

Determina a contrarre n. 1 del 02/09/2024

Struttura richiedente

GEIE - Gruppo Economico Corridoio Merci Mediterraneo, C.F. e P.IVA 09600641006, con sede legale in via Ernesto Breda, 28 C.A.P. 20126 Milano

01. Natura dell'appalto

Servizio Legale

02. Oggetto e caratteristiche dell'incarico

La GA del GEIE, attraverso una written procedure avviata dal Presidente Manuel Besteiro Galindo in data 19/06/2024, ha approvato la sottoscrizione del contratto di distacco proposto dallo stesso Presidente in occasione della riunione della GA del mese di Giugno 2024.

Detto contratto (allegato alla presente), riguarda il distacco dell'ing. Josè Antonio Grau (impiegato tecnico di ADIF), per la copertura del ruolo di PM del GEIE MED RFC.

Adif ha espressamente richiesto una analisi del contratto anzidetto, ed una eventuale ottimizzazione dello stesso, da parte di uno studio legale italiano, operante nel Diritto del Lavoro.

03. Numero di lotti

Ai sensi dell'art. 51 D.lgs. 50/2016 e smi, il servizio in oggetto è costituito da un unico lotto.

04. Progetto

Per memoria

05. Motivazioni dell'affidamento

Vedi punto 2 precedente.

06. Procedura e criterio di aggiudicazione proposti

Tenuto conto della natura e della entità dell'incarico e di quant'altro sopra riportato, si propone di avviare una procedura di affidamento diretto nei confronti dello Studio Legale Regina & Associati, già da tempo inserito nell'Albo dei consulenti di fiducia del Gruppo Ferrovie dello Stato (vedi allegato), specialista in materia di diritto del lavoro:

Ragione Sociale/Nome Ditta STUDIO ASSOCIATO REGINA-MARTINO-DI TOMA
Codice Fiscale 03508930710
Partita IVA 03508930710 Partita IVA CEE
Nazione Italia
Indirizzo CORSO GIUSEPPE GARIBALDI 107
Comune FOGGIA CAP 71121
E-mail reginaeassociati@libero.it

07. Luogo di esecuzione della prestazione

Sede dell'affidatario.

10. Durata contratto e termine di esecuzione della prestazione

La durata del contratto è fissata in 20 giorni a decorrere dalla accettazione della offerta ricevuta via email (vedi allegato).

11. Importo dell'appalto (al netto dell'IVA)

Il corrispettivo pattuito è di € 800,00, oltre oneri ed IVA, che si ritiene congruo per un impegno stimato in circa 5 ore di avvocato senior.

Rilevata la natura intellettuale delle prestazioni, l'importo degli oneri per la sicurezza da interferenze è pari a € 0,00. Pertanto, non sussiste la necessità di predisporre un Documento di Valutazione dei Rischi.

12. Contabilizzazione

La contabilizzazione delle prestazioni eseguite avverrà come di seguito indicato: unico pagamento alla fine della consulenza.

13. Eventuali voci che saranno oggetto di giustificazione da parte dell'OE nel caso di verifica di congruità dell'offerta

Per memoria

14. Polizza assicurativa

Lo Studio Legale dichiara di essere in possesso di adeguata polizza professionale.

Inoltre, è inserito nell'Albo di Fiducia di FS Italiane.

15. Risorse Finanziarie e conferma della copertura finanziaria

Le risorse finanziarie sono state previste nel Budget 2024 del GEIE

Copertura finanziaria: SI

16. CUP

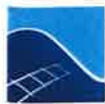
I49D13000390002

17. Le attività saranno sottoposte al regime di Assicurazione Qualità?

NO

18. Riferimento e gestore del contratto

Ing.Raffaele Zurlo



**MEDITERRANEAN
RAIL FREIGHT CORRIDOR**
Spain France Italy Slovenia Croatia Hungary

Mediterranean RFC
Phone: + 39 02 36642430
E-mail : info@medrfe.eu
Pec: geied@legalmail.com

19. Allegati

Si allegano a supporto i seguenti documenti

- Allegato n 1. Offerta via e-mail 26/08/2024
- Allegato n 2. Iscrizione all'albo di FS – Anagrafica fornitore
- Allegato n 3. Written agreement draft _ADIF-EEIG MEDRFC
- Allegato n 4. Written procedure iniziata in data 19/06/2024

**GEIE Corridoio Ferroviario Merci
Mediterraneo**

Raffaele Zurlo
Managing Director

2.9.2024

Allegato n 1

FW: MED RFC - Proposta di distacco da ADIF

Raffaele Zurlo <r.zurlo@medrfc.eu>

Lun 02/09/2024 15:39

A:Pamela Chiarappa <p.chiarappa@medrfc.eu>

----- Messaggio originale -----

Da: reginaeassociati@libero.it

Data: 26/08/24 17:25 (GMT+01:00)

A: Raffaele Zurlo <r.zurlo@medrfc.eu>

Oggetto: Re: MED RFC - Proposta di distacco da ADIF

Egr. Ing. Zurlo,

riscontro la Sua in oggetto e, ringraziandoLa sin d'ora per la fiducia accordatami, Le indico il preventivo richiesto nella misura di € 800,00 oltre oneri.

Cordiali saluti.

Pasquale Regina

Il 24/06/2024 09:15 CEST Raffaele Zurlo <r.zurlo@medrfc.eu> ha scritto:

Egr. Avvocato Regina,

facendo seguito ai contatti intercorsi, allego alla presente la bozza del contratto di distacco proposta dal partner ADIF (Spagna) per regolare il distacco dell'ing. Josè Antonio Grau Gregorio, impiegato della stessa ADIF, presso il GEIE Corridoio Merci Mediterraneo, affinché possiate verificarne la legittimità e suggerire eventuali ottimizzazioni.

Allego altresì lo statuto ed il regolamento interno del GEIE. Ulteriori informazioni a riguardo di quest'ultimo sono disponibili sul nostro sito web. Non esitate, comunque, a contattarmi per qualsiasi ulteriore chiarimento/informazione.

In attesa di ricevere Vostro preventivo di spesa, porgo cordiali saluti

Raffaele Zurlo

Raffaele Zurlo

Managing Director

Mediterranean Rail Freight Corridor

Via Ernesto Breda, 28, 20126 Milano



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Landline +39 02 36642431

r.zurlo@medrhc.eu

www.medrhc.eu

Anagrafica Fornitore

Dati Anagrafici

Ragione Sociale/Nome Ditta Individuale REGINA-MARTINO-DI TOMA
Prosiegua Ragione Sociale/Nome Ditta Individuale STUDIO ASSOCIATO
Codice SAP 6100003369
E-mail reginaeassociati@libero.it
Codice Fiscale 03508930710
Partita IVA 03508930710
Partita IVA CEE
Nazione Italia
Indirizzo CORSO GIUSEPPE GARIBALDI N° Civico
107
Comune FOGGIA CAP 71121

IBAN: IT 06 I 02208 15703 000400312429

AGREEMENT FOR PROVISION OF SERVICES

Between:

The Mediterranean Rail Freight Corridor with Headquarters in Ernesto Breda 28, 20126 Milano, Italy, represented by _____ hereafter referred to as "Med RFC" and **Administrador de Infraestructuras Ferroviarias**, with Headquarters in Madrid at Sor Ángela de la Cruz Street, 3 28020 Spain, represented by _____, hereafter referred to as "Adif" recognised for its technical qualifications and expertise within the scope of this agreement, the following is agreed:

Article 1 - Purpose of the agreement.

The purpose of this agreement is to specify the obligations of Med RFC and ADIF in the framework of the provision of services of the Adif employee Jose Antonio Grau Gregorio in the Med RFC Permanent Management Office (PMO).

This is not a contract of employment. *Notwithstanding this agreement, Jose Antonio Grau Gregorio keeps his contractual relation with Adif, as its employee.*

Article 2 - Beginning, duration and end of the agreement.

This agreement shall be taken place from *the 1st of August of 2024* until *the 30th of July of 2027*, for a duration of *3* years.

Extensions shall be formalized by an amendment. The extension agreement must be concluded no later than 3 months before the end of the agreement period.

Article 3 - Scope of the agreement for provision of services.

Adif undertakes to second Mr. Jose Antonio Grau Gregorio to the EEIG in the role of Project Manager of the European Economic Interest Grouping (EEIG). *Eventual shift in his formal role within the EEIG, could be possible under the present agreement, needing, if the case, only the EEIG's General Assembly approval. In any case his activities and tasks are those provided for by the Statute and the internal regulations of the EEIG. He will develop those,* under the authority of the EEIG Managing Director.

Article 4 - Fees

In return for provision of the services, Med RFC shall undertake to pay Adif an all-inclusive fee in the form of an overall flat rate sum of *67.000 EURO excl. Tax*. This amount is to be considered as final payment per year.

Article 5 — Place of execution of the service.

Mr. Jose Antonio Grau Gregorio shall perform his duties at the premises of the EEIG in Milan and tele-working in accordance with the applicable procedures of the EEIG on the subject.

Article 6 — Travel expenses.

Med RFC shall bear the cost of the travel expenses of Jose Antonio Grau Gregorio (transport, accommodation, etc.), *only when trips are planned by the EEIG Managing Director and connected with EEIG specific activities requested to be organized out of its Headquarters at Milano.*

Article 7 — End of the agreement and amendments.

Either of the two parties may request termination of this Agreement with one month's formal notice.

In case of force majeure, Adif *and the EEIG* reserve the right to terminate this agreement without notice.

Article 8 — Legislation applicable and Disputes.

This agreement shall be governed by the laws in force in Italy. In case of any dispute arising from the application of this agreement, the competent court will be the Court of Milan.

For ADIF

For the EEIG

Mr. Istvan Pakozdi
Deputy Director

Date:

Mr. Ángel Contreras Marín
Presidente de ADIF

Date:

Mr. Raffaele Zurlo
Managing Director

Date:

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FW: Voting Procedure on "Med RFC EEIG - ADIF AGREEMENT FOR PROVISION OF SERVICES"

Raffaele Zurlo <r.zurlo@medrfc.eu>

Lun 02/09/2024 15:44

A:Pamela Chiarappa <p.chiarappa@medrfc.eu>

Avvio procedura da parte di Besteiro.

(Da allegare alla determina che ti mando con altra mail)

----- Messaggio originale -----

Da: Manuel Besteiro Galindo <mbesteiro@adif.es>

Data: 06/08/24 19:00 (GMT+01:00)

A: Klobučar Franc <franc.klobucar@slo-zeleznice.si>, Varga Dóra <varga.dora@vpe.hu>, "Friedrich Diána dr." <friedrich-kiss.diana@mav.hu>, Czako Lőrinc <czako.lorinc@mav.hu>, Ivana Zanki <ivana.zanki@hzinfra.hr>, GALLUZZI ANDREA <AN.GALLUZZI@rfi.it>, "HAMONIAU Claire (SNCF RESEAU / SIEGE SNCF RESEAU / DG C&S DIR EUROPE)" <claire.hamoniau@reseau.sncf.fr>, ppapaghiannakis@lfpperthus.com

Cc: Raffaele Zurlo <r.zurlo@medrfc.eu>, Istvan Pakozdi <i.pakozdi@medrfc.eu>, Nikolina Ostrman <nikolina.ostrman@hzinfra.hr>, MARIA ALVAREZ CUADRADO <malvarezcuadrado@adif.es>, Rotar Jošt <jost.rotar@slo-zeleznice.si>

Oggetto: RE: Voting Procedure on "Med RFC EEIG - ADIF AGREEMENT FOR PROVISION OF SERVICES"

Dear All,

Once SŽI has come with its position last Friday, all the Members have proceed on this voting procedure, but reaching a result is not possible yet.

VPE and MÁV opinion, expressed last 29th of July, is supporting ADIF proposal but conditioned to a discussion about its mid/long term impact on EEIG financial commitment, in the background.

Exchange of messages by e-mail were focussed apparently in the future of the Project Manager position within the PMO, entering in a not concluding point. At that sight I got in touch with RFI, VPE and MÁV, calling them for a conversation this morning, in order to get, respectively, a better understanding of up to now reactions and expectations.

The aim is to clear up the result of the voting procedure in the side of VPE and MÁV, and of course to start preliminary conversations, needed to face the issue of EEIG financial commitment ahead, in line with what VPE and MÁV demanding (actually shared by others).

As an out come of this morning conversation, RFI is going to come to all of us with a proposal of actions to take care of EEIG financial scenario, that surely will be taken for formal discussion in the scope of the GA in the opportune moment. Then, let's go to see what VPE and MÁV would clarify about the ongoing Voting Procedure "Med RFC EEIG - ADIF AGREEMENT FOR PROVISION OF SERVICES".

Because of this context, if any body has objection, I would extend the 6th of August deadline until VPE and MÁV will come to us, latest the 6th of September.

Thanks to all.

Kind regards.

Manuel Besteiro Galindo

General Assembly President

Mediterranean Rail Freight Corridor



From: Klobučar Franc <franc.klobucar@slo-zeleznice.si>

Sent: Friday, August 2, 2024 2:44 PM

To: Manuel Besteiro Galindo <mbesteiro@adif.es>; Varga Dóra <varga.dora@vpe.hu>; Friedrich Diána dr. <friedrich.diana@mav.hu>; Czakó Lőrinc <czako.lorinc@mav.hu>; Ivana Zanki <Ivana.Zanki@hzinfra.hr> <ivana.zanki@hzinfra.hr>; GALLUZZI ANDREA <AN.GALLUZZI@rfi.it>; HAMONIAU Claire (SNCF RESEAU / SIEGE SNCF RESEAU / DG C&S DIR EUROPE) <claire.hamoniau@reseau.sncf.fr>; ppapaghiannakis@lfpperthus.com

Cc: Raffaele Zurlo <r.zurlo@medrfc.eu>; Istvan Pakozdi <i.pakozdi@medrfc.eu>; Nikolina.osterman@hzinfra.hr; Maria Alvarez Cuadrado <malvarezcuadrado@adif.es>; Rotar Jošt <jost.rotar@slo-zeleznice.si>

Subject: RE: Voting Procedure on "Med RFC EEIG - ADIF AGREEMENT FOR PROVISION OF SERVICES"

Dear Manuel dear All,

On behalf of SŽ Infrastruktura, I approve the "Med RFC EEIG - ADIF AGREEMENT FOR PROVISION OF SERVICES", considering also complementary actions, as is the point of view of the rest of the colleagues as well.

We expect orientation into the slightly reduction of the EEIG budget in the future and even reduction of the PMO staff is not so strange to us in this context. We of course do not wish, that any of mentioned approach would significantly weaken the corridor efficiency, so any decision should be well discussed and verified. It will therefore be necessary to weight the consequential impacts and their importance.

Lep pozdrav

Kind regards



Franc Klobučar

Pomočnik Direktorja / Assistant Director

SŽ - Infrastruktura, d.o.o.

Kolodvorska 11, 1000 Ljubljana, Slovenija

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From: Manuel Besteiro Galindo <mbesteiro@adif.es>

Sent: Tuesday, July 23, 2024 4:58 PM

To: Varga Dóra <varga.dora@vpe.hu>; Friedrich Diána dr. <friedrich.diana@mav.hu>; Czako Lőrinc <czako.lorinc@mav.hu>; Ivana Zanki <Ivana.Zanki@hzinfra.hr> <ivana.zanki@hzinfra.hr>; Klobučar Franc <franc.klobucar@slo-zeleznice.si>; GALLUZZI ANDREA <AN.GALLUZZI@rfi.it>; HAMONIAU Claire (SNCF RESEAU / SIEGE SNCF RESEAU / DG C&S DIR EUROPE) <claire.hamoniau@reseau.sncf.fr>; ppapaghiannakis@lfpperthus.com
Cc: Raffaele Zurlo <r.zurlo@medrfc.eu>; Istvan Pakozdi <i.pakozdi@medrfc.eu>; Nikolina.osterman@hzinfra.hr; Maria Alvarez Cuadrado <malvarezcuadrado@adif.es>
Subject: Voting Procedure on "Med RFC EEIG - ADIF AGREEMENT FOR PROVISION OF SERVICES"

ZUNANJI POSILJATELJ: prvs=9278ac5d4=mbesteiro@adif.es. Ne odpirajte povezave ali priponk, če ne prepoznate pošiljatelja ali sumite, da sporočilo ni varno.

Dear Members of the Mediterranean RFC General Assembly,

Please let me come to you regarding the subject above, proposed by ADIF during our 47th GA held at Milan the last 19th of June. This proposal is related with the leaving, since the mid of May, of the person in charge of Project Manager activities at the PMO. We may recap in short:

- When it was announced in the beginning of April, the Managing Director started a hiring procedure for this position, whose assessment was duly presented during our last 47th GA.
- Then, at that meeting, ADIF came to its partners in the GA with the proposal to provide the EEIG with services to perform the activities of Project Manager, by mean of its employee Jose Antonio Grau Gregorio.
- Friday 23th of June ADIF disseminated the text of the Agreement, clarifying some questions as travel expenses, duration, and also included in its Art. 3, that the Agreement could cover changes in the formal role to be performed by the Adif employee.
- Subsequent days the Managing Director came to the GA presenting 2024 budget adjustment for some chapters, in order to adapt the new fee of the Agreement within the already approved 2024 threshold, foreseeing the same for 2025 draft budget.
- Then, ADIF noted positive feedback from HZI, LFP, RFI and SNCF Réseau, but some concerns were expressed by SZI about its financial support to EEIG – ADIF Agreement.
- In that context, ADIF conveyed to the Members, on the 1st of July, that beyond to the 2024 and 2025 budget adjustments to keep it within the threshold, the Agreement could bring to the EEIG an opportunity to count with a person that could perform, further on, eventually, and under GA decision, also the role of OSS for example, in addition to the already committed for Project Manager, keeping the original fee of the Agreement.
- Up to this point, MÁV and VPE were yet under assessment of ADIF original proposal. Then, they both considered it acceptable, but alongside with the condition of merging PM position with another in the PMO organizational scheme for May 2025. According to the exchange of

messages, that last concept could be covered in the future by ADIF proposal in terms of services to the EEIG keeping the fee. But that concept, in terms of its eventual implementation, is not being now decided but would be submitted later on to discussion and decision-making framework by the GA, as RFI highlighted.

- Afterwards, last Friday I've noted, as ADIF representative, a positive opinion from SZI, orally, to the EEIG -ADIF Agreement proposal.

Therefore, considering this background from the 19th of June GA, now, in this case as President of the GA, I propose the Members to proceed with a written vote on the following DECISION: "Med RFC EEIG - ADIF AGREEMENT FOR PROVISION OF SERVICES approval, considering also one complementary action".

Notes for the written Procedure:

a. *In your answer to this e-mail, please ensure the following is included:*

- *I approve / not approve the decision on behalf of the organisation represented.*
- *Name Surname.*
- *Organisation represented.*

b) *The deadline for proceeding with your vote is ten working days from today, it means the 6th of August.*

c) *The GA Secretary (or in its absence the Managing Director, kindly) will gather your votes in the attached Excel template and communicate officially the outcome to the GA.*

Note about "Foreseen Complementary action", connected with the decision on the contract itself: if Members of the GA agree on the attached text for the Agreement, an Italian lawyer opinion on this Agreement will be issued and then presented by the Managing Director. In case this opinion would bring significant remark, the Members of the GA will have the possibility to come with their eventual new position, respectively.

So **please find two attachments**; the text of the proposal in Word file, and the voting sheet in Excel.

I remain at your disposal, if someone needs to catch-up about any matter related with this decision, or to consider any question on the procedure.

Kind regards.

Manuel Besteiro Galindo

General Assembly President

Mediterranean Rail Freight Corridor



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RAIL FREIGHT CORRIDOR**

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