



[25/09/2026]

[CT2274/2026 - Services - Tender for the Implementation of a Fully Compliant European Digital Identity Wallet (EUDIW), Supporting Trust Ecosystem and use cases for the Malta Digital Innovation Authority (MDIA)]

Clarification Note # [28]

To all prospective bidders

Reference is made to the above-captioned tender for which the deadline for submission of offers is **[05/11/2026]** at **[09:30am]**.

Please find a set of clarifications which are construed to form an integral part of the tender document.

Question No. [01]: *Tender Document, Section 4 Supplementary Documentation - Specimen Performance Guarantee*

Is it possible to obtain the Specimen Performance Guarantee before the submission of the tender offer?

Answer No. [01]: Specimen of the Performance Guarantee can be accessed from the Resources section of the eTenders portal after logging in with your account (bottom part of the webpage).

Question No. [02]: *Tender Document, Art. 7.12*

Regarding Art. 7.12 Tender Document: In case of a joint tender, submitted by two equal partners or by a prime contractor and a subcontractor, can the payment of the guarantee be divided between the two?

Answer No. [02]: Where a tender is submitted by a contractor relying on a subcontractor, the Performance Guarantee shall be provided on behalf of the Contractor. In the case of a consortium/joint venture, the Performance Guarantee may be provided by one member or through separate guarantees issued on behalf of the members, provided that the aggregate guaranteed amount equals the full Performance Guarantee required under Article 7.12 and that each guarantee fully complies with the prescribed specimen wording and applicable condition.

Question No. [03]: *Tender Document, Art. 12*

Regarding Art. 12 of the Tender Document: is it correct to assume that MDIA will determine in its T&C applicable to the users that MDIA (and implicitly its contractors) will not be liable for any direct or indirect losses suffered by the users as a consequence of factors that are not within the sphere of control of either the Contractor or MDIA (e.g. power outages)?

Answer No. [03]: The tender document does not regulate the terms and conditions that may apply between the Contracting Authority and end users of the Solution. Any end-user terms, if applicable, shall be determined by the Contracting Authority at the appropriate stage.

Question No. [04]: *General request for Clarification*

Will the contractor, and in particular its legal specialist, be involved in determining the T&C applicable to the users which may potentially affect the contractor and its subcontractors?

Answer No. [04]: The Contracting Authority may seek input from the Awarded Bidder, including the Legal Specialist, on legal, regulatory, technical and operational matters relating to the Solution. However, the authority over any terms and conditions that may be established between the Contracting Authority and end users remain the responsibility of the Contracting Authority.

Question No. [05]: *Tender Document, Art. 40.1*

Regarding Art. 40.1 of the Tender Document: does the requirement to comply with local employment regulations apply only to those employees of the Contractor/subcontractors that would potentially work from Malta? Does this obligation extend to a tenderer or subcontractor that does not send any employees to Malta?

Answer No. [05]: Article 40.1 shall apply in accordance with its wording. The Contractor is required to comply with the Employment and Industrial Relations Act (Cap. 452), its subsidiary legislation and other applicable Maltese legislation, insofar as these are applicable to the Contractor's particular operating situation and nature of activities. Accordingly, the applicability of specific Maltese employment requirements will depend on the activities being performed and the circumstances in which the personnel concerned are engaged.

Question No. [06]: *Tender Document, Art. 44.6*

Regarding Art. 44.6 of the Tender Document: what happens if the Contractor does not agree with the assessment of the Contracting Authority regarding the deficiencies and wishes to contest it? Is there a mechanism in place to dispute it? Is there a list defining what constitutes a severe error, etc., and would the late delivery fees be suspended during the procedure?

Answer No. [06]: Any disagreement concerning the Contracting Authority's assessment may be dealt with in accordance with Article 38 – Settlement of Disputes of the General Conditions which can be accessed from the resource section of the etenders portal. The initiation of the dispute-settlement procedure does not, in itself, suspend the operation of the contractual provisions, including any otherwise applicable penalties. Kindly refer to Article 32 of the General Conditions – Breach of Contract.

Question No. [07]: *Tender Document, Art. 44.6*

Regarding Art. 44.6 of the Tender Document: during the 7-day period which the Contractor has to remedy the deficiencies, do the penalties for late delivery under Art. 19 accrue?

Answer No. [07]: The seven (7) calendar-day period provided under Article 44.6 for the correction of deficiencies does not, solely by reason of the first rejection of a Deliverable, trigger the penalty mechanism provided under Article 44.6. Under Article 44.6, the Contracting Authority may impose penalties in accordance with Article 19.2 where the Deliverable continues to fail the agreed functional requirements following its second resubmission. This is without prejudice to any penalties that may independently become applicable under Article 19.2 as a result of failure to meet a contractual milestone or other applicable deadline.

Question No. [08]: *Tender Document, Section 3, Art. 3.2*

In relation to Section 3, Art. 3.2 of the Tender Document: is our assumption correct that if the Contractor misses a milestone or delivers a Deliverable that is not satisfactory because important information was either not made available to it or was not available at all, the penalties and any other potential charges will not apply in these cases?

Answer No. [08]: The assumption is incorrect. Section 3, Clause 3.2 identifies the project risks that stakeholders may not be prompt in providing responses and/or information, that not all information may be available or easily accessible, and that certain host systems or interfacing platforms may not yet be in place. Economic Operators are therefore expected to take these foreseeable project risks into consideration in planning and executing the Contract.

Accordingly, penalties shall not automatically be waived merely because information is unavailable or delayed. Each case shall be assessed on its circumstances and in accordance with the contractual provisions.

Question No. [09]: *GDPR Questionnaire – Eligibility*

Regarding the GDPR Questionnaire - Eligibility: can we assume that if a non-EEA country is on the list accessible through the link provided in the GDPR form, the Data Controller does not need to request prior written approval to transfer Personal Data to that country?

Answer No. [09]: The Economic Operator is advised to refer to the relevant provisions of the Regulation (EU) 2016/679 (General Data Protection Regulation) and any other applicable legislation.

Question No. [10]: *Data Protection Services Agreement, Art. 3.13*

Regarding the Data Protection Services Agreement, Art. 3.13: what are the relevant documents and declarations that must be submitted? When do they need to be submitted?

Answer No. [10]: As per Section 3.13 of the DATA PROCESSING SERVICES AGREEMENT, “The Data Processor shall not transfer Personal Data outside the EEA unless the prior written approval of the Data Controller is obtained.” If prior written approval is provided, relevant documents and declarations shall consist in any relevant evidence demonstrating the ability of the Data Processor to process personal data in conformity with data protection legislation as defined in the Data Processing Services Agreement, including whether “(i) the processor exporting the data has himself provided for “appropriate safeguards” (particularly through the endorsement of the standard contractual clauses as published by the European Commission); and (ii) on the condition that enforceable data subject rights and effective legal remedies are available in the given country”, where applicable. Relevant documents, declarations and evidence shall be submitted when prior written approval of the Data Controller is requested pursuant to Section 3.13, however, where necessary, such documents, declarations and evidence may be submitted after measures are put in place, as agreed with the Data Controller.

Question No. [11]: *Tender Document, page 79, 4.2.3.10.5*

The section on page 79 states that "In Malta, a Registrar shall be appointed to set up the RP registers. [...] These registers are governed by the Data Governance Council, [...]. The Public Administration Data Strategy 2023–2027 positions data as a national asset and outlines a framework for its ethical use, sharing, and reuse. It promotes the creation and adoption of a unified national data infrastructure."

Can you clarify which parts of the registers are being built as part of the national infrastructure and which parts fall within the scope of this tender?

Answer No. [11]: The referenced text is intended to provide background regarding Malta's data governance framework. The RP Registrar component to be delivered under this procurement remains within the scope of the Solution as described in the tender documentation in Section 3, Clause 4.2.3.4.3. Bidders should prepare their offers on the basis of the requirements explicitly set out in the tender documentation for the “Implementation and roll out of a Maltese European Digital Identity Wallet ecosystem that complies with the [EUDI Regulation] and all applicable Implementing Acts” as summarised in Section 3, Clause 2.1.

Question No. [12]: *Tender Document, 4.2.1.1*

Will MDIA provide and own the developer accounts for Google Play and the Apple App Store?

Answer No. [12]: Whether the developer accounts will be provided directly by the CA, by another public entity for the CA or by a different public body will be determined after the awarding of the contract. The awarded bidder is not expected to provide and own the developer accounts.

Question No. [13]: *Tender Document, Requirement 2.4 c*

The Malta eID service provides LoA High authentication in combination with the eID card. Regarding requirement 2.4.c, could you clarify whether “ensuring that a new PID can only end up on the device used by the subject of the PID” refers solely to identity verification or whether additional device-level controls, such as device binding or local user authentication, are expected?

Answer No. [13]: The requirement extends beyond identity verification. The intent is that the PID issuance process incorporates appropriate technical controls to ensure that a PID can only be issued to, and subsequently used on, the Wallet Unit associated with the authenticated subject. As described in the Terms of Reference, including but not limited to Section 3, Clause 4.2.2 and its sub clauses. These include, amongst others, the validation of the Wallet Unit, secure binding of the PID to the Wallet Unit through the PID public key, and mechanisms ensuring that the issued PID can only be delivered to the device used by the subject during the issuance process. The proposed solution must demonstrate compliance with the security, privacy and binding requirements set out in the tender documentation and be compliant with the [EUDI Regulation] and relevant implementing acts.

Question No. [14]: *Tender Document - sections 7.12 and 7.15*

Regarding the Performance Guarantee, is our assumption correct that it is sufficient if a foreign bank/financial institution provides a direct guarantee?

Answer No. [14]: The Performance Guarantee may be issued by an authorised bank established outside Malta, provided that it is issued in the prescribed Performance Guarantee format and complies fully with the wording and requirements of the specimen.

Question No. [15]: *Tender Document - sections 7.12 and 7.15*

Regarding the Performance Guarantee, what must the exact expiry date be?

Answer No. [15]: The Performance Guarantee must remain valid for as long as the relevant guaranteed obligations remain outstanding and shall be maintained throughout the execution of

the contract in accordance with Articles 7.12 and 7.15. Where the guarantee contains an expiry date, the Contractor shall ensure that it is extended in sufficient time whenever required.

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

Department of Contracts