



28th April 2020

REFERENCE NUMBER: GCOL T 4/2020 (MPU)

**TENDER FOR THE PROVISION OF PORT SECURITY AND SAFETY ASSESSMENT SERVICES
FROM A RECOGNISED SECURITY ORGANISATION TO GOZO CHANNEL OPERATIONS LTD**

Clarification No. 1

Clarification Request

Question 1: In Section 3 Terms of Reference, Article 2.2 indicates the specific objectives of this contract, all of which are related to security, specifically compliance with the ISPS Code. However, Article 4.2 Specific Activities refers in one of the bullets to advising and monitoring terminal safety aspects while Article 4.2.2 refers to Port Security and Safety Risk Assessment/Plans. Are the services required under this contract solely related to security issues or are safety issues among the deliverables?

Answer 1: **The services required for this tender relate to security and safety issues, and any other related services which complement security and safety issues, such as health, within the Contracting Authority terminals and surrounding areas among other deliverables.**

Question 2: In the title of the tender, Section 2 Article 6 and Section Article 2.1 specific reference is made to the requirement that any tenderer must be a Recognised Security Organisation in accordance with the provisions of Articles 4, 6, 26 and others of SL 499.35. Given that such an RSO has already been audited and found competent by the Designated Authority, in this Case Transport Malta, in order to be awarded such certification, why does the tender in Section 3 Article 6.1.1 mandate additional qualifications for the personnel involved in the fulfilment of this contract? What relevance to the requested additional qualifications have to the fulfilment of the contract? Why is the RSO certification from TM not being considered sufficient?

Answer 2: **The bidder's organisation must be a Recognized Security Organisation by Transport Malta within the Maritime Section. Moreover, with respect to the key experts, the Project Manager must possess the requested certification as requested in the tender document.**

Question 3: In Section 3, Article 6.1.1 it is requested that one of the contractor's experts be a qualified Port Facility Security Officer. Is the provision of a PFSO for the

customer's port facility by the contractor a deliverable for this contract? If so, why is the training of an in-house PFSO and A/PFSO also included? If not, why is this qualification required from one of the contractor's experts?

Answer 3: Yes, the provision of a PFSO (as indicated within the tender document) to be present at the Contracting Authority port facilities, on the part of the Contractor, is a deliverable for this contract. The PFSO must have successfully undertaken a course organized by a recognized organisation (which may be the bidder's organization, if it is a Recognized Security Organisation by Transport Malta in the Maritime Section).

Question 4: In Section 3, Article 4.2.2 it states that the Port Facility Security Assessment shall be periodically updated according to the requirements. In the absence of major changes to the external threats or the port infrastructure itself, such updating is only mandatory every 5 years as per SL 499.35 Article 32(4), while however, the operative period of the contract envisaged under this tender process is only 2 years. Does GCOL have an internal policy regarding routine update frequency and if so, what does this state?

Answer 4: All plans and assessments will need to be reviewed and updated yearly and any amendments exceeding the amount specify outlined in the ISPS Code and L.N. 499.35 (10 amendments per year) will result on the update and re-submission of plans and assessments.

Question 5: In Section 3 Article 3.2 Risks it states that 'Gozo Channel (Operations) Ltd. reserves the right to alter the service/s being requested by giving one day notice to the Contractor without bearing any expenses/charges/fees for reduction or increase.' In effect this clause permits GCOL to effectively cancel the contract by reducing the services to zero with a single day's notice. It also requires the contractor to have unlimited additional capacity on 1-day standby to meet any extraordinary increase in the services requested. We would appreciate if you could kindly give more details about this clause!

Answer 5: During the course of the contract, risks might change due to force majeure or unforeseen changes to the Contracting Authorities operational exigencies. This clause does not mean that the contract may be cancelled. Termination of Contract is quoted under Article 34 of Section 2 of tender document.

Question 6: In Section 3 Article 3.2 Risks it states that 'Any risks are to be borne solely by the Contractor. The Contractor shall assume all and full responsibility for any damages, whether with respect to private or public liability, arising as a consequence, whether directly or indirectly, to the performance of this agreement. For this purpose, the Contractor shall keep Gozo Channel (Operations) Ltd. indemnified for all costs and expenses incurred by it in action or acts of whatsoever nature taken against it in this respect.' If the consequence has not arisen due to a failure on the part of the contractor, why is the contractor required to indemnify GCOL? In the cases of failure by the Contractor such indemnification is understandable but consequences could

also arise due to failures on the part of GCOL as well as third parties. Kindly give more detail.

Answer 6: This clause is specifying that if a failure/damages etc, can be attributed to the shortcomings and/or negligence on the part of the Contractor and/or his employees, then that responsibility will be borne solely by the Contractor. One is to take into consideration that the Contracting Authority forms part of the national infrastructure, and therefore, the Contractor will need to be highly competent and knowledgeable about the functions and working operation of port facilities.

All other tender documents, conditions and requirements, which are not superseded by this Clarification, remain in place.