meeting those criteria. However, (strangely enough, that wasn't mentioned in any of the questions) the Client never mentioned the additional restrictions that were not mentioned in the Contract Notice, but only as part of the Application Form (some not even in the body text, but in the footnotes). For example, the Form introduces additional restriction that "only the portion satisfactorily completed during the reference period will be taken into consideration"; if a candidate has implemented the project in a consortium "only the proportion carried out by the legal entity may be used as reference" (footnote 28)". This is far from never seen before in IFI-financed tenders, but we think that these should have been explicitly mentioned in the Contract Notice, or at least in the Clarifications document. To go a step further, the rationale / explanation / clarification given on several instances in the	**Answer No 122:** The Contracting Authority confirms that the Application Form forms part of the procurement documents published together with the Contract Notice and that its requirements apply. It is the standard application form used in procedures governed by the PRAG, to which Section V.2 of the Contract Notice refers, and it was available to all interested parties from the date of publication of the Contract Notice. These requirements have also been addressed in the clarifications already published, in particular in the answers to Questions No. 9 and No. 121. The Contracting Authority confirms that the number of references to be provided must not exceed fifteen (15) for the entire application, as stated in Form 5.2, that limit applying across criteria III.1.3 (a), (b) and (c). The statements in the clarifications already published to the effect that the number of reference contracts which may be submitted is not limited — in particular in the answers to Questions No. 18, No. 49, No. 53, No. 60, No. 62, No. 65, No. 119 and No. 120 — were made in that sense: the operative limit is not two, but fifteen. Criterion III.1.3(a) requires at least two reference contracts, which is a minimum and not a maximum, and further reference contracts may be submitted under that criterion within the overall limit of fifteen. The same reference contract may moreover be submitted under more than one criterion, as confirmed in the answer to Question No. 112. The limit of fifteen therefore leaves Candidates considerable latitude. As regards the two provisions referred to in the request, the statement in Form 5.2 that only the portion satisfactorily completed during the reference period will be taken into consideration corresponds to the general provision following criteria III.1.3 (a) to (c) of the Contract Notice. The column "Prop. car. out by legal entity (%)" and the corresponding footnote identify the share of the reference contract carried out by the legal entity concerned, by reference to which the minimum participation of forty per cent (40%) is verified.

document that "the number of reference contracts which may be submitted is not limited" directly contradicts with the instructions given within the first paragraph of the 5.2. section reading: "The number of references to be provided must not exceed 15 for the entire application". Please confirm whether the additional restrictions from the Application Form, Section 5.2. apply and is the number of references to be provided limited to 15.	For the avoidance of doubt, that requirement operates as a threshold which the Candidate must meet in respect of each reference contract relied upon, and not as a factor by which the length or the value of that reference contract is reduced. In all cases, the statements made in Form 5.2 in respect of each reference relied upon are to be substantiated by documentary evidence. The Contracting Authority does not prescribe the documents to be submitted for that purpose; any document supporting those statements will be taken into account and assessed. The above is a clarification of the procurement documents and does not amend the Contract Notice.
Question No 123: **CLARIFICATIONS TO THE TENDERERS QUERIES - 001-121-2-1** Obviously, there are many questions and requests pertaining to the requirement for design review and approval part of the services provided and contracts nominated for Section III.1.3 a). The Contracting Authority has considered the request and provided clarification as to how the requirement is applied – "*The requirement is assessed on the substance of the services actually performed under the reference contract, and not on the particular terminology used in that contract. Accordingly, a reference will be accepted where the scope of the Consultant's services included the review of the design documentation prepared by the Contractor and/or the Employer, together with participation in the decision on that documentation, irrespective of whether that function was described as approval, acceptance, consent, no-objection or recommendation for approval, and irrespective of whether the final act of approval was reserved to the Employer, to a competent authority or to the responsible designer*. *The candidates are invited to* ***describe, in respect of each reference relied upon, the design documentation reviewed and the function performed by the Consultant in relation to its approval, so that the reference may be assessed on that basis***". Would a narrative explanation, for example within the Section 5.2. of the Application Form, suffice or it needs to be somehow documented with some documentary evidence, such as project's ToR etc.?	**Answer No 123:** The description referred to in the answer to Question No. 45 is to be given in Form 5.2 of the Application Form, in the field provided for the type and scope of the services performed under each reference. A narrative description is required, but it is not sufficient on its own: under the general provision following criteria III.1.3 (a) to (c) of the Contract Notice, and under Form 5.2, references must be supported by certificates of completion, employer or client references, or other documentary evidence confirming satisfactory performance. The description given in Form 5.2 must therefore be capable of being verified against the documentary evidence submitted with the application. Please refer to the answers to Questions No. 9, No. 61 and No. 121. The Contracting Authority does not prescribe the form of that evidence and does not require the submission of the reference contract in full. A certificate or reference issued by the entity which awarded the contract, identifying the services performed and confirming that they included the review of the design documentation prepared by the Contractor and/or the Employer together with participation in the decision on that documentation, is sufficient for this purpose. Extracts from the terms of reference or from the conditions of the reference contract may also be submitted. Any document supporting the statements made in respect of a reference will be taken into account and assessed. The above is a clarification of the procurement documents and does not amend the Contract Notice.
Question No 124: **Eligibility of NoBo, DeBo and AsBo as JV/Consortium Members**	**Answer No 124:** The Contracting Authority confirms that no Notified Body, Designated Body or Assessment Body is

With reference to Answer No. 81, you stated that the requirements concerning the engagement of independent NoBo, DeBo and AsBo do not apply at the prequalification stage, that these bodies are not to be identified in the Application Form, and that their contractual status will be defined at the second stage of the procedure. In this regard, please clarify whether an applicant that has already included a NoBo, DeBo or AsBo as a member of its JV/Consortium would be disqualified at the prequalification stage, or whether such participation is permitted and does not affect the applicant's eligibility for shortlisting.	required to be identified at the prequalification stage, and that no application will be rejected by reason of not identifying one. Please refer to the answer to Question No. 81. Where a Candidate has nevertheless included such a body as a member of its JVCA, that body is treated in the same way as any other member of the JVCA. The same requirements apply to it, it completes and submits the same forms, declarations and supporting documents, and it is assessed as part of the Candidate in the same manner. Its participation does not affect the Candidate's eligibility for shortlisting. For the avoidance of doubt, the membership of such a body in a JVCA does not of itself determine whether that body may be engaged as the independent Notified Body, Designated Body or Assessment Body for the purposes of this Contract; that follows from the regimes under which such bodies are notified, designated or recognised, as stated in the answer to Question No. 83. The above is a clarification of the procurement documents and does not amend the Contract Notice.
Question No 125: **Technical Capacity and Accreditation Scope of Nominated NoBo, DeBo and AsBo** With reference to Answer No. 81, please clarify what happens if an applicant has already nominated or included a NoBo, DeBo or AsBo as a member of its JV/Consortium at the prequalification stage, but it is subsequently established during the second stage that the nominated body does not meet the required technical capacity, particularly regarding its official designation, notification, authorisation or scope of accreditation for the relevant railway subsystems and assessment activities. Would this result in the disqualification of the entire JV/Consortium, or would the applicant be permitted to replace the respective body with another suitably qualified entity without losing its prequalified status?	**Answer No 125:** The suitability of a Notified Body, Designated Body or Assessment Body is not assessed at the prequalification stage and forms no part of the basis on which Candidates are shortlisted. The circumstance that such a body, included in a JVCA, is subsequently found not to hold the notification, designation, authorisation or scope of accreditation required does not of itself result in the rejection of the JVCA or in the loss of its shortlisted status. Under Section III.1.3 of the Contract Notice, the evidence of the engagement of an independent Notified Body, Designated Body and Assessment Body is to be provided by the tenderer recommended for award, after notification of the award and before signature of the Contract. That obligation may be satisfied by engaging any body meeting the applicable requirements, which need not be a member of the JVCA. A Candidate in the situation described may therefore engage another suitably qualified body without any change to the composition of its JVCA. Please refer to the answers to Questions No. 2 and No. 61. The composition of the JVCA itself may not be changed between the deadline for the receipt of applications and the award of the Contract, except in the limited cases provided for in Section 2.5.5 of the PRAG, which applies under Section V.2 of the Contract Notice, and in each such case only with the

	prior written authorisation of the Contracting Authority, as required by the Application Form. Those cases are identified in the answer to Question No. 126. Please refer also to the answer to Question No. 29. The circumstance referred to in the request is not one of them. The above is a clarification of the procurement documents and does not amend the Contract Notice.
Question No 126: **Changes in JV/Consortium Composition Regarding NoBo, DeBo and AsBo** With reference to Answer No. 81, please confirm whether an applicant that has included a NoBo, DeBo or AsBo as a member of its JV/Consortium at the prequalification stage may replace or remove that member at the second stage of the procedure without losing its prequalified status. Please also clarify whether such replacement or removal requires prior approval from the Contracting Authority and whether it would trigger a reassessment of the JV/Consortium's qualifications.	**Answer No 126:** Please refer to the answer to Question No. 125. A member of a JVCA may not be replaced or removed at the second stage of the procedure by reason only of that member being, or not being, a Notified Body, Designated Body or Assessment Body. Under Section 2.5.5 of the PRAG, which applies under Section V.2 of the Contract Notice, a change in the composition of a consortium may be accepted only where a member is replaced by a new entity following a merger or takeover, or where a member is subject to exclusion, in which latter case that member may only be withdrawn and may not be replaced. Any such change requires the prior written authorisation of the Contracting Authority, as also stated in the Application Form and confirmed in the answer to Question No. 29. Where a change falls within one of those cases and authorisation is sought, the Contracting Authority will verify whether any new entity is eligible and not in an exclusion situation, whether the selection criteria on the basis of which the Candidate was shortlisted continue to be fulfilled, and whether the change does not entail a substantial change to the request to participate as originally submitted. The above is a clarification of the procurement documents and does not amend the Contract Notice.
Question No 127: **Request for Clarification – Letter of Intent for an Unincorporated Joint Venture** With reference to Answer No. 29 of the document “CLARIFICATIONS TO PARTICIPATION QUERIES NO. 1 DATED 12/10/2026” and to Points 6 and 7 of Form 1.1, we understand that the JVCA Agreement or the Declaration of Intention to Form a Joint Venture/Consortium should indicate, inter alia: – the proposed financial commitment of each member, expressed as a percentage of the Contract; and	**Answer No 127:** The Contracting Authority confirms that an Applicant may participate as a joint venture or consortium which is not a separate legal entity. The Application Form expressly contemplates a grouping set up informally for a specific tender procedure, and no separate legal entity is required at the prequalification stage. The proposed financial commitment of each member, expressed as a percentage of the Contract, refers to the share of the Contract which each member proposes to assume, and not to any contribution to the share capital of a separate legal entity. That requirement therefore applies, and is satisfied by stating the proposed percentage

– the agreed or proposed principles concerning capital contribution and profit/loss participation, as applicable. In this respect, we intend to participate in the procurement procedure as an unincorporated joint venture, which will not constitute a separate legal entity and will not have its own share capital. The members will remain jointly and severally liable towards the Contracting Authority, while their respective participation percentages and allocation of responsibilities will be specified in the Letter of Intent. Considering the above, please confirm that the requirements to indicate: – the proposed financial commitment of each member, expressed as a percentage of the Contract; and – the agreed or proposed principles concerning capital contribution and profit/loss participation are not applicable to an unincorporated joint venture.	participation of each member in the JVCA Agreement or Declaration of Intention to Form a Joint Venture/Consortium, consistently with Point 7 of Form 1.1. The agreed or proposed principles concerning capital contribution and profit/loss participation are required, as stated in the answer to Question No. 29, “as applicable”. Where the joint venture has no share capital, there is nothing to be stated in respect of capital contribution; the principles concerning profit and loss participation are to be stated where such principles have been agreed or proposed. The remaining matters set out in the answer to Question No. 29 apply without change. The above is a clarification of the procurement documents and does not amend the Contract Notice.

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