Tender No. PS/SRV/TEN/010/2026 – Study on the Availability, Quality and EU Compliance of TEN-T Rest Areas, Safe and Secure Truck Parking Areas in the Western Balkans

Clarification no. 3

No.	Clarification request	Contracting authority's answer
1.	**Audit rights under Article II.28 of the Draft Service Contract** With reference to Article II.28, could you please confirm that, in relation to checks and audits carried out by the Contracting Authority, the Regional Steering Committee or an outside body authorised by them: • the scope of any audit will be limited to documentation and information directly related to performance of the Contract; • the audit will not require access to information concerning the Contractor's other clients or engagements, proprietary methodologies, or other information unrelated to the Contract;	**1. Scope of checks and audits** **Checks and audits shall concern the performance of the Contract and the relevant contractual, financial and supporting documentation necessary to verify compliance with the Contractor's contractual obligations. The Contractor shall provide access to the information required for this purpose in accordance with Article II.28.** **2. Confidential and unrelated information** **The audit provisions do not require the disclosure of information concerning the Contractor's other clients or engagements, or proprietary methodologies, insofar as such information is unrelated to the performance of the Contract and is not necessary for the purposes of the relevant checks or audits. Audits shall be**

	• the Contractor will receive reasonable prior notice of the audit and its proposed scope and timing, with the practical arrangements agreed with the Contractor in advance; and • the audit will be conducted subject to applicable confidentiality, data protection and legal professional privilege requirements. Could you also please clarify whether the five-year period referred to in Article II.28 is a mandatory requirement arising from the applicable legal or regulatory framework, or whether a shorter audit and document-retention period may be agreed with the successful tenderer?	**carried out on a confidential basis, as stipulated in Article II.28.1, and in accordance with applicable confidentiality and data protection requirements.** **3. Prior notice and practical arrangements** **In accordance with Article II.28.1, the audit procedure is initiated upon receipt of the relevant letter sent by the Contracting Authority. The practical arrangements for an audit shall take account of the nature and scope of the checks required and the applicable contractual provisions. However, the requirement to provide prior notice shall not be interpreted as restricting the audit rights expressly provided for under the Contract or applicable legal and regulatory requirements.** **4. Confidentiality, data protection and legal professional privilege** **Checks and audits shall be conducted in accordance with the applicable confidentiality and data protection requirements. Any applicable legal professional privilege shall be respected in accordance with the relevant legal framework.** **5. Five-year audit and document-retention period** **The five-year periods stipulated in Articles II.28.1 and II.28.2 of the Draft Service Contract shall apply. Accordingly, checks and audits may be initiated during the performance of the Contract and up to**

		five years following payment of the balance, and the Contractor shall retain the original documents for five years from the payment of the balance. **These periods form part of the Contracting Authority's applicable contractual and audit framework and are not subject to reduction through agreement with the successful tenderer. The relevant provisions shall therefore remain unchanged.**
2.	**Documentation for an external Key Expert engaged as a subcontractor** We understand that a Key Expert may be an external natural person engaged by the tenderer as a subcontractor. Where such Key Expert's individual share of the contract is below 20% and the tenderer does not rely on the Key Expert's capacity to meet the tenderer-level selection criteria, our understanding is that the Key Expert would not constitute an "Identified Subcontractor" for the purposes of the tender documentation. Could you please confirm that, in such circumstances:	**Under Section III.1.3(a) of the Instructions to Tenderers, a subcontractor is considered an Identified Subcontractor where either (i) the tenderer relies on its capacities to fulfil the selection criteria, or (ii) its individual share of the contract, known at the time of submission, exceeds 20%** **Accordingly, where a natural person engaged as an external Key Expert has an individual share of the contract below 20% and the tenderer does not rely on that person's capacities to fulfil the selection criteria, that person does not qualify as an Identified Subcontractor under the above provision.** **Nevertheless, the tenderer remains required to disclose the proposed subcontracting arrangement and indicate the proportion of the contract intended to be subcontracted, in accordance with**

	• the Key Expert's CV, including the information and project experience required to demonstrate compliance with the applicable Key Expert requirements, should be included in the Technical Offer; and • Annex 2 (List of Identified Subcontractors), Annex 3 (Commitment Letter by an Identified Subcontractor) and Annex 8 (Tenderer Identification Form) are not required for this Key Expert. Could you also please confirm whether Annex 1 (Declaration on Honour) is required from such a natural-person Key Expert/subcontractor whose individual share is below 20% and whose capacity is not relied upon for the tenderer-level selection criteria?	**Section III.1.3(a). The expert's CV and relevant professional experience must also be submitted as part of the Technical Offer, in accordance with the requirements for Key Experts.** **In these circumstances, Annex 3 (Commitment Letter by an Identified Subcontractor) is not required for that expert. The applicability of Annexes 1 and 8 is governed by the specific instructions relating to those forms and the applicable exclusion and tender-identification requirements.**