



Name of tender:  <b>Fuel cells and hydrogen market and policy observatory</b>  <b>Reference number: FCH / OP / Contract 216</b>	
<b>Question received</b>	<b>Answer of the Contracting Authority</b>
1. Under Task 1.2 - Socio-economic indicators, point 4 requires information on patents and publication produced within the FCH sector, complementing internal databases [...] such as TIM” Could you please provide more clarification as to the nature of the tasks required from the contractor under this task to complement existing tools? Would the contractor be able to use existing tools such as TIM (and its associated patent and publications databases), on behalf of the FCH JU, or is the contractor expected to work completely independent from them?	As mentioned in sections 2.1 and 2.2 of the Tender Specifications, the observatory’s aim is to become a reference point for information about fuel cells and hydrogen technologies and applications. In several domains the observatory is meant to fill in the knowledge gap. To this end, and as stated under section 2.5, the future contractor will need to “ <i>establish the dataset framework and set up the list of the necessary indicators</i> ”. All tender offers should clarify in their methodology the points referenced under paragraph 1 of Task 1 (page 11 of the Tender Specifications). Under the same task, and in connection with the methodology to be developed, the contracting authority has included a list of areas and indicators that should be considered. Among these indicators, the tenderer should consider socio-economic indicators, including “ <i>patents and publications produced within the FCH sector complementing internal databases deriving from European Commission tools, such as for example Community Research and Information Service (CORDIS) and Tools for Innovation Monitoring (TIM)</i> ”. This paragraph should be read in conjunction with section 2.4 of the Tender Specifications, where it is stated that “ <i>the FCH 2 JU will provide access to the data produced by its activities, which are relevant to the creation of the observatory</i> ”.



		<p>Thus, as explained above, the contractor is expected to identify and fill in knowledge gaps linked to the production of patents and publications (among others). To do so, the contractor should produce its own data (for further information, please refer to points a) to e) under Task 1; as an example - under point a) the contractor should detail in its methodology how it will identify sources and engage with relevant parties for the collection of data); in addition to this data, the contracting authority will provide the data produced in its own activities from tools to which the contractor does not have access to. It will also provide an initial list of relevant organisations or activities carried on by third parties with whom the contractor is expected to establish a cooperation. Within its remit, the FCH 2 JU will facilitate such cooperation. The Tool for Innovation Monitoring (TIM) is not one of the FCH 2 JU's activities; it is a tool created and maintained by the European Commission's Joint Research Centre (JRC). In this case the FCH 2 JU will facilitate the interactions between the contractor and the JRC; it is not expected that the contractor will have access to the TIM tool databases.</p>
2.	<p>We would like to understand better the expectations of the FCH JU with regards to HRS as we notice different statements</p> <ul style="list-style-type: none"> <li>• Under Task 1.1 Market statistics, there is a reference to HRS as part of the data to be collected.</li> <li>• The tenders specifications also refer to a cooperation with EAFO on this matter.</li> <li>• The EAFO says that on HRS, it will receive the data from the FCH JU</li> </ul> <p>Does the FCH JU expect the applicant to collect new data on HRS or to rely on existing data from the FCH JU and/or the EAFO?</p>	<p>Under Task 1, point e) "Technology and market statistics" (pages 11-12 of the Tender Specifications), it is required from the future contractor to take into consideration, when developing its methodology, statistics regarding "(...) <i>deployment of hydrogen refuelling stations.</i>"</p> <p>Under section 2.2 "Methodology", point 3) (pages 9-10 of the Tender Specifications), it is stated that:</p> <p><i>"3) The observatory shall also cover areas where relevant activities are already ongoing such as, but not limited to the EAFO, which is collecting data on the deployment of hydrogen refuelling stations and fuel cells electric vehicles as well as relevant regulations. In this case, it is expected that the contractor will establish a cooperation with the third parties in order to avoid duplication of efforts, ensure</i></p>



		<p><i>a useful exchange of information and align methodologies. The tenderer will propose in its offer a two way cooperation for the exchange of information and alignment of methodologies for data collection and categorisation with other platforms such as EAFO, the TransEuropean Transport Network (TENTEC) and others that will be jointly identified with the FCH 2 JU, in order to establish the observatory as a reference point for FCH activities. Such cooperation will be facilitated by the FCH 2 JU and the European Commission. The tenderer should explain in the offer how it intends to tackle the issue of harmonisation of methodologies.”</i></p> <p>Regarding the data of EAFO, the FCH 2 JU is not in a position to verify the data sources that EAFO uses. Please note that the website of EAFO - as verified today 21/08/2018 - <a href="http://www.eafo.eu/infrastructure-statistics/hydrogen-filling-stations">http://www.eafo.eu/infrastructure-statistics/hydrogen-filling-stations</a> - states that “ <i>the data for the hydrogen filling stations are currently under review and will be aligned with the data from the Joint Undertaking « Hydrogen and Fuel Cells »</i>”, and does not list the FCH 2 JU as an only source. The FCH 2 JU is currently cooperating with EAFO, and , as stated above, expects the future contractor to also establish a cooperation, ensure a useful exchange of information and align methodologies for data collection and categorisation. In this case also, the FCH 2 JU will facilitate the interactions between the contractor and EAFO.</p> <p>To answer the question, and drawing from the excerpts of the Tender Specifications mentioned above, as deployment of HRSs is an on-going process, the future contractor is expected to gather all necessary data (from its own sources, from the input provided by the contracting authority and/or from other third parties with which it is expected to collaborate) “<i>in order to establish the observatory as a reference point for FCH activities</i>”. EAFO is one of the data sources that may be used. Furthermore, please note that simply collecting the data into a database is not sufficient, as the future contractor “<i>must keep the created database updated throughout the whole</i></p>
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		<i>duration of the contract”</i> (please refer to Task 2 - page 13 of the Tender Specifications).
3.	Is Switzerland still one of the countries which does not come under the 'scope of the Treaties' with FCHJU or has the situation changed? I.e. is a Swiss entity eligible to lead or join a bid?	<p>The situation regarding the participation of Switzerland-based legal entities in public procurement procedures launched by the FCH 2 JU has not changed.</p> <p>The WTO Agreement on Government Procurement (GPA) grants access to procurement procedures launched by the European Commission, the European External Action Service (EEAS) and the Council on their own account to economic operators established in: Armenia, Canada, Chinese Taipei, Hong Kong, Israel, Japan, Korea, the Netherlands with respect to Aruba, Moldova, Montenegro, New Zealand, Singapore, Switzerland, Ukraine and the United States. Appendix I to the GPA indicates that only the European Commission, the EEAS and the Council are concerned as contracting authorities. The FCH 2 JU is not a part of the GPA. As a result, the procurement procedures launched by the FCH 2 JU are not open to the economic operators established in the third countries mentioned above. Pursuant to Article 119(1) Financial Regulation: “Participation in procurement procedures shall be open on equal terms to all natural and legal persons coming within the scope of the Treaties and to all natural and legal persons established in a third country which has a special agreement with the Union in the field of public procurement under the conditions laid down in that agreement.” In case there is no such agreement, or the agreement does not apply to the kind of contracts put out to tender, economic operators of third countries are not entitled to participate. As a result, due to the fact that there is no international agreement covering the right of economic operators established in Switzerland to participate in public procurement procedures launched by the FCH 2 JU, such economic operators are not entitled to participate as tenderers or as joint tenderers</p>
4.	Given that the UK's withdrawal from the EU is scheduled to be after the award of this tender, would there be any risk under this clause	We understand the request for clarification refers to a situation where the procedure is concluded with the award of the contract to



	<p>if bidding from a UK entity, either as leader or participant? We assume it would not, and that once the contract is awarded the UK's status would not be an issue for the duration of the study contract</p>	<p>an UK-based legal entity. Please note that currently there is no immediate impact on contracts signed with UK based entities. Contracts signed with economic operators from the UK have been concluded following a procedure aiming at awarding them to the economic operators offering the lowest price or cost or the best price-quality ratio and subject to the outcome of the negotiations, in particular on public procurement, these contracts should be implemented in accordance with their terms until their end-date including modifications where necessary.</p>
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