

Call for proposals
No. MOVE/E2-2014-717/SESAR FPA
Establishment of the SESAR Deployment Framework
Partnership

QUESTIONS AND ANSWERS

(last update: 25 September 2014)

Question 1 (Forms of participation)

We are an association of operational stakeholders and we do not feel we have the resources necessary to fulfil the obligations of Article 9. Can we nevertheless participate in SESAR deployment framework partnership without joining the Deployment Manager?

Answer 1 ► Yes, you may participate as an implementing partner as long as your association has projects to submit on its own or on behalf of its members (affiliates).

Question 2 (Forms of participation)

Since the preference in the current call for proposals is for a single consortium representing all three stakeholder groups (airports, airlines and air navigation service providers), would our association need to apply as part of that consortium to be accepted as an implementing partner? Or would that only apply in the case of coordinating partner?

Answer 2 ► Your association would have to apply with a candidate consortium, even if only as an implementing partner. Nevertheless, if you do not apply under the current call, you may join the Framework partnership later, following a call for implementation projects organised by INEA (see the Call for proposals, Annex I, p. 27 and also the section 4, p. 8 and section 6, p. 12).

Question 3 (Forms of participation)

What direct benefit can our association offer to its members by joining?

Answer 3 ► You may offer participation in developing the Deployment Programme as your members might not have the resources to participate on individual basis. Also, if your association becomes a partner and your members affiliated entities this would result in the alleviation of administrative burden for your members. In addition, it would allow synchronisation/coordination (including administrative support) of projects.

Question 4 (Funding)

If our association joins the partnership, would it be able to apply to fund a specific resource to manage its responsibilities?

Answer 4 ► Yes. Nevertheless, you should also consider that the Deployment Manager is also expected to play a supporting role as coordinator of the projects.

Question 5 (Joining the framework partnership)

When is the best time to join the Framework partnership? If our association elects not to submit an application prior to the 15/10/2014 deadline, when would the next opportunity to join the FPA be?

Answer 5 ► This will depend on the projects you will want to submit. The start of the first call for implementation projects is expected as early as September 2014. The second call should be launched in 2015.

Question 6 (Funding)

If our association is not within the partnership, would our members still be able to apply for funding individually, or only if they are affiliated to other partner entities?

Answer 6 ► Your members could apply individually, but in any case with and through the Deployment Manager (see the Call for proposals, Annex I, p. 27).

Question 7

Does signing up as an implementing partner commit our association to completing a project within the initial 2014-2020 period?

Answer 7 ► Not necessarily, if that is what the Deployment Programme will provide for and it is justified. However, the timeframe will not be completely open. There will always be a deadline for closing projects. Also, take into account that the first Implementation Projects will be essentially those that start between 1.1.2014 and 31.12.2016.

Question 8 (Liability)

Concerning the liability, if our association secures funding for an affiliated entity, who is liable? Our association or the affiliated entity?

Answer 8 ► Only the affiliated entity is financially liable as the final beneficiary of the grant. Each partner or affiliated entity will be financially responsible for the part of the project they are executing, up to the amount they have actually received as the contribution from the Commission (see Special provisions on the financial responsibility for recoveries and financial penalties, on p. 9 of the draft Framework Partnership Agreement).

Question 9 (Funding)

Concerning the funding, airborne funding is limited to 20%. Is this capped, as the technology we will need to implement can be extremely expensive?

Answer 9 ► There is no capping on the 20% in principle but Commission may decide to award lower amount due to a high number of other projects and limited global amount of funding available for the call for implementation projects. Nevertheless, the Deployment Manager (and the Framework Partnership) could come up with other "innovative" funding/financing mechanisms.

Question 10 (related to section 4, p. 9 – Framework Partnership)

The call states that the included Framework Partnership Agreement (FPA) is indicative and that final FPA will be updated in the course of 2014. Will the final FPA be available early enough during the bidding phase to be taken into consideration (e.g. early September at the latest)? As FPA is still indicative and under finalisation, could the candidates submit suggestions to further adapt it to the SESAR deployment context?

Answer 10 ► The majority of the provisions of the draft FPA are based on the models of the Commission and are finalised. The possibility of further adaptation as mentioned in the call concerns essentially the financial provisions that may need to be adapted to CEF models that are still under elaboration. If necessary, applicants will be given the necessary additional time, proportional to the nature of the changes, to integrate these potential adaptations in their proposals before submitting them.

Question 11 (related to section 4, pp. 8-9 – Framework Partnership)

In the case where a full FPA (i.e. an FPA that would bring together all the operational stakeholders impacted by the PCP either as coordinating or implementing partners from the start) appears not achievable through this call (e.g. because of time constraint), would:

- *an intermediate step consisting in an initial FPA with the coordinating partners forming together a DM consortium (Level 2) and also joining individually as implementing partners (Level 3);*
- *to be followed by successive enlargements of the initial FPA to eventually include all the operational stakeholders impacted by the PCP;*
- *with Letters of Intent by the partners in the initial FPA stating their willingness to enlarge it be acceptable to EC?*

Answer 11 ► The framework partnership resulting from the current call does not need to include all stakeholders necessary for the implementation of the Pilot Common Project. If that will be the case, the remaining stakeholders necessary for the implementation of the Pilot Common Project not members of the Framework partnership, will be able to accede to the existing Framework Partnership later, at the occasion of the calls of implementations projects. There can be several waves of accession, each time at the occasion of a call for implementation projects. The mechanism of accession is described in the Explanatory memorandum, section VII, and more detailed information will be provided in the calls for implementation projects.

It should be also noted that one of the tasks of the Deployment Manager is to associate the operational stakeholders that are required to implement Common Projects (Article 9(b) of Reg. (EU) 409/2013). For this purpose, the applicant

consortium should provide, as part of its application, a proposal for the Action Plan that includes information about how it intends to put in place and maintain consultation mechanisms with the stakeholders that are required to implement Common Projects (Section 5, p. 14 of the call). The applicant shall also provide a draft Internal Cooperation Agreement (Section 6, p. 12 of the call) that ensures that any eligible entity that is required to implement an implementation project has the opportunity to accede to the framework partnership.

Question 12 (related to section 4, p. 8 + application forms)

The call states that coordinating partners are also implementing partners. However, does a coordinating partner need to fill in the forms as coordinating partner and as implementing partner?

Answer 12 ► **No, it is sufficient for the coordinating partners to fulfil only coordinating partners' part.**

Question 13 (related to Explanatory memorandum, p. 9 + model of FPA)

It can be concluded from the Call for proposals that the Deployment Manager shall be viewed by the other implementing partners in the FPA as FPA's coordinator. However, in the event that the DM is formed by a consortium and is not a single legal entity, it is our belief that it cannot be viewed by EC and INEA as the coordinator of the FPA due to the lack of legal status. Therefore it can be concluded that one member of the consortium with a legal personality must perform this role. Please confirm whether our understanding is correct or not.

Answer 13 ► **All coordinating partners acting together are considered as a coordinator. For the purpose of signing the FPA and SGAs, and eventually their amendments, they shall mandate one single natural person who will sign on behalf of all of them.**

Question 14 (related to section 6, p. 12)

It can be concluded from the call that FPA's and DM consortium's accession mechanisms shall be submitted by the candidates as an integral part of the internal cooperation agreement for approval by EC. These mechanisms should also be made publicly available (e.g. through a dedicated website). Please confirm whether our understanding is correct or not.

Answer 14 ► **It is correct.**

Question 15 (related to section 4, p. 9)

The call states that included SGA is indicative and that final SGA will be updated in the course of 2014. Will the final SGA be available early enough during the bidding phase to be taken into consideration (e.g. early September at the latest)? As SGA is still indicative and under finalisation, could the candidates submit suggestions to further adapt it to the SESAR deployment context?

Answer 15 ► **Please see the Answer 10 – the same applies in relation to the draft SGA.**

Question 16 (related to section 7.2, p. 13)

It can be concluded from the call that the EU budget for the first SGA (budget 2014) is at the maximum covering a period of up to 12 months after last signature of the FPA, and that the starting date for the eligibility of associated costs is the date of submission of the proposal in response to the call. It can also be concluded that another SGA (budget 2015) could be envisaged before the end of the first 12 months if needed to ensure continuity of DM's funding. Please confirm whether this understanding is correct or not.

Answer 16 ► The 2014 budget (€5.5 M) is intended to cover a period of 12 months. The starting date of eligibility can be envisaged as from the date of submission of the proposal. However, the need to start the action prior to signature of the grant agreement will need to be demonstrated by the applicant (Article 130 of Financial Regulation, first subparagraph).

A new SGA will have to be concluded for the following period in due time to ensure continuity of the Deployment Manager's operations.

Question 17 (related to Annex II, p. 33)

It can be concluded from the call that a service contract could be considered as an "equivalent appointing act". Please confirm whether this understanding is correct or not.

Answer 17 ► Please see p. 34 of the draft FPA for more detail about the personnel working under the contract. The costs of such personnel will be eligible subject to the fulfilment of the conditions mentioned there.

Question 18 (related to Application forms)

It can be concluded from the call that detailed DM costs allocation between the coordinating partners will be required by the time the bid will be submitted to EC. This would require a very detailed and frozen distribution of DM's tasks amongst the coordinating partners that could play against the flexibility and reactivity that the DM would require during its first months of existence. Would EC accept a proposal where all DM's costs would be allocated to DM's consortium coordinator, pending detailed allocation to be provided after DM's establishment?

Answer 18 ► The costs allocation per coordinating partner shall be provided and will be reflected in the estimated budget annexed to the Specific Grant Agreement. Such Annex nevertheless represents only the best possible "estimation" (see the first subparagraph of Article II.22 of the draft FPA) and if partners wish to do so (they are not obliged to do so) the estimated budget may be modified later via an amendment (see the second subparagraph of Article II.22 of the draft FPA).

Question 19 (related to section 5.1(b), p. 9)

It can be concluded from the call that the DM is expected to "develop other possible means of financing for Common Projects other than EU grants". The word "develop" could imply a wider role for the DM, possibly including implementation of those means, than what is intended by Regulation (EU) No 409/2013, article 9.2(g) where the DM shall be "responsible for identifying [...]". Could EC confirm that for the description of this task, Regulation (EU) No 409/2013, article 9.2(g) keeps

precedence over the text in the call?

Answer 19 ► The call text is not in contradiction with Regulation 409/2013. The fact that the Deployment Manager is, according to Article 9(2)(g), in particular responsible for identifying the most appropriate financing mechanisms combining public and private funding does not exclude that the Deployment Manager also develops such means.

Question 20 (related to section 8.2, p. 15)

The call sets a deadline by end June 2015 to produce the Deployment Programme covering all the ATM functionalities of the PCP. It can be concluded that this deadline is driven by the call INEA 2015 for the Implementation Projects. Please confirm whether this understanding is correct or not. If not, what is the main driver for this deadline?

Answer 20 ► The date for INEA 2015 call is not known yet. Nevertheless, the date of June 2015 is the best possible estimation ensuring that the Deployment Programme covering all the ATM functionalities of the PCP is available before the call is launched or at least early enough during the duration of the future INEA call.

Question 21 (related to Annex III, p. 36)

The text referring to establishing a cooperative arrangement with the NSAs can be interpreted to mean a cooperative arrangement with each NSA on an individual basis or as a group perhaps utilising an existing body such as NSAs' Coordination Platform. Can EC confirm that either approach is acceptable whilst balancing appropriate levels of representation and the need to be cost effective?

Answer 21 ► It is up to the applicant to decide and propose the most efficient approach. Nevertheless, coordination with the NSA platform is required in accordance with the last bullet of point 1) of Annex III to the call.

Question 22 (related to Annex III, p. 37)

It can be concluded from the call that the DM shall coordinate with SJU for what concerns preparation or amendments to the European ATM Master Plan and Common Projects. This formulation could be interpreted as the SJU having leadership on both subjects. Considering the close link between Common Projects and DM's tasks, could EC confirm that, whilst SJU should keep leadership on the ATM Master Plan, DM should play a leading role in developing proposals to revise PCP and define new Common Projects, with SJU providing inputs and support regarding technologies and procedures mature for implementation?

Answer 22 ► The call text does not aim to establish or alter any leadership on these subjects. The Deployment Manager will have a role in providing the Commission the necessary information for the review of the PCP and advice on setting up new Common projects (Article 9(2)(e) of Regulation 409/2013 and Article 6 of the Pilot Common Project Regulation (EU) No 716/2014).

Question 23 (related to Annex III, p. 38)

It can be concluded from the call that the DM shall establish cooperative arrangements with the “relevant manufacturers”. Could EC provide some criteria to identify the “relevant manufacturers”?

Answer 23 ► This is up to the applicants to consider, having particular regard to standardisation and industrialisation issues.

Question 24

What are the exact criteria for the selection of Deployment Manager and how can we participate in the decision making processes as an industry partner?

Answer 24 ► The applications for acceding to the SESAR Deployment framework partnership, which shall include the proposal for the Deployment manager will be evaluated on the basis of the criteria listed in sections 8.3 to 8.7 of the call text. The Framework partnership agreement will be concluded with the applicant consortium rating as the best in the selection process. In the Framework partnership, the Deployment Manager is the coordinator and his designation is formalised with the signature of the Framework partnership agreement. The governance mechanisms within the Framework Partnership must be defined in the internal cooperation agreement (see Section 6 of the call).

Question 25

What will be the criteria for granting certain projects to certain deployers? What are the criteria to be awarded a specific grant?

Answer 25 ► As indicated in Section 3, this call aims to establish the SESAR deployment Framework Partnership and the Deployment Manager, define the Deployment Programme and award a specific grant for the tasks of the Deployment Manager. This call for proposals does not address the selection of implementation projects. The relevant evaluation criteria will be included in the call for implementation projects, which is expected to be published by INEA in September 2014.

Question 26

Could you give more information regarding Deployment Framework Partnership? It is not clear enough for us.

Answer 26 ► Please read the Explanatory memorandum published together with the call for proposals. If the information is not sufficient, please be more specific about what is not clear.

Question 27

How operational skills are evaluated as sufficient or insufficient?

Answer 27 ► The operational capacity is evaluated by an evaluation committee nominated by

the Commission on the basis of the requirements of the call, section 8.6 (b). It is up to the applicants to provide the appropriate information that will be assessed by the above mentioned committee.

Question 28

What is the process for a project to be evaluated as economically viable?

Answer 28► As indicated in Section 3, this call for proposals does not address the selection of implementation projects. The relevant evaluation process will be described in the call for implementation projects, which is expected to be published by INEA in September 2014.

Question 29

With reference to AMAN, can an implementing partner (EU or non-EU) who receives a grant for a project, later on move the "project" to another location (i.e. airport) after the finalisation of the implementation?

Answer 29► This call for proposals does not address the selection of implementation projects. The relevant conditions will be included in the call for implementation projects, which is expected to be published by INEA in September 2014. However, in general terms, an EU grant awarded for an implementation project shall cover a specific action aiming to deploy specific ATM functionalities of a Common Project in a specific geographical area or by specific stakeholders. "Moving" the project to a different location during the execution of the grant agreement or after the implementation of the project and the closing of the grant agreement could in fact alter the initial scope of the grant agreement. Before such changes can be implemented, the grant agreement and/or perhaps also the Common Project would have to be amended. The Commission would have to assess this possibility, on a case by case basis, with regard to the concrete implementation project and the change that is proposed. In any case, these changes cannot be implemented by the beneficiary without the prior agreement of the Commission and its formalisation through the above mentioned amendments.

Question 30

In the Call for proposals it is said that one of the specific objectives of it is "...to select the partners of the SESAR deployment Framework Partnership, which will be formalised by the signing of the SESAR Deployment Framework Partnership Agreement". This means that the call is for sure open for entities that will establish the management (the Deployment manager) and implementation levels.

The question is: If one entity decides/is able to be part only of the implementation level (as being part of the geographic scope of the PCP), shall it join the Deployment manager consortium or it shall only sign the FRAMEWORK PARTNERSHIP AGREEMENT?

Answer 30► The call requires that entities interested in participating in the SESAR deployment framework partnership, either as coordinating or implementing partners, should present a joint application through a single consortium with other interested entities. Of course, there may be more than one consortia competing for this call. But only one will be selected.

This means that the candidate consortia, whose composition is not necessarily limited to the candidate for the Deployment Manager, may include both coordinating and implementing partners. The Deployment Manager could be a subset of the applying consortium. Ultimately all the selected partners will be required to sign the Framework Partnership Agreement (FPA). The FPA will identify who the coordinating partners are.

Nevertheless, if your organisation does not apply under the current call, it may join the Framework partnership later (see the question and answer no 2 and no 11).

Question 31

If one entity wants to be part of the implementation level only, shall it submit the application form and documents as per the published checklist - if yes - all of them or part of them? I would propose in case the set of required documents differs for the management (which are by definition implementing partners as well) and sole implementing partners separate checklists are published clearly stating which documents/parts of documents are required, i.e. which parts of the Application form are mandatory for the sole implementing partners.

Answer 31 ► As indicated in Section 8.5 of the call text, an application must be submitted by a consortium. There may be several consortia competing for the call. Each candidate consortium must submit a single application that shall identify the entities within that consortium that are applying as coordinating partners and those that are applying as implementing partners.

It is therefore not possible for entities to apply individually as candidate implementing partners or as candidate coordinating partners. The only exception to this rules are sole applicants that are already composed of entities that would otherwise fulfil the eligibility criteria – this is foreseen for the situations where e.g. the applicant consortium that already complies with the eligibility criteria decides to establish a single legal entity, such as European Economic Interest Grouping or a Joint Venture/Special purpose vehicle.

Furthermore:

- ▶ The candidate consortium must submit a single application form, covering all the candidate partners, completed in all its Parts (Summary of the application, Part A, Parts B1 & B2, Part C and Part D) and with all the required supporting documents in accordance with the checklist;
- ▶ The information on candidate coordinating partners shall be completed in Part A - Section 2 of the application form; each coordinating partner shall provide the Declaration of honour;
- ▶ The information on candidate implementing partners shall be completed in Part A - Section 3 of the application form; each implementing partner shall provide the Declaration of honour;
- ▶ The information on candidate coordinating partners should not be included in Part A – Section 3 as they are, by definition, also candidate implementing partners.
- ▶ The application form shall be signed (on page 5 of the application form) on behalf of all the candidate partners (coordinating as well as implementing partners) by the legal representative of the candidate consortium (referred to in section 1.4).

Question 32

In the Call for proposals it is said in „5.1 The Deployment Manager Tasks“:

“[...] This part of the Action Plan will describe how, over the duration of the Framework Partnership from 2014 to 2020, the Deployment Manager should fulfil the tasks defined under Article 9 of the Regulation, which are to: [...]

d) monitor the achievement of the Single European Sky performance objectives; ...”

Art 9 of Regulation 409/2013 does not include such task.

Can you please:

- 1. Specify what are those “Single European Sky performance objectives” – the same as /including those from Regulation 691/2010 or different? Is there any duplication with PRB tasks in terms of monitoring?*
- 2. Where the task for monitoring of the SES performance objectives derives from (since it is missing in Regulation 409/2013)?*

Answer 32 ► It should be noted that the Deployment Manager’s main responsibility is to ensure the timely and synchronized implementation of Common Projects, which contribute to achieving the EU-wide performance targets defined in Regulation (EU) No 691/2010.

The tasks of the Deployment Manager do not and should not duplicate those of the Performance Review Body (PRB) or those defined in Regulation (EU) No 691/2010. The Deployment Manager’s scope of activities is limited to the remit of the Management level of the SESAR Deployment governance as defined in Regulation (EU) No 409/2013.

The reference to the monitoring of the achievement of Single Sky performance objectives in Section 5.1 of the call should be understood as being within the scope of its tasks to monitor the implementation of the Deployment Programme (Article 9(2)(h) of Regulation (EU) No 409/2013) and advising the Commission on issues related to the implementation of Common Projects (Article 9(2)(e) of Regulation (EU) No 409/2013 and Article 6(c) of Regulation No (EU) No 716/2014 establishing the Pilot Common Project).

Question 33

It is our understanding that INEA call will clarify that any implementation project with the objective to implement part of the PCP must go through the SESAR Deployment Partnership. Although this does not imply that all partners in the project must be partners (or affiliates to partners) in the FPA by the time they apply, it implies that, if selected, they would first have to join the FPA and agree with the rules in the Internal Cooperation Agreement. Reciprocally, other implementation projects outside the scope of the PCP could apply to INEA’s calls and be selected without any obligation for the partners to join SESAR Deployment Partnership. However, such implementation projects would be considered by INEA with a lower level of priority.

It is also our understanding that to be “PCP related”, an implementation project should address at least one the ATM functionality (or sub functionality) in the PCP at, at least, one geographical location designated in the PCP (airport or airspace). From this understanding, we have spotted 2 potential “grey areas” that need further clarification:

1. *Would an implementation project that addresses a prerequisite or a facilitator to the PCP be considered as PCP related by INEA? With the indication that prerequisites and facilitators to PCP will be identified in the Preliminary Deployment Programme without any ambiguity, although they are not in the PCP.*
2. *Would an implementation project that addresses a functionality (or sub-functionality) in the PCP but at an airport or in an airspace outside PCP's geographical scope be considered as PCP related by INEA? Whilst the obvious answer to this question is no, we consider that it could create situations detrimental to adequate coordination and synchronisation by the DM even if outside PCP's geographical scope. Mainly because this would happen in 2 situations:*
 - *Places adjacent to PCP's geographical scope (e.g. airspace adjacent to another one airspace in PCP's scope; neighbour airports to a bigger one in PCP's scope)*
 - *Places not in the PCP but potentially foreseen for the next CP (e.g. AF2 would certainly be extended to more airports with the next CP).*

Answer 33 ► Please note this call for proposals does not address the selection of implementation projects. The relevant evaluation criteria will be included in the call for implementation projects, which is expected to be published by INEA in September 2014. However, in accordance with Section 5.2 of the call:

1. **Yes, the projects that address prerequisites for the PCP as identified in the PCP Regulation or that consist in preparatory actions that are necessary for the implementation of ATM functionalities and their prerequisites should be included in the Deployment programme and coordinated by the Deployment Manager.**
2. **No, the projects consisting in the implementation of the ATM functionalities in additional geographical locations not identified in the PCP Regulation are not considered as projects implementing the PCP. Therefore, they should not be identified in the Deployment Programme and not coordinated by the Deployment Manager.**

Question 34

It is our understanding that the detailed Action Plan for the Programme Support Action to be proposed as part B2 of the proposal shall comply with the capping for the first Specific Grant Agreement (5.5M€). As the 12 months duration for the first SGA is quoted as an "estimated duration" (Call §7.2 p13) or "intended duration" (EC's answer to question 16), we further understand that the driver for the actual first Specific Grant Agreement's duration will be the timeline proposed by the candidate to execute the Specific Support Action Plan in part B2, subject to EC's approval. Finally, we conclude that, in the case the candidate demonstrates that the detailed Action Plan for the Programme Support Action in part B2 has to be completed in less than 12 months, another Specific Grant Agreement between EC and the appointed Deployment Manager would be concluded earlier than 12 months, subject to timely submission of another detailed Action Plan by the Deployment Manager to the EC, ensuring continuity of DM's tasks facilitation.

Could EC confirm that our understanding is correct?

Answer 34 ► Applicants will have to provide, with their application, a detailed description of the activities (Section 8.2.4 of the call) they plan to carry out to fulfil the tasks of the Deployment Manager for the period 2014-2015. The Specific Grant Agreement that

will be awarded to the selected Deployment Manager is estimated to cover 12 months over the period 2014-2015.

Question 35

If one organisation does not apply under the current call with the consortium and decides to join the Framework partnership later, shall it become part of (join) the already selected consortium (Deployment manager + implementing partners) or it shall sign only the framework partnership agreement?

Answer 35 ► Entities joining the framework partnership at a later stage are only required to sign the framework partnership agreement.

Question 36

It is our understanding that INEA call will clarify that any implementation project with the objective to implement part of the PCP shall go through the SESAR Deployment Framework Partnership. Although this does not imply that all partners in the project must be partners (or affiliates to partners) in the FPA by the time they apply, it implies that, if selected, they would first have to join the FPA and agree with the rules in the SESAR Deployment Framework Partnership's Internal Cooperation Agreement. Reciprocally, other implementation projects outside the scope of the PCP could apply to INEA's calls and be selected without any obligation for the partners to join the SESAR Deployment Partnership. However, such implementation projects would be considered by INEA with a lower level of priority. Is our understanding correct?

Answer 36 ► Applicants for projects that are not related to the PCP are not required to join the SESAR deployment framework partnership.

This call for proposals does not address the selection of implementation projects. The relevant evaluation criteria will be included in the call for implementation projects, which is expected to be published by INEA in September 2014.

Question 37

It is also our understanding that to be "PCP related", an implementation project shall address at least one ATM functionality (or sub functionality) in the PCP, at least at one geographical location designated in the PCP (airport or airspace). For us, this implies that any implementation project that addresses a prerequisite or a facilitator of the PCP shall also be considered by INEA as being PCP related.

Answer 37 ► Please see the question and answer 33(1). PCP related projects include those that address the ATM functionalities and the related prerequisites identified in PCP Regulation 716/2014. They may also include preparatory actions supporting the timely industrialisation of the equipment necessary for deploying the PCP ATM functionalities. The detailed criteria on the eligibility of the projects will be included in the call for implementation projects, which is expected to be published by INEA in September 2014.

Question 38

Finally, we understand that any implementation project that addresses a functionality (or sub-functionality) in the PCP but at an airport or in an airspace outside PCP's geographical scope shall also be considered as PCP related by INEA. Should an implementation project fall under this situation, we consider it shall be made PCP related through an a posterior adjustment of PCP/Deployment Programme's scope as required (subject to EC's approval).

Answer 38► Please see the question and answer 33(2). Projects that fall outside the operational, technical, geographical or personal scope of the PCP ATM functionalities are not considered to be PCP related.

Question 39

Is Article I.XX ("obligation to conclude an internal co-operation agreement) of the draft FPA to be read so that there can be only one internal co-operation agreement between all partners forming deployment manager and the various implementing partners? Accordingly, we understand that a new implementing partner signing FPA will need to also sign the internal co-operation agreement with the deployment manager coordinator. Please confirm if our understanding is correct

Answer 39► All partners, including future ones, shall sign and be bound by the internal co-operation agreement.

Question 40

Is our understanding of Article II.18.2 of the draft FPA correct that disputes on the FPA shall be heard before the General Court (or, on appeal, the ECJ) according to that Court's rules of procedure?

Answer 40► That is correct.

Question 41

It is our understanding that the FPA once signed with the EU will be subject to Belgium law, is this understanding correct?

Answer 41► The FPA and the SGAs are governed by the applicable Union law complemented, where necessary, by the law of Belgium.

Question 42

Which consequences or possibilities to extend the FPA are foreseen where the FPA ends (e.g. 31.12.2020) but implementing actions and therefore work by the Deployment Manager continues beyond this date?

Answer 42► Any work initiated under a SGA signed before 31.12.2020 shall continue to be carried out by the partners = including the DM = in accordance with the related SGA. The FPA continues to apply to such SGAs even upon its expiry.

Question 43

Article I.2.2 of the draft FPA states that the FPA shall be concluded until 31st December 2020. It is not clear from the documents whether this means that all functions of the DM, and all SGAs under the supervision of the deployment will need to have concluded by this date or whether this date is simply

the date by which the funding under this FPA will cease (but that the Commission will fund SGAs commenced prior to the termination date and the completion of their work for example up to 2022). Could you please clarify?

Answer 43 ► See answer to question 42.

Question 44

Is Article I.XX (special provisions on the financial responsibility for recoveries and financial penalties) of the draft FPA to be read in such a way as to serve as an aggregate limit of liability for all funding received under the FPA (i.e. the potential liability for a breach by a partner of a deployment manager action is limited to only the amount of funding received by that partner for that deployment manager action and is not the aggregate of the amount of funding received by that partner for both deployment manager actions and implementing projects)?

Answer 44 ► In case of recovery and financial penalties, each partner shall be liable up to the amount actually received under the SGA in question.

Question 45

It is our understanding that Article I.XX (special provisions on the financial responsibility for recoveries and financial penalties) does not create joint and several liability for all the partners forming deployment manager to the Commission for the breach of an individual partner. Is our understanding correct? If so, should Article II.3 of the draft FPA be read in such a way so as to mean that the partners forming deployment manager do not have joint and several liability towards the Commission for damages?

Answer 45 ► In case of recovery and financial penalties, each partner shall only be liable for the full amount of EU funding that it actually received under SGAs. Article II.3.2 of the draft FPA applies in case of liability for damages.

Question 46

With reference to FAQ/question 1, in case an operational stakeholder, or several operational stakeholders, create a new legal entity with the purpose of participating to the DM call and being affiliated to the new legal entity for the purpose of the call, it is our understanding that this new legal entity will still be considered as an operational stakeholder and thus entitled to participate to the call (in compliance with the call requirements). Please confirm if our understanding is correct.

Answer 46 ► Yes, this is correct.

Question 47

In the event that a Consortium is selected to sign the FPA and establish the DM, and subsequently decides that, following a full assessment of the DM organisation structure, the creation of a new legal entity is beneficial for the overall DM task governance and execution, is it acceptable that the new entity replaces the members or some of the members of the consortium, as member of the FPA? Would it be possible to proceed with the constitution of such new legal entity, thus transferring to that new legal entity the rights and obligations stemming from the FPA previously on the relevant coordinating members it has replaced?

Answer 47 ► If the creation of the new entity takes place before the signature of the FPA such a modification is in principle possible. If the modification is proposed after the signature of the FPA an amendment to the FPA can also be envisaged following a

prior approval by the Commission. In both cases the new entity should comply with the call for proposals criteria.

Question 48

According to the indications provided in the “Explanatory memorandum on the Management and Implementation levels of the SESAR deployment governance” document and in the SGA model, it is our understanding that each SGA will be signed by the designated natural person mandated to represent all the coordinating partners and by every other implementing partner involved in the SGA itself. Based on the above, it is therefore our understanding that not all FPA implementing partners are requested to sign all SGAs. Please confirm if our understanding is correct.

Answer 48► The DM acting as coordinator of the FPA will sign the SGAs on behalf of all implementing partners.

Question 49

According to the response to FAQ/question 18, the costs allocation per coordinating partner shall be provided by the time the bid will be submitted to EC. As already mentioned in the clarification provided by EC, such allocation will indeed represent the best possible estimation and therefore might need to be fine-tuned at a later stage in order to best reflect the coordinating partners’ effort. Would EC accept a proposal to amend the cost allocation per coordinating partner submitted through the bid before the signature of the SGA?

Answer 49► Adjustments to the cost allocation may be considered; however these adjustments may not aim to substantially alter the initial proposal.

Question 50

It is our understanding the DM shall be partner in all implementation projects and therefore shall sign the projects proposals. In accordance with EC’s reply 13, we further understand that the natural person mandated to sign FPA and SGA for DM’s tasks shall also be the one signing the above mentioned projects proposal and subsequent SGAs. Please confirm that our understanding is correct.

Answer 50► The Deployment manager shall be coordinator of each implementation project. Nevertheless, this call for proposals does not target the implementation projects. The submission formalities for proposals for implementation projects will be known when the call for implementation projects will be published.

Question 51

With reference to the proof of financial capacity requested to candidates not being either public entities or EEIG funded 100% by public funds, in case of a newly established legal entity, e.g. EEIG, the new entity would not be in the position to perform the financial viability check, as well as to provide the financial statements. Could both the financial statements and the financial viability check be provided by one of the members of the newly created EEIG, thus providing a satisfactory evidence of the financial capability of the grouping? Would this approach apply also for proving its operational capacity?

Answer 51► If on the basis of the documents submitted the Commission considers that the financial capacity of a newly created entity is not satisfactory it may request further information, propose a grant agreement without pre-financing, with a pre-financing paid in instalments or with a pre-financing covered by a bank guarantee or reject the application. If the members of a newly created EEIG participate as affiliated entities,

the financial and operational capacity of the EEIG would be assessed by taking into account the combined capacity of the EEIG and its affiliated entities.

Question 52

As suggested by the European Commission in the explanatory papers on SESAR Deployment, a grouping has been set up through which one of the major stakeholders will be represented in an application to EC's call for SESAR Deployment Partnership. The grouping is a legal entity : European Economic Interest Grouping (EEIG). The majority forming partner of this EEIG is the association representing all operators in Europe. In this way, those members who are impacted by the scope of the PCP are members of the EEIG. If this application is selected by EC, the EEIG will be a coordinating partner.

We understand that, for the call for SESAR Deployment Partnership (not the call for Implementation Projects), only the EEIG, if selected as part of a wider consortium, would sign the FPA and that the members-investing stakeholders (that are indirectly part of the EEIG through the membership of the majority forming partner of the EEIG) through the signature of the EEIG, will have access to the next call for Implementation Projects. If this would not be the case, do we have to consider all the member-investing stakeholders grouped in (but not directly constituted) the EEIG as affiliated partners and in this case does this mean that over 20 organisations would have to fill in section 2.9 of the Application form ?

EC's answers to the above question will also be considered by other major stakeholders that could decide to set-up a special purpose legal entity to participate to an application to EC's call for SESAR Deployment Partnership and the resulting consortium, if selected.

Answer 52 ► Members of associations or groupings or EEIGs that apply as candidate partners are potential "affiliated entities" to these candidate partners. The purpose of Section 2.9 of the application form is to identify those "affiliated entities" of a candidate partner that the latter plans to involve in executing the Action Plan and to allow the Commission to confirm their status as "Affiliated entities" within the meaning of Section 8.5 of the call and Section IV.C of the explanatory memorandum. Consequently, the need to complete Section 2.9 of the application form depends on whether the candidate partner, to which these entities are affiliated, needs to rely on their financial and/or operational capacity (Sections 8.6 and 7.2 of the call).

It is not necessary to identify all the "affiliated entities" of a candidate partner at this stage, only the ones that you are going to involve at this stage. In your case, the newly created EEIG may not have, as such, the required financial and/or operational capacity and may need to rely on one or more of its members to comply with the requirements of the call for the Framework Partnership. In this case, the EEIG should identify the relevant members as their "affiliated entities" in Section 2.9 of the form. You mention nevertheless, that one of the members of the EEIG is the association representing all operators in Europe. Therefore, depending on the technical and financial capacity of the said association, it might be sufficient that only that association is identified in Section 2.9 as the "affiliated entity" of the EEIG.

For the future call for proposals for implementation projects, which will be published by INEA, the individual members of the above mentioned association will be able to participate as "affiliated entities" of the EEIG.

If they have not been already identified under the current call for the Framework Partnership (Section 2.9 of the application form) they will need to be identified in the application(s) for the INEA call and they will be mentioned as "affiliated entities" only in those SGAs in which they will participate. Therefore, the fact that some of the entities concerned, e.g. members of the association referred to in your question,

were not involved when the SESAR Deployment partnership agreement was signed, is not an obstacle for them to participate as affiliated entities at the later stage of implementation projects.

At the same time, access of the affiliated entities that you are going to involve already at this stage to the further implementation projects, is not automatic. At all times, all affiliated entities for any future call for the implementation projects must comply with the eligibility and non-exclusion criteria regarding the particular call that they would be involved in.

Question 53

We are associations of operational stakeholders and we do not intend to participate in the deployment at the management level.

Our members are however seeking confirmation from the EC that their interests will be adequately taken care of:

- *How will the EC make sure that the stakeholders' members of the applicant consortia are genuinely representative of their entire community?*
- *How will the EC ensure that each stakeholders group consult within its own community as part of the consultation obligation under art 9?*
- *In their assessment of the internal cooperation arrangement between members of an applicant consortium how will the EC ensure that a group cannot have decisions imposed that are contrary to its interests? i.e. In the case of Airspace Users, how will the EC ensure that the views of users cannot be overridden? Will the EC request a veto right for Airspace Users as part of the DM decision making process?*

Answer 53 ► In accordance with Regulation (EU) 409/2013 there is a legal obligation for the Deployment Manager to associate (Article 9(2)) and represent (Article 9(4)(a)) the operational stakeholders that are required to implement Common Projects. These obligations of the Deployment Manager have been translated in the call for proposals. In particular, all three categories of operational stakeholders: airspace users, air navigation service providers and airport operators shall be present in the Deployment Manager either as partners or via a grouping as affiliated entities. We expect that a Deployment Manager comprising a balanced number of members from these three categories can more effectively represent them through appropriate cooperative arrangements rather than through a large number of representatives.

However, the composition of the framework partnership and of the Deployment Manager is not fixed once and for all. It may change depending on the needs of the deployment activities and on the needs of the partnership.

The Commission will evaluate the proposals' compliance with these obligations through the eligibility criteria (Section 8.5), selection criteria (Section 8.6) and award criteria (Sections 8.7 & 8.8). For this purpose, the Commission will evaluate the *Action Plan 2014-2020*, the *internal cooperation agreement*, the *cooperative arrangements* and the *detailed description of activities* proposed by the candidates in accordance with Section 8.2 of the call text. These documents, once accepted, will be contractually binding for the Deployment Manager through the FPA.

The Commission as Policy level of the deployment governance shall ensure the supervision of the Deployment Manager's compliance with its contractual obligations.

Question 54

There seems to be discrepancies between the call for proposals and the wording of the IR 409/2013 regarding the tasks entrusted to the DM. The IR does not require the monitoring of the achievement of the SES performance objectives nor does it require to conclude cooperative arrangements with bodies representing professional staff.

- *Could the EC confirm that only the tasks listed in the IR must be executed by the DM ?*
- *Could the EC confirm that the tasks of the DM are strictly limited to deployment and do not go beyond that ?*
- *Could the EC confirm that it will ensure that the tasks entrusted to the DM do not result in duplication of activities conducted by other bodies?*

Answer 54 ► The call for proposal does not allocate new tasks to the Deployment Manager with respect to the ones defined in IR (EU) 409/2013 or directly related to them. The Deployment Manager is responsible for monitoring the execution of the Deployment Programme aiming to implement Common Projects. This task includes monitoring the contribution of Common Projects, which are derived from the European ATM Master Plan, to the achievement of the SES performance objectives.

IR 409/2013 requires the Deployment Manager to conclude cooperative arrangements with the Network Manager, the SESAR Joint Undertaking, the military and the manufacturing industry. This does not exclude the possibility to conclude cooperative arrangements with other stakeholder groups or representatives if the Deployment Manager deems it is necessary to fulfil its obligation to associate operational stakeholders and develop appropriate and transparent consultation mechanisms to consult all stakeholders that are required to implement Common Projects. Cooperative arrangements should also serve the purpose of avoiding any overlapping or duplication of activities conducted by other bodies.

Question 55

We, as associations, are considering to be part of the FPA as Implementing partners.

The art II.1.2(b) of the FPA requests each partner: "to inform the coordinator of any change in its legal, financial, technical, organisational or ownership situation or of its affiliated entities....."

Could the EC clarify three issues in relation with this obligation :

- *The obligation is very wide, especially with regard to the affiliated partners since the associations would have the obligation to provide such info for all its members. Would it be possible to have more precise information on the exact scope of this obligation on the nature of the info required ?*
- *The information must be provided to the coordinator which includes airspace users that are direct competitors to the affiliated members. What does the EC foresee to protect the confidentiality of this info and to avoid its divulgation to competitors ?*

- *If our association is part of the FPA as an implementing partner on behalf of some members, we understand that our role will be to represent only our members which will have been identified as affiliated members. Have we understood this correctly?*

Answer 55 ► The FPA and the SGAs establish a contractual relationship between the Commission or INEA and the partners (beneficiaries) identified in these agreements. Moreover, the partners sign an internal cooperation agreement (Section 6 of the call) between themselves.

Partners are selected because they comply with the specific eligibility, selection and award criteria that have been defined to accede to the SESAR deployment partnership. Furthermore, they commit to carry out actions or part of them, for which they receive a Union grant, in accordance with the terms of the FPA/SGA. Therefore, it is necessary that any changes that occur in relation to their status (for example legal, financial, technical or ownership) be communicated to the Commission or INEA through the coordinator, who is the intermediary for all communications between the partners and the Commission or INEA, in order to verify that these changes do not affect the partners' capacity to fulfil the obligations under the FPA and SGAs. As for the scope of the obligation in Article II.1.2(b), in essence, it will cover the updates of the information initially provided in the application to the call for proposals and/or for the purpose of the signature of the Framework partnership agreement and specific grant agreements. It shall be noted that, in addition, Article II.1.2(a) requires that partners inform the coordinator of any change likely to affect or delay the implementation of an action.

Provisions on confidentiality are defined in Article II.5 of the model FPA. The partners may also decide to establish additional provisions on confidentiality for the consortium in the internal cooperation agreement, provided they are not in contrast with those of the FPA.

The answer to the last question is yes. Only the entities identified by your association as the "affiliates" that it intends to involve in the work will be part of the FPA or the SGA. See also our answer to question 52.

Question 56

In the filling of the Financial Capacity viability tool, should we take in consideration the programme support action or the Framework Partnership?

Answer 56 ► You should take the programme support action into account.

Question 57

On p. 20 of the Call, it says with regards to the Operational Capacity that "Applicants that qualify as private undertakings or bodies have to prove their operational capacity to carry-out the Implementation projects. For proving their operational capacity, the appropriate documents, attesting to the technical and operational capacity of the applicants to execute Deployment Manager tasks and/or carry out the Implementation projects for which the grant is sought, should be provided." Could you specify what are the "appropriate documents"?

Answer 57 ► The appropriate documents can be, for example, the organisations' activity reports or a description of the experience with relevant ATM related projects it has carried out, as well as certificates on satisfactory execution of a contract. The documents

presented should be relevant and include the correct data, but their format is not imposed.

Question 58

In PART A of the proposal, on p. 8 of the Application Form, it is requested to insert the Contact Details, Contact Person, Legal Representative (1.2,1.3,1.4). Since the Applicant should identify the legal representative who will sign the FPA and SGA on behalf of entire consortium – should this figure be a General Manager (GM)?

Answer 58 ► The function of a "General Manager" is not a role described in the call for proposals or a requirement in the call for proposals. The call refers only to the Legal Representative. It depends on the applicant and on the law applicable to it (which could depend on its legal form if it is a single legal entity), if it includes a function of a "General Manager" (or similar) in its governance structure and if such a function will also include the role of the Legal Representative or not.

Question 59

In point 2.4 (p. 12) of the Application Form, it is required to present a Mandate – which authorize the Legal Representative of entire Consortium to sign the FPA and SGA – in our understanding the Mandate should be done to the GM who will be in charge of signing the legal documents such as FPA and SGA.

Answer 59 ► The mandate should be given to the Legal Representative. See answer no 58.

Question 60

According to the checklist point 7 – in our understanding the Financial Identification Form is required only by Consortium Coordinator and not from each Consortium Member, could you confirm that?

Answer 60 ► Yes, the Financial Identification Form is required only from the consortium coordinator.