

**PUBLIC PROCUREMENT DOCUMENTATION FOR:**

**ARCHAEOLOGICAL STUDIES OF ARCHAEOLOGICAL SITES FOUND ALONG THE  
ROUTE OF GAS INTERCONNECTOR GREECE-BULGARIA**

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## ABBREVIATIONS AND DEFINITIONS

<b>Contracting authority</b>	The executive officers of ICGB AD
<b>IGB</b>	The gas pipeline connecting the Transadriatic gas pipeline and the Greek national gas transmission network with the Bulgarian national gas network
<b>Public procurement contract</b>	A public procurement contract for: <b>Archaeological Studies Of Archaeological Sites Found Along The Route Of Gas Interconnector Greece-Bulgaria</b> , concluded between the CONTRACTING AUTHORITY and the nominated contractor
<b>Documentation regarding the Public procurement</b>	This documentation regarding the Public procurement
<b>The law of the country where the Participant/the selected Contractor is established</b>	Applicable law as follows: <ul style="list-style-type: none"><li>(i) As regards the natural person – the national law within the meaning of art.48<sup>1</sup> Private International Law Code;</li><li>(ii) As regards the legal entity – the law of the country determined in accordance with art. 56<sup>2</sup> of the Private International Law Code;</li></ul>

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<sup>1</sup> Art. 48. (1) Within the meaning given by this Code, the national law of a person (lex patriae) shall be the law of the State of the nationality of the said person.

(2) The national law of a person holding dual or multiple nationality, of which one is Bulgarian nationality, shall be Bulgarian law.

(3) The national law of a person who is a national of two or more foreign States shall be the law of the State of habitual residence of the said person. Where the person does not have a habitual residence in any State whereof the said person is a national, the law of the State with which the said person has the closest connection shall apply.

(4) Within the meaning given by this Code, the national law of a stateless person shall be the law of the State of habitual residence of the said person.

(5) Within the meaning given by this Code, the national law of a person with a recognized refugee status and of an asylee shall be the law of the State of habitual residence of the said person.

(6) Where in the cases referred to in Paragraphs (3), (4) and (5) the person does not have a habitual residence or such cannot be established, the law of the State with which the said person has the closest connection shall apply.

(7) Within the meaning given by this Code, "habitual residence of a natural person" shall denote the place where the said person has settled predominantly to live without this being related to a need of registration or authorization of residence or settlement. For determination of this place, special regard must be had to circumstances of personal or professional nature arising from sustained connections of the person with the said place or from the intention of the said person to establish such connections.

<sup>2</sup> Art. 56. (1) The legal entities shall be governed by the law of the country where they are registered.

(2) When, there is no need for registration in order to incorporate a legal entity or it is registered in several countries, the law of the country where its seat is located according to its incorporation act shall apply.

(3) If, where under para. 2 the location of the seat according to the incorporation act does not coincide with the location of the actual management of the legal entity, the law of the country where its actual management is located shall apply.

(4) The branch of the legal entity shall be governed by the law of the country where it is registered.

(iii) As regards the alliances which are not legal entities – the law of the country where they are registered or established.

<b>Application</b>	The application for participation in a negotiation procedure with an initial notice which is submitted by the Applicant as per the template in Appendix № 3
<b>PPA</b>	The Public Procurement Act (promulgated SG, issue 13 of 16 February 2016)
<b>Contractor</b>	Participant in the Procedure selected for a Contractor with a decision of the Contracting authority and with which the Contracting authority concludes Public procurement contract
<b>Applicant</b>	Natural person or a legal entity or their alliance (where the alliance is not a legal entity) that has submitted an Application for participation in a negotiation procedure with an initial notice
<b>Announcement on the Public procurement</b>	A document with which the Contracting authority announces the opening of the Procedure in accordance with the requirements of the PPA and which is approved together with the Documentation regarding the Public procurement in the Decision for the opening
<b>Public procurement</b>	Public procurement with a subject matter <b>Archaeological Studies Of Archaeological Sites Found Along The Route Of Gas Interconnector Greece-Bulgaria</b>
<b>Tender</b>	Offer submitted by a Participant to implement the Public procurement which contains the Technical offer and the Price offer
<b>Subcontractor</b>	Person which has given its consent to implement a specific part of the Public procurement, designated by the Applicant in the Request or participation and in the event that it is selected for a Contractor, it will conclude a subcontract
<b>RAPPA</b>	Rules on the application of the Public Procurement Act (promulgated SG, issue 28 of 08 April 2016)
<b>Project/Project IGB</b>	Project „Gas interconnector Greece - Bulgaria“
<b>Procedure</b>	This open Procedure for the award of a public procurement, opened with a Decision № P-10/18.05.2018r of the Contracting authority
<b>Profile of the buyer</b>	Internet address of the Contracting authority <a href="http://www.icgb.bg/profil-na-kupuvacha/proceduri-za-vuzlagane-na-op">http://www.icgb.bg/profil-na-kupuvacha/proceduri-za-vuzlagane-na-op</a> , where electronic documents regarding the Procedure are published
<b>Decision for opening</b>	Act issued under the PPA by the Contracting authority for the opening of the procedure, approving the Announcement on the Public procurement and the Documentation regarding the Public

procurement

**PPR**

Register of the public procurements constituting a single electronic data base with information for the circumstances which are subject to registration as regards the procedures for the award of public procurements

**Technical offer**

Part of the Tender containing Offer for implementation of the Public procurement according to the template in Appendix № 6, authorization document, description.

**Participant**

Natural person or a legal entity or their alliance (where the alliance is not a legal entity) to whom a notice has been addressed and that has submitted a Tender in this procedure

**Price offer**

Part of the Tender containing the price offer of a Participant for performance of the Public procurement as per the template in Appendix № 7

## SECTION I. GENERAL INFORMATION.

### 1. General information about the project.

The project for gas interconnector Greece-Bulgaria (IGB) is a project for a new gas transmission pipeline between the Hellenic Republic and the Republic of Bulgaria. The role of the project is to improve the security of supplies for the Republic of Bulgaria and the region and to connect the gas transmission networks of both countries.

The total length of the gas pipeline route is about 182 km. Its length on the territory of Bulgaria is about 151 km and operational pressure 7,5 MPa and diameter DN800. The point where the gas pipeline crosses the border between Greece and Bulgaria is about 1,2 km to the north-east of Makaza border check point. The connection of the gas interconnector with the gas ring of Bulgaria will be done to the south of the village of Malko Kadievo, Stara Zagora municipality. The gas pipeline will be laid underground at a depth between 0.8 and 1.0m. Crossing of each obstacles shall be done as per an individual design.

The route of the gas pipeline passes through three districts and nine municipalities:

- the district of Kardzhali and the municipalities of Kirkovo, Dzhebel, Momchilgrad, Kardzhali;
- the district of Haskovo and the municipalities of Haskovo and Dimitrovgrad;
- the district of Stara Zagora and the municipalities of Opan, Stara Zagora and Radnevo;

The gas pipeline route provides for technological sites for:

- Line block valve BV2 at km25.2 (Velikdenche village),
- AGRS Kardzhali and block valve BV 3 at km50.0,
- Line block valve BV 3a at km79.2 (Mandra village),
- Line block valve BV 4 at km96.8,
- Line block valve BV 4a at km111.3 (Chernogorovo village),
- AGRS Dimitrovgrad - at km117.2,
- Dispatching centre with an Operation and maintenance base on the lands belonging to the town of Haskovo and the village of Stamboliyski;
- Line block valve (BV 5) (Golyamo Asenovo village), located on transmission gas pipeline after AGRS Dimitrovgrad connecting IGB project with a gas transmission pipeline DN500 of Bulgartransgaz EAD,
- Line block valve (BV 6) (Trakia village) at km129.5,
- GMS-2 (Stara Zagora) at km150.5. connecting IGB project with a gas transmission gas pipeline DN700 of Bulgartransgaz EAD
- Line block valve BV 7 (Zagore village) at km150.9, located at transmission gas pipeline DN 700 diameter after GMS-2 Stara Zagora
- 3 cathodic protection stations (CPS) with 3 power supply lines for CPS.

In connection with the investment intention of ICGB AD to construct Gas interconnector Greece-Bulgaria in 2012 an Environmental impact assessment report (EIAR) was prepared. Based on Decision №1-1/2013, the Ministry of Environment and Water (MOEW) gave a positive assessment of EIAR which has come into effect. The gas pipeline route crosses the following protected areas:

- Protected areas pursuant to the Habitats directive 92/43/EEC:

“The Rhodopes - East” BG0001032, “Ostar kamak” BG0001034, “the Maritsa river” BG0000578, “the Martinka River” BG0000442, “the Sazliika River” BG0000425.

- protected areas pursuant to Directive 79/409/EEC on conservation of wild birds:

Studen Kladenets BG0002013.

Pursuant to art. 161 of the Cultural Heritage Act before implementing an investment project in territories for which there are data for existence of archeological sites, preliminary archeological studies are mandatorily done which establish whether they will not be affected or damaged. On archeological sites found during these studies and for which it has been established that they will be affected, rescue excavations are done before start of construction works. The process is monitored by archaeologists.

At the stage of environmental impact assessment for the investment proposal preliminary archeological studies have been performed pursuant to the procedure in art. 160 of the Cultural Heritage Act (CHA). In the studies performed 83 archeological sites have been identified on the confirmed west route of the gas pipeline. In its decision № 1-1/2013 on approving the environmental impact assessment MOEW confirms that for 16 archeological sites full rescue archeological excavations need to be performed before start of construction, for 13-archeological drills and for 28 sites strict archeological supervision to be performed during construction. In its opinion outgoing № 26-00-0429/19.04.2013 the Ministry of Culture approved Decision №1-1/2013 on EIA and confirms the measures recommended.

## **2. Technical implementation and progress on the Project.**

The IGB project has obtained positive EIA decisions by the competent authorities on Bulgarian and Greek territory. The construction route has been designed on Bulgarian and Greek territory and it has been approved by the bodies in both countries - an Installation Act decision has been obtained on Greek territory and on Bulgarian territory a Detailed Spatial Plan - parcel plan of the site has been approved and has taken effect.

A Technical design for Bulgarian territory and FEED for Greek have been developed, all engineering studies for the project have also been conducted, approval of authorities responsible for approval of the project as well as of third parties affected by construction of the gas pipeline has been obtained. For Greek territory FEED has been prepared in accordance with the Greek regulation for high-pressure gas pipelines, for Bulgarian territory the Technical design for the project has been prepared in accordance with the regulations for engineering of high-pressure gas pipelines and the Territory Planning Act on the territory of the Republic of Bulgaria. The technical design is approved by the Ministry of regional development and public works and a Construction permit №48 dated 12.09.2017, promulgated SG 76/2017, was issued for the project which as of the time of announcing the public procurement has taken effect.



### **3. Information on the CONTRACTING AUTHORITY.**

IGB is implemented by ICGB AD (the Company) with shareholders BEH EAD (50%) and the Greek company Interconnector Greece-Italy Poseidon SA (50%). ICGB has been established as a project company with the main purpose to construct, commission and operate the Gas pipeline.

Upon awarding of this public procurement pursuant to PPA and RAPPAs the executive officers representing the Company act as contracting authorities and apply the rules valid for sector contracting authorities.

## **SECTION II. DESCRIPTION OF THE PUBLIC PROCUREMENT SUBJECT**

### **1. General description of the scope of services subject of the procurement.**

Subject of archeological studies is: the linear part of IGB km 0+000 to km 150+928.89, along with its easement, sites of block valves, on-ground facilities and infrastructure leading to them (electricity power lines, water pipes, sewage, road connections).

At EIA report stage of the implementation of IGB the route was visited as part of the initial archeological study. The significant archeological sites falling within the route for which there is a risk to be affected by construction works have been registered. Decision № 1-1/2013 for approval of EIA report also stipulates the types of rescue archeological studies which have to be made in order to preserve archeological sites.

Following preparation of DSP-PP and precise definition of the gas pipeline route a certain number of archeological sites affected has been determined. The Ministry of Culture with its opinions №26-00-0429/28.04.2014 and №26-00-0429/13.01.2014 approves the draft DSP-PP and with opinion №33-HH-1396/18.12.14 it approves the Technical design and poses requirements for archeological studies which shall have to be performed for the archeological sites registered at EIA report phase which are affected by the gas pipeline easement. The CONTRACTING AUTHORITY needs methodological and scientific assistance for their preservation as well as such for sites which are not included in the EIA decision but which may prove to be required in the course of implementation of the activities under this contract or for implementing temporary measures for preservation of the respective sites.

In accordance with EIA report the types of sites and archeological studies which have to be performed and are required for implementation of IGB project are as follows:

- Archeological sites with full rescue archeological excavations recommended before start of excavation works in the conditions of art. 148, par. 5 of CHA affected by the easement of IGB gas pipeline, described in Table №1 of the Technical specification which is Appendix №1 to this documentation.
- Archeological sites with archeological drills recommended - initial rescue archeological excavations in the conditions of art. 148, par. 5 CHA, affected by the easement of IGB gas

pipeline described in Table №2, of the Technical specification which is Appendix №1 to this documentation and drills to specify the thickness of cultural layers.

- Archeological supervision pursuant to art. 161, par. 2 of CHA during construction of archeological sites described in Table №3 and archeological supervision for the whole route of IGB gas pipeline of the Technical specification which is Appendix №1 to this documentation.

Archeological studies shall have to be conducted only for the affected by the easement part of the gas pipeline area of the archeological site and above-ground installations.

The list of sites for which rescue excavations are planned as well as the measures recommended for their conservation is of indicative nature. It is possible that in the process of activities it is established that implementation of construction does not affect in the way planned.

Studies shall have to be performed in accordance with the Requirements of the Cultural Heritage Act and Ordinance № H-00-0001 dated 14.02.2011 for implementation of field archeological studies.

Studies have to be completed with a decision of the committee appointed by the Minister of culture pursuant to the procedure of art. 158a CHA for adoption of the results from them. The CONTRACTING AUTHORITY sets that the contractor nominated will conduct until final completion **full rescue archeological excavations** of the registered archeological sites and drills described in Table 1 to specify the thickness of cultural layers of the archeological sites registered described in Table 2 of the Technical specification before start of excavation works along the route of IGB.

The contractor will perform archeological supervision during construction for the archeological sites in Table 3 and archeological supervision for the whole route of the IGB gas pipeline taking fully into account the construction work schedule which will be submitted to the Contractor by the Contracting authority.

In the event that following submission of the results and evaluation from the archeological studies conducted, an expert committee set forth by the Ministry of culture requires additional studies or measures to be taken, the CONTRACTING AUTHORITY shall be entitled to award them additionally, also if in the course of conducting the studies and supervision, archeological sites are identified not in those described and for them there is a need to perform additional archeological activities, they shall be awarded and performed through additional negotiation and their costs shall be set based on the parameters for unit prices in the bills of quantities in the Price offer based on Appendix № 3 of Ordinance H-00-0001 dated 14.02.2011 for holding field archeological studies of the Ministry of culture.

## **2. Place of implementation of the public procurement.**

The place of implementation of the public procurement is the territory of the Republic of Bulgaria.

### **3. Implementation term.**

The contract is performed until implementation of the IGB project within the term stipulated in art. 113, par. 1 of the Public procurement act which starts as of the date of effectiveness of the Contract.

Archeological studies shall have to be performed in a period taking into account the construction schedule of IGB gas pipeline. The maximum deadline for completion of each individual site in accordance with Table № 1 and Table № 2 is 3 (three) months following the date of assignment by virtue of assignment letter by the Contracting Entity and provision of access to the site.

Within the three-month terms set the Contractor shall be obliged to make studies on 10 sites simultaneously and the term for completion of work for all sites cannot exceed 3 months following the assignment by virtue of assignment letter by the Contracting Entity.

The date of receiving a notification by the Contracting authority that access has been provided and work may be started shall be considered as the date of start of field archeological studies for each particular archeological site.

The date of delivery of the protocol for the results from the study (in accordance with the provisions of art. 158a CHA) to the Ministry of Culture shall be considered as the end date of completion of field archeological studies under Table № 1 and Table № 2.

The date of delivery by the contractor to the Contracting authority of an approved protocol of the expert committee approved by the Ministry of culture under art. 158a, par. 3, in connection with art. 158a, par. 5 of the Cultural Heritage Act shall be considered as completion of the work for each individual site.

### **4. Estimated value.**

The estimated value of the public procurement is **BGN 3 000 000 (in words: three million leva) VAT excluded.**

The estimated value is the maximum amount of the financial resource of the contracting authority. Each tender which exceeds the estimated value of the Public procurement shall be excluded from the procedure.

### **5. Payment.**

Payment shall be done as per the conditions stipulated in the contact for awarding the public procurement.

### SECTION III. INFORMATION ON THE AWARD PROCEDURE

#### 1. **Legal ground for opening of the Procedure. Decision for opening. Announcement on the Public procurement.**

The subject matter of the public procurement is provision of services within the meaning of art. 3, para. 1, pt. 3 of the PPA.

The Procedure shall be opened on the grounds of art. 132 as a negotiation procedure with a preliminary notice in conjunction with art. 135 and art. 18, para. 1, pt. 4 of the PPA, art. 19 with a Decision No P-10/18.05.2018r of the Executive directors of the Company approving Announcement with outg. No P-10/18.05.2018r and the Documentation regarding the Public procurement.

#### 2. **Type of the Procedure and motives for its selection.**

Pursuant to art. 132 PPA upon award of public procurement sector contracting authorities may freely choose a negotiation procedure with an initial notice for participation.

The selection of procedure in this case gives an option to the contracting authority to hold negotiations with Participants which have received a notice for participation following pre-selection following initial tenders submitted by Applicants.

#### 3. **Lots – description of the lots/motives for the impossibility of dividing the procurement into lots.**

The purpose of awarding the procurement within a single subject matter without dividing it into lots is to achieve an optimum management process of the entire project and responsibility of one contractor for the activities to the fullest extent.

Dividing the Public procurement into lots is not feasible and is not applicable in this public procurement.

#### 4. **Procurement award criterion.**

Applicants in the procedure shall have to meet the requirements of PPA, RAPP and the CONTRACTING AUTHORITY, including the selection criteria stipulated by the CONTRACTING AUTHORITY in the notice and this documentation. Consideration and assessment of offers, ranking of participants and nomination of a Contractor shall be done pursuant to the procedure stipulated in PPA, RAPP and this documentation.

The tenders of participants shall be assessed as per the level of compliance with the conditions initially announced by the CONTRACTING AUTHORITY based on the **economically most beneficial offer set as per the ‘lowest price’ award criterion**. The participant who has offered the lowest price for performing the site subject of this procurement shall be ranked first. A contract shall be concluded with the participant ranked first.

## **SECTION IV. REQUIREMENTS TO PARTICIPANTS.**

### **1. Conditions and instructions for participation.**

This negotiation procedure with an initial notice shall be a two-stage one. The stages are as follows:

#### **Stage 1 – Submission of applications and pre-selection of applicants.**

The application form shall contain information on the personal status of applicants and selection criteria. At this stage of holding the procedure each person may file an application form in which it shall have to submit the information required by the CONTRACTING AUTHORITY with respect to non-existence of exclusion grounds and its compliance with the selection criteria.

#### **Stage 2 – Submission of initial offers by applicants invited and holding negotiations with applicants.**

The initial offer contains a technical and price offer for implementation of the subject of the procurement. At this stage of holding the procedure only applicants which the CONTRACTING AUTHORITY has invited following pre-selection conducted shall be able to submit initial offers which are to serve as a basis for holding negotiations.

### **2. Selection criteria.**

#### **2.1. Capability (qualification) to exercise the activity**

The applicant shall have to be a cultural and/or scientific institution in accordance with the requirement of art. 20, par. 5 of Ordinance № H-00-0001 dated 14.02.2011 on performing field archeological studies.

*In order to evidence compliance with the respective criterion the Applicant shall fill in ESPD, Part IV, Section A.*

#### **2.2. Minimum requirements for technical and professional capabilities.**

During the last three years, as of the date of submission of the application for participation, the Candidates shall have completed rescue archeological studies carried out during the construction of sites of the Linear Technical Infrastructure in accordance with Article 64, para 1, Item 1 and Item 2 of the SDA, with a length of the linear object not less than 20 km, which archaeological studies for one linear object to cover cumulatively:

- Studies conducted for not less than 5 (five) archaeological objects and
- From which 5 (five) objects, for at least 2 (two) objects to be conducted full rescue archaeological excavations under the procedure of Art. 147, para 4, item 2 of the Cultural Heritage Act.

For completed archeological studies are considered those for which, at the date of submission of the application for participation in the present procedure, the scientific reports and the field archaeological documentation, are accepted by the competent departments and there is a report approved by an Order of the Minister of Culture.

### **2.3. Evidencing the requirement set**

Documents to evidence the requirement pursuant to art. 64, par. 1, item 2 PPA: a list of services which are identical or similar to those of the procurement indicating the values, dates and receiver along with evidence on the service performed. The list is filled in in part IV, section C, item 1b ESPD. Evidence on the service performed shall be submitted only by the participant nominated for contractor.

In the event of participation of an alliance which is not a legal person the respective information is filled in in ESPD of the members of the alliance through which the applicant evidences the requirements set and the documents are submitted by these members.

When the applicant plans the participation of subcontractors, ESPD and the documents shall be submitted also for each of the subcontractors set.

The documents evidencing compliance with the requirement set shall be submitted by the participant nominated for contractor or upon request in the course of the procedure - in the events under art. 67, par. 5 and 6 PPA.

### **2.4. Minimum requirements for the team of experts**

The applicant shall need to have not less than five (5) teams available to perform the public procurement which shall include:

One (1) director of studies and one (1) deputy director of studies with education and qualifications conforming to the requirements of art. 150, par. 1 of the Cultural Heritage Act.

*In order to evidence compliance with the respective criterion the Applicant shall fill in ESPD, Part IV, Section C item 2 providing a current list of the respective key experts declared in ESPD.*

*Before signing the contract, an up-to-date list of the respective key experts declared in ESPD shall be provided.*

### **3. General requirements for participation in the procedure**

#### **3.1. Applicants and participants in the procedure.**

In accordance with the Public Procurement Act (PPA) an applicant or participant in a procedure for awarding public procurement may be any Bulgarian or foreign natural or legal person or their partnerships, as well as any other formation, which has the right to fulfill public works, supply or services under the legislation of the state in which it is established.

A branch of a foreign person may be an individual applicant or participant in a public procurement award procedure if they may individually submit applications for participation or tenders and conclude contracts pursuant to the legislation of the country where it is established.

For this public procurement *Applicant*, in the meaning of § 2, item 19 SP PPA, is an economic subject that has submitted an application for participation in negotiation with an initial notice.

For this public procurement *Participant*, in the meaning of § 2, item 59 SP PPA, is an economic subject that has produced an offer or has been invited to participate in negotiations.

Each of the applicants or participants in the procedure upon performing the respective legal and factual activities in the course of holding the procedure shall have to be represented by the person who represents it legally or by a person duly authorized by them. In order to perform the respective activities on behalf and at the expense of the applicant/ participant in connection with holding the procedure by a representative as per authorization it is obligatory for a duly issued power of attorney to be submitted which shall have to be in the original (signed and if possibly stamped) or a copy certified by a notary.

A natural or legal person may participate in one alliance only.

The person that participates in an alliance or has agreed to be subcontractor of another applicant may not submit an application individually.

Related parties may not be individual applicants/ participants in one and the same procedure.

#### **3.2. Grounds for mandatory exclusion.**

3.2.1. The CONTRACTING AUTHORITY shall exclude from the procedure an applicant or a participant when it:

1. Has been sentenced effectively, except if rehabilitated, for an offence pursuant to art. 108a, art.159a-159d, art.172, art.192a, art.194-217, art.219-252, art.253-260, art.301-307, art.321, 321a and art.352 -353 of the Penal Code;

2. Has been sentenced effectively, except if rehabilitated, for an offence analogical to these under item 1 in another member state or a third state;



3. Has liabilities to the state or to the municipality where the seat of the CONTRACTING AUTHORITY and the participant is located for taxes and mandatory social security contributions in the sense of art. 162, par. 2, par. 1 of the Tax-Insurance Procedural Code and interest on them or analogical payables established via a competent authority document in accordance with the legislation of the state where the participant is based, except if rescheduling, deferment or providing security for the payables has been arranged or the payable is pursuant to a document that has not taken effect;

*This item 3 shall not be applied when:*

- especially important or public interests need to be protected;
- the amount of the unpaid taxes or social insurance contributions due shall have to be not more than 1 per cent of the amount of the annual total turnover for the past completed financial year;

4. There has been inequality in the cases under art. 44, par. 5 PPA when despite the measure taken pursuant to art. 44, par. 3 and/or 4 PPA application of the principle of inequality may not be ensured, the applicant or the participant who has taken part in market consultations and/or in the preparation of awarding the procurement shall be excluded for the procedure if they may not provide evidence that their participation does not lead to breaking this principle;

5. It has been established that:

- a) a document has been submitted with false content related to certifying the non-existence of grounds for exclusion or compliance with the selection criteria;
- b) required information has not been submitted related to certifying the non-existence of grounds for exclusion or compliance with the selection criteria;

6. It has been established via an effective penal order or a court ruling violation of Art. 61, para. 1, Art. 62, para. 1 or 3, Art. 63, para. 1 or 2, Art. 118, Art. 128, Art. 228, para. 3, Art. 245 and Art. 301-305 of the Labor Code or Art. 13 para. 1 of the Labor Migration and Labor Mobility Act or similar obligations established by an act of a competent authority under the legislation of the state in which the candidate or the participant is based;

7. There is a conflict of interest which may not be terminated;

8. It does not comply with the selection criteria set or fails to comply with another condition set in the notice for public procurement or in the notice for participation in negotiations or in the documentation for participation;

9. Has submitted a tender that does not comply with:

- a) the initially announced conditions of the procurement;
- b) Rules and requirements related to environmental protection, social and labour law, applicable collective agreements and/or international environmental, social and labour law provisions listed in Appendix № 10 PPA-A list of conventions in the social sphere and in the environmental area;



10. an applicant which has failed to timely submit the justification under art.72, par. 1 PPA or whose offer has not been accepted in accordance with art. 72, par. 3-5 PPA.

11. there is a connection within the meaning of par. 2, item 44 of Other Regulations of the Public Procurement Act between candidates / participants in a particular procedure (Article 107, paragraph 4 of the PPA);

12. Has been declared bankrupt or is under bankruptcy proceedings, or is being wound up, or has entered into an out-of-court arrangements with the creditors thereof within the meaning given by Article 740 of the Commerce Act, or has suspended business activities, and in case the candidate or participant is a non-resident person, it is in an analogous situation arising from a similar procedure under the law of the State in which the said candidate or participant is established;

*Note: The contracting authority shall have the right not to exclude a Participant or an Applicant on this particular ground if the Participant or the Applicant certifies that they have not discontinued their operations and may perform the procurement in accordance with the applicable national rules upon continuation of the operations in the state where they are established.*

13. has been proved to be guilty of non-performance of a public procurement contract or a contract for concession or a services contract leading to his early termination, payment of benefits or other similar sanctions, except where the non-implementation affects less than 50 per cent of the value or volume of the contract; 14. there are circumstances under Art. 69 of the Law on Counteracting Corruption and for Removing the Unlawfully Acquired Property.

14. With respect to the Applicant/participant the prohibition for participation in public procurement is applicable pursuant to art. 3, Item 8 from the Law on Economic and Financial Relations with Companies registered in preferential tax regime jurisdictions, the persons related to them and their beneficial owners (EFRCRPTTRJPRTTBOA).

### **3.3. Reliability measures.**

3.3.1. An applicant or participant for whom one of the grounds for exclusion apply, shall have the right to submit evidence that it has undertaken measures which guarantee its reliability despite the existence of the respective grounds for exclusion. To this end the applicant or participant may prove that:

- It has cleared its payables under item 3.2.1, sub-item 3, including interest and/or fines accrued or that they have been rescheduled, deferred or secured;
- It has paid or is in the process of paying a compensation due for all damages arising as a result of the offence or breach committed by it;
- It has exhaustively clarified the facts and circumstances by actively having assisted competent authorities and having performed specific instructions, taken technical, organizational and personnel measures for preventing new offences or breaches;

- has paid in full the due receivable under Art. 128, Art. 228, para. 3 or Art. 245 of the Labor Code.

3.3.2. The CONTRACTING AUTHORITY assesses the measures undertaken by the applicant or participant taking into account the weight and specific circumstances related to the crime or infringement.

In the event that the measures undertaken by the applicant or participant are sufficient to guarantee its reliability, the CONTRACTING AUTHORITY shall not exclude them from the procedure.

3.3.3. The grounds for accepting or rejecting the measure undertaken pursuant to item 3.3.1 and the evidence submitted shall be stipulated in the pre-selection procedure, in the decision for ranking or terminating the procedure respectively, depending on the type and stage at which the procedure is.

3.3.4. An applicant or participant where by force of an effective sentence or another document pursuant to the legislation of the state in which the sentence has been pronounced or the document has been issued has been deprived of the right to participate in public procurement or concessions procedures may not be able to make use of the option provided for in item 3.3.1 for the period set in the sentence or the document.

#### **3.4. Application of the exclusion grounds.**

3.4.1. The grounds for exclusion under item 3.2.1, sub-items 13 shall be applied when they have arisen before or in the course of the procedure.

3.4.2. The grounds for exclusion shall be applied until the following periods expire:

- Five years after the sentence under item 3.2.1, sub-items 1 and 2 has taken effect, except if the sentence indicates a different term;
- Three years after the circumstances under item 3.2.1, sub-items 5, letter a and b, sub-item 13, except if another term has been indicated in the document certifying the circumstance.

3.4.3. The grounds under item 3.2.1, item 1, 2 and 6 refer to the persons that represent the participant, members of management and supervisory bodies or other persons that have the power to exercise control when decisions are taken by these authorities.

3.4.4. The grounds for exclusion of an applicant or a participant in the procedure under item 3.2.1, items 1-6 and under item 11-15 shall be applied even when the applicant or the participant is an alliance of natural and/or legal persons and any of the exclusion grounds applies to a member of the alliance.

#### **3.5. Selection criteria. Third party capacity. Subcontractors.**

3.5.1. The CONTRACTING AUTHORITY sets the selection criteria and the documents evidencing their compliance in the notice which announces opening of the procedure. The selection criteria set the minimum eligibility requirements. The selection criteria are described in detail in item 2, Section 2 above.

3.5.2. When alliances participate which are not legal persons, compliance with the selection criteria shall be evidenced by the participating alliance and not by each of the persons included in it, except for the respective registration, provision of a certificate or another condition required for performance of the procurement in accordance with the requirements of a regulatory or administrative deed and in accordance with the allocation of participation of persons in performance of the activities provided for in the agreement for establishing an alliance.

3.5.3. Applicants or participants may for the particular procurement rely on the capacity of third parties, regardless of the legal connection between them, with respect to the criteria related to economic and financial standing, technical capabilities and professional competence.

3.5.3.1. with respect to the criteria related to professional competence applicants or participants may rely on the capacity of third parties only if the persons whose education, qualification or experience evidence compliance with the requirements of the contracting authority will participate in performing that part of the procurement for which this capacity is required.

3.5.3.2. When the applicant or participant relies on the capacity of third parties, they need to be able to prove that they will use their resources by providing documents for the commitments assumed by the third parties.

3.5.3.3. Third parties shall have to meet the respective selection criteria, in order to prove them the participant refers to their expertise and no grounds for exclusions should apply for them.

3.5.3.4. The CONTRACTING AUTHORITY requires that the applicant or participant replace the third party nominated by them if they do not meet any of the conditions under item 3.5.3.3.

3.5.3.5. In the provisions of the procedure the CONTRACTING AUTHORITY sets a requirement for joint liability for performance of the procurement by the applicant or participant and the third party whose capacity is used to evidence compliance with the criteria related to economic and financial standing.

3.5.3.6. When an applicant or participant in the procedure is an alliance of natural and/or legal persons, they may evidence compliance with the selection criteria with the capacity of third parties in compliance with the provisions under item 3.5.3.1 –3.5.3.3.

3.5.4. Applicants and participants indicate in their application or the tender the subcontractors and the share of the procurement which they will award to them if they intend to use such. In this case they need to submit evidence on the liabilities assumed by subcontractors. When in the course of performing the procurement the applicant plans to use subcontractor/s, it shall file a declaration in which it stipulates the type of works from the subject of the procurement which will be offered to subcontractors and the percentage share of these works in the amount of the public procurement and the subcontractors planned.

3.5.4.1. Subcontractors, shall have to meet the selection criteria in accordance with the type and share of the procurement which they are to perform and no grounds for exclusion from the procedure should apply to them.

3.5.4.2. The CONTRACTING AUTHORITY shall require the replacement of a subcontractor which does not comply with the requirements under 3.5.4.1.

3.5.4.3. When the part of the procurement which is performed by a subcontractor may be delivered as an individual site to the Contactor or the CONTRACTING AUTHORITY, the CONTRACTING AUTHORITY shall pay remuneration for this part to the subcontractor.

3.5.4.4. Payments under item 3.5.4.3 shall be performed based on a request addressed by the subcontractor to the CONTRACTING AUTHORITY via the Contractor which shall be obliged to submit it to the Contracting authority within 15 days of receiving it.

3.5.4.5. Along with the request under item 3.5.4.4 the Contractor shall have to submit an opinion from which it can be seen whether it contests the payments or part of them as not payable.

3.5.4.6. The CONTRACTING AUTHORITY shall be entitled to reject a payment under item 3.5.4.3 when the payment request has been contested until the moment of remedying the reason for the rejection.

3.5.4.7. Rules applicable to direct payments with subcontractors are set in the public procurement documentation and the procurement award contract.

3.5.4.8. Regardless of the option to use subcontractors the liability for performance of the public procurement contractor shall lie with the Contractor.

3.5.4.9. In case of public procurements for construction as well as for services which are to be performed at a site of the CONTRACTING AUTHORITY, following conclusion of the contract and before its implementation starts at the latest, the Contractor shall notify the CONTRACTING AUTHORITY of the name, contact details and representatives of subcontractors stipulated in the offer. The contractor shall notify the CONTRACTING AUTHORITY of all changes in the information provided in the course of performing the procurement.

3.5.5. Replacement or inclusion of a subcontractor during performance of a public procurement contract shall be admitted by exception when the need arises if the following conditions are simultaneously met:

3.5.5.1. The exclusion grounds for the procedure do not exist for the new subcontractor.

3.5.5.2. The new subcontractor meets the requirements which the previous subcontractor has met, including with respect to the share and type of activities which they will perform adjusted in accordance with the activities performed so far.

3.5.5.3. In the event of replacement or inclusion of a subcontractor the Contractor shall submit to the CONTRACTING AUTHORITY all documents which evidence compliance with the conditions of item 3.5.4.

#### **4. Electronic ESPD.**

Upon submission of the Application for participation the Candidate declares the absence of the grounds for exclusion under item 4.1. of this section by presenting the ESPD, respectively, describes in the ESPD the reliability measures under item 3.3. above, taken prior to the submission of the Application for participation.

Candidates and Participants are obliged to notify the Contracting Authority in writing within 3 days of the occurrence of a circumstance under item 4.1. of this section.

#### 4.1. European Single Procurement Document (ESPD)

Candidates provide ESPD in electronic form on a digital media (USB flash drive or Disc).

For this purpose, ESPD will be filled in via the European Commission's ESPD (eESPD) information system at <https://ec.europa.eu/tools/espd>, following the below steps:

- 1) In the system is marked "economic operator";
- 2) Then ESPD file is loaded;
- 3) The xml file from Appendix 4 (espd-request.xml) is loaded into the system;
- 4) The required data is filled in;
- 5) After reviewing the ESPD, it is downloaded in both formats - xml and pdf;
- 6) ESPD in pdf format shall be signed with an electronic signature by the respective obligated persons;
- 7) ESPD files xml and pdf (signed) are recorded on a digital media which is applied.

The following is stated in section 4.2 below: what information is to be filled in in the ESPD and specifically in which part / section / point the Candidate has to declare the relevant circumstances related to the personal status and the selection criteria.

ESPD shall be submitted by the applicant (economic operator) in accordance with the requirements of the law and the conditions of the Contracting authority and when applicable-ESPD for each of the members of the alliance which is not a legal person, for each subcontractor and for each person whose resources will be involved in implementation of the procurement. The applicant shall have to also specify in the respective places in ESPD referring to subcontractors and third parties / other entities/, apart from other information required as per the ESPD template, the names of subcontractors and/or third parties if such are provided, with subcontractors and third parties respectively submitting ESPD in electronic form on a digital media (USB flash drive) all relevant to them and the procedure for awarding the present public procurement fields.

ESPD are signed with electronic signature by the persons who represent the Candidate or the Participant, the members of the management and supervisory bodies and other persons who have the power to exercise control over the decision making by these bodies.

#### 4.2. Instructions for filling in ESPD:

The European Single Procurement Document contains the following parts:

Part I. Information about the procurement procedure and the contracting authority or the contracting entity.

Part II. Information about the economic operator.

Part III. Grounding reasons for exclusion.

Part IV. Selection criteria.

Part V. Reducing the number of qualified candidates.

Part VI. Concluding positions.

The individual parts of the eESPD are filled in by the participant in the public procurement in accordance with the following instructions:

- the information requested by the Contracting Authority shall be provided in the eESPD, indicating data on the public registers containing the declared circumstances or the competent authorities which are required to provide information under the legislation of the State in which the participant is established.

- a participant (economic operator) who participates in the procurement on its own and does not use the capacity of third parties and sub-contractors to fulfill the selection criteria, fills in and presents one eESPD.

- a participant (economic operator) who participates on its own but who will use the capacity of one or more third parties in respect to the selection criteria, submits a filled in separate eESPD for each of the third parties.

- a participant (economic operator), which participates on its own but will use one or more subcontractors, submits a filled in separate eESPD for each of the subcontractors.

- when a public or private entity participates in the public procurement as a consortium an eESPD shall be submitted for each of the persons participating in the consortium.

- when the requirements under Art. 54, para. 1, items 1, 2 and 7 of the Public Procurement Act refer to more than one person, all persons sign the same eESPD. In the event of a discrepancy in the declared circumstances relating to the personal status or in the need for protection of personal data, the information shall be filled in in a separate eESPD for each or for any of these persons. In this case, Part IV of ESPD "Selection Criteria" is filled in only in the eESPD signed by a person who can represent the participant (the economic operator) on its own.

- where a participant in the public procurement (economic operator) has any of the grounds under Art. 54, para. 1 of the Public Procurement Act or the grounds stated by the Contracting Authority under Art. 55, para. 1 of the Public Procurement Act and, before submitting the offer, he has taken measures to prove the reliability under Art. 56 of the PPA, these measures are described in the eESPD. They prove that the following are applied to eESPD:

- (a) a document for payment or agreement or other document showing that the obligations are secured or that the parties have agreed to their deferral or rescheduling, together with a repayment schedule and / or specified dates for the final payment of outstanding debts or is in the process of paying the due compensation.

- (b) a document from the relevant competent authority to confirm the circumstances described.

Documents proving the lack of grounds for exclusion are those referred to in Art. 58 of the Public Procurement Act and shall be submitted by the participant selected as contractor prior to the conclusion of a public procurement contract.

- the participant (the economic operator) should declare in the eESPD in **Part III "Grounds for exclusion", b. "D" "Other grounds for exclusion which may be provided under the**



**national legislation of the contracting authority or the contracting entity of a Member State" with [yes] or [no] information relating to the following circumstances:**

a) convictions for crimes under Art. 194-208, Art. 213a - 217, Art. 219-252 and Art. 254a - 260 of the Penal Code.

*\* In the event that the representative has been convicted of crimes analogous to those cited above in another Member State or a third country, the same is necessary to indicate the requested information.*

b) circumstances under Art. 3, item 8 of the Economic and Financial Relations Act with the companies registered in preferential tax jurisdictions, the persons related to them and their actual owners, except in the exceptions referred to in Art. 4 of the same law.

c) existence of connectivity within the meaning of para. 2, item 44 of Other Provisions of the PPA between the participants in the present procedure.

*\* If any specific national ground for exclusion from the abovementioned is applied, the economic operator should indicate in the eESPD that he has undertaken rehabilitation measures on his own initiative. If "yes", the same should describe the measures taken.*

*\* When the requirements under (a) above apply to more than one person, all persons sign the same eESPD. Where there is a need for protection of the personal data or a difference in the circumstances related to the personal status concerning the information on the requirements under Art. 54, para. 1, item 1 and item 2 shall be filled in in a separate eESPD for each person or for some of the persons.*

**Instructions for the preparation and submission of eESPD** (in electronic form, using electronic means of communication).

eESPD is a personal statement in electronic form. The obligation to submit this document electronically is also indicated in the contract notice (Article 49 (1) of the RIPPA).

When some of the obliged persons have to declare different circumstances related to the personal situation, they fill in a separate ESPD.

In cases where more than one ESPD is submitted due to circumstances under the previous sentence, the data related to the selection criteria shall be filled in only in ESPD signed with an electronic signature by a person who can represent the respective economic entity on its own.

## **SECTION V. DESCRIPTION OF THE STAGES OF A NEGOTIATION PROCEDURE WITH AN INITIAL NOTICE.**

### **1. Stage 1 – Submitting applications and pre-selection.**

1.1. In order to participate in the public procurement the Applicant shall file an application for participation (Appendix №3), which is accompanied by documents in accordance with the requirements of the contracting authority.

1.2. Applicants may request in writing from the contracting authority clarification on the public procurement documentation up to 10 days before the term for receiving applications expires.

1.2.1. The CONTRACTING AUTHORITY provides the clarifications within 4 days of receiving the request but not later than 6 days before the term for receiving applications and/or tenders expires. The clarifications do not include the person who has addressed the request.

1.2.2. The CONTRACTING AUTHORITY does not provide clarifications when the request has been submitted after the term in item 1.2.

1.2.3. Clarifications shall be provided in a publication on the buyer's profile.

1.3. Following expiry of the term for submission of applications the Contracting authority shall appoint a committee. The actions of the committee shall be recorded and its results are reflected in a report.

1.4. The committee starts work after it has received the register of applications received and the applications.

1.5. Applications received shall be opened at a public meeting at which representatives of the Applicants in the procedure or their authorized representatives may attend as well representatives of the mass media.

1.6. The committee opens the sealed non-transparent envelopes as per the order in which they have been received and announces their content with which the public part of the committee meeting finishes.

1.7. The committee considers the documents for compliance with personal standing and selection criteria set by the Contracting authority and prepares a protocol.

1.8. When missing, incomplete or incompliance of the information is established, including irregularity or a factual error or incompliance with the requirements for personal standing or the selection criteria, the committee stipulates this in the protocol and sends the protocol to all applicants on the day of its publication in the buyer's profile.

1.9. Within 5 working days as of receiving the protocol applicants with respect to whom inconsistent or missing information has been established can submit to the committee a new ESPD and/or other documents which contain amended and/or supplemented information. The



additionally submitted information may comprise facts and circumstances which have occurred after the deadline for receiving applications.

1.10. The option under item 1.9 shall be applied also to subcontractors and third parties referred to by the applicant. The applicant may replace a subcontractor or a third party when it has been established that the subcontractor or the third party do not meet the criteria of the CONTRACTING AUTHORITY when this does not lead to a change in the technical offer.

1.11. When changes refer to circumstances, different from the ones referred to in item 3.2.1, sub-items 1, 2 and 7, the new ESPD may be signed by one of the persons which can individually represent the applicant.

1.12. Following expiry of the term under item 1.9 the committee proceeds with considering the additionally submitted documents with respect to applicants' compliance with the requirements for personal standing and the selection criteria.

1.13. In the course of preselection and at each stage of the procedure the committee may, if required, to request clarification on data provided by applicants and/or verify the data declared, including through requesting information from other bodies and persons.

1.14. The committee shall submit the protocol with the results from the pre-selection to the CONTRACTING AUTHORITY. Within 5 business days as of the date of approving the protocol the CONTRACTING AUTHORITY shall announce a decision with the applicants which will be invited to submit tenders, respectively- to participate in the negotiations. The decision shall also include the applicants that do not comply with the requirements announced by the CONTRACTING AUTHORITY and the grounds for this.

## **2. Stage 2 – Submission of initial offers and holding negotiations.**

2.1. The notice for submission of an initial tender shall be sent to the applicants selected within 3 days as of:

2.1.1. Expiry of the term for appeal - when the decision is not appealed and if it is not appealed- no request for imposition of an interim measure has been made;

2.1.2. The ruling which rejects the request for an interim measure has taken effect;

2.1.3. Effectiveness of the decision when an interim measure has been imposed.

2.2. The CONTRACTING AUTHORITY may not invite to submit tenders or to participate in negotiations persons who have not submitted an application or applicants which do not have the required capabilities.

2.3. The CONTRACTING AUTHORITY shall give instructions for preparation of an initial tender including Technical offer and Price offer as well as instructions regarding deadline for submission, place of submission of offers in the notice for submission of an initial tender.

2.4. Following expiry of the term for submission of initial tenders, the Committee continues its work, receiving from the Contracting authority the register of the initial tenders received.

- 2.5. The tenders received shall be opened at a public meeting which the participants in the procedure or their authorized representatives, as well as representatives of the mass media, may attend. The Contracting Entity announces in announcement in the Buyer's profile the date, hour and place of opening.
- 2.6. The committee shall open the sealed envelopes as per the order in which they have been received and announces their contents.
- 2.7. At least three of the committee members sign the technical and the Price offer.
- 2.8. The committee proposes that one of the representatives of the other participants present sign the technical offer and the price offer whereby the public part of the committee meeting ends.
- 2.9. The committee considers the tenders admitted and verifies their compliance with the initially stipulated conditions with each of the Participants compliant with the initially stipulated conditions and performs negotiations. The sequence of holding the negotiations at which representatives of the applicants invited may be present shall be decided by the committee by casting lots (art. 67, par. 1 of PPA Implementation rules).
- 2.10. The lots containing the names of the invited candidates to fix the sequence of negotiations shall be fixed in advance in terms of date, hour and place which shall be published at the Buyer's profile of the Contracting Entity.
- 2.11. **Rules for casting lots:** Initially the chairperson of the committee prepares separate non-transparent, unmarked with signs envelopes corresponding to the number of the tenders submitted. In front of the persons attending the committee meeting (if any) the chairperson of the committee puts in each envelope a ticket with a number starting from 1 to ... (depending on the number of tenders). After that the envelopes are sealed. The chairperson of the committee invites, as per the order of incoming numbers of the tenders, each of the participants present (if any) to choose an envelope. After drawing an envelope and announcing the number of the ticket in it, the participant is entered into a list by indicating the number of the ticket drawn. For each of the participants which are not present the chairperson of the committee draws a separate envelope where the order of drawing is set as per the incoming numbers of the tenders. After an envelope is drawn officially / in absentia and the number of the ticket in it is announced, the chairperson enters into the list the number of the ticket drawn for each of the absent participants. Depending on the tickets drawn the order of holding the negotiations shall be set in the following manner- a participant with ticket № 1 is the first participant with whom negotiations will be held. The participant which has drawn a ticket with the last number corresponding to the number of tenders submitted is the last participant with whom negotiations will be held.
- 2.12. The committee shall hold negotiations with each of the participants separately sticking to the initially set conditions and requirements for performing the procurement. At the negotiations the legal representative of the applicant shall have to submit an identity document and when they are to be held with an authorized representative- also an explicit written power of attorney (an original or a copy certified by a notary). The committee shall not have the right to disclose the arrangements reached with an applicant to the rest of the applicants except for their explicit agreement. The committee shall have to hold the negotiations with each of the applicants in one and the same way, including by providing them with the same information and asking the same questions.

2.13. When an offer in the tender of a participant related to price or costs which is subject to assessment is more than 20 per cent more favorable than the average value of the offers of the rest of the participants as per the same assessment parameter, the CONTRACTING AUTHORITY shall require a detailed written justification for the way it has been formed which shall be submitted within 5 days as of receiving the request.

2.13.1. The justification received shall be assessed with respect to its completeness and objectivity as regards the circumstances referred to in PPA on which the participant relies. If necessary, the applicant may be required to submit clarifying information. The justification may not be accepted and the participant excluded only when the evidence submitted is insufficient to justify the price or costs offered.

2.13.2. An offer shall not be accepted when it is established that the price or costs offered in it are more than 20 per cent more beneficial than the average values of the respective offers in the other tenders because it fails to comply with regulations and rules related to environmental protection, social and labour law, applicable collective agreements and/or provisions of international environmental, social and labour law.

2.13.3. An offer shall not be accepted when it is established that the price or costs offered in it are more than 20 per cent more favorable than the average value of the respective offers in the rest of the tenders due to state aid received when the applicant cannot prove within the term provided that the aid is compatible with the internal market in the sense of art. 107 TFEU.

2.14. The committee shall rank participants as per the level of compliance of offers with the condition initially announced by the CONTRACTING AUTHORITY.

2.15. In the event that the complex assessments of two or more offers are equal, the offer which contains more beneficial offers, assessed in the following order, shall be ranked first:

2.15.1. Lower price offered;

2.15.2. More favorable offer on the amount of costs compared in descending order as per their weight;

2.15.3. A more favorable offer as per parameters outside the ones set in item 2.15.1 and 2.15.2., compared in descending order as per their weight.

2.16. The committee shall cast public lots to nominate a contractor between the offers ranked first if the participants may not be ranked in accordance with 2.15 or if the criterion for award is lowest price and this price is offered in two or more offers.

2.17. The committee shall draft a report on the results of its work after it completes its work.

2.18. The report shall be submitted to the CONTRACTING AUTHORITY for approval.

2.1. When in the course of work reasonable doubts for arrangements, decisions or coordinated practices between participants arise in the meaning of art. 15 of the Competition Protection Act, this circumstance is indicated in the report. Within 10 days of receiving the report the CONTRACTING AUTHORITY shall issue a decision for nominating a contractor or termination of the procedure.

## **SECTION VI. SUBMITTING A HARD-COPY APPLICATION AND TENDER. INSTRUCTIONS FOR SUBMITTING APPLICATIONS AND TENDERS. DOCUMENTS REQUIRED.**

1.1. Documents related to participation in the procedure shall be submitted by the applicant/participant or an authorized representative or via registered mail with acknowledgement of receipt at the address indicated by the CONTRACTING AUTHORITY.

1.2. The application shall be filed in Bulgarian, in an original hard-copy as well as in an electronic copy.

1.3. Soft copies of documents shall have to be in Bulgarian and to be arranged in folders in the same order as they are provided in their hard copy. Folder and file names need to clearly specify their contents. Files need to be in a format allowing full text search and copying part of the contents with a view to facilitating the work of the Committee.

1.4. In the event of mismatch between the hard copy texts and the soft copy ones, the hard copy document shall prevail.

1.5. The documents shall be submitted in a sealed non-transparent envelope containing the documents under item 6.6 which contains

1.5.1 name of the participant, including participants in the alliance when applicable;

1.5.2. correspondence address, telephone and if possible- a fax number and e-mail;

1.5.3. name of the procurement.

1.6. When submitting applications in the procedure the envelope shall include at least the following documents:

1.6.1 A list of the documents as per Template № 2;

1.6.2 Application as per Template № 1:

1.6.3 European Single Procurement Document (ESPD) - for the applicant in accordance with the requirements of the law and the conditions of the Contracting authority (Template №3).

1.6.4 A declaration pursuant to art. 67, par. 3 PPA that the Participants would like to use ESPD already submitted and published (Template №8).

1.6.5 Documents to evidence the reliability measures undertaken when applicable. The documents shall be submitted in the cases when for the applicant any of the grounds under art. 54, par. 1 PPA applies or the grounds referred to by the Contracting authority under art. 55, par. 1 PPA and before submission of the application:

a) As regards the circumstances under item 56, par. 1, item 1 and item 2 PPA – a document for payment made or an agreement or another document which makes it clear that the payables have been secured or that the parties have arranged for them to be deferred or rescheduled along with a payment schedule and/or dates for final payment of payables due or that the participant is in the process of paying the compensation due;

b) as regards the circumstances under art. 56, par. 1, item 3 PPA– a document from the respective competent authority confirming the circumstances described;

For participants which are alliances. The document shall have to contain the following information:

- Rights and obligations of the participants in the alliance;
- Solidarity of the obligations and allocation of liability among the members of the alliance;
- The activities which a member of the alliance will perform;
- The alliance representative.

In the event that the information described above is not included in the document establishing the alliance, then it can be submitted as a separate document signed by participants in the alliance.

1.7. Upon receiving of the application, the number, date and time of receiving it are indicated on the envelope for which a document is issued to the person delivering it.

1.8. Applicants submit an application within the term stipulated in the notice at the following address: **Sofia, 13 Veslets Street, floor 2, ICGB AD.**

1.9. Each applicant in the procedure shall be entitled to submit only one application in Bulgarian, in an original hard copy as well as in a soft copy.

1.10. Until expiry of the period for receiving applications each applicant may change, supplement or withdraw their application.

1.11. No application shall be accepted that have been submitted following expiry of the deadline for receiving or are in a non-sealed envelope or whose envelope has been tampered with. In the event that as of the time of expiry of the deadline for receiving applications at the place set for their submission there are still people waiting, a list of people waiting shall be prepared. The list shall be signed by a representative of the CONTRACTING AUTHORITY and by the persons present. Applications by persons on the list shall be entered into the register. Acceptance of applications by persons who are not on the list shall not be allowed.

1.12. Costs related to preparation and submission of the application shall be borne by the applicant. Applicants shall not be entitled to claims for costs incurred by them regardless of the result of the public procurement award.

1.13. The initial offer shall be submitted at the second stage of holding the procedure for public procurement award by the applicants which the Contracting authority has invited to submit an initial offer.

1.14. Upon submitting the initial offer the envelope shall include at least the following documents:

1.14.1. Technical offer containing:

1. A document for authorization when the person submitting the Tender is not the statutory representative of the Participant;

2. An offer for implementation of the procurement in accordance with the Technical specifications and the requirements of the CONTRACTING AUTHORITY and the appendices to it as per Template №5;

1.14.2. Price offer in accordance with Template №6 and Template №6a;

The Price offer shall be placed in a separate sealed envelope and shall bear the note: 'Price parameters Offered', name of the participant and shall contain a price offer and the appendices to it filled in and signed.

1.15. Applicants submit initial offers within the term stipulated in the notice at the following address: **Sofia, 13 Veslets Street, floor 2, ICGB AD.**

1.16. Each applicant in the procedure shall have the right to submit only one tender. The tender shall be prepared in Bulgarian, in an original hard copy as well as in a soft copy.

1.17. Until expiry of the period for receiving offers each applicant may change, supplement or withdraw their offer.

1.18. Documents related to participation in the procedure shall be submitted in one copy by the participant or by a representative authorized by them- in person or by mail or other registered courier service with acknowledgment of receipt at the address indicated by the CONTRACTING AUTHORITY. When the applicant in the procedure is a Bulgarian natural or legal person or alliances of them or a foreign natural or legal person or alliances of them and submits documents contained in the application or the tender which are in a foreign language, the latter shall be submitted also translated into Bulgarian. The person who has made the translation shall write their names and shall lay their signature on the document.

1.19. When for some of the documents it is stated that they could be submitted as 'a copy certified by the participant' as such shall be deemed a document on the copy of which the representative of the participant puts their own signature under the certification 'True copy of the original' and a stamp of the participant.

1.20. The documents described above shall be submitted in a sealed non-transparent envelope INITIAL OFFER being written on it and:

1.20.1. Name of the participant, including members of the alliance when applicable;

1.20.2. Contact address, telephone and if possible- fax and e-mail;

1.20.3. Name and reference number of the procurement.

1.21. Upon acceptance of the initial offer, the number, date and time of receiving it are indicated on the envelope for which a document is issued to the person delivering it.

1.22. No initial offers shall be accepted that have been submitted following expiry of the deadline for receiving or are in a non-sealed envelope or whose envelope has been tampered with. In the event that as of the time of expiry of the deadline for receiving initial offers at the place set for their submission there are still people waiting, a list of people waiting shall be prepared. The list shall be signed by a representative of the CONTRACTING AUTHORITY and by the persons present. The initial offers by persons on the list shall be entered into the register. Acceptance of initial offers by persons who are not on the list shall not be allowed.

1.23. Costs related to preparation and submission of the offer shall be borne by the participant. Participants shall not be entitled to claims for costs incurred by them regardless of the result of the public procurement award.



## SECTION VII. NOMINATING A CONTRACTOR FOR THE PUBLIC PROCUREMENT

### Concluding a public procurement contract.

The public procurement contract shall be concluded between the participant nominated for a contractor and the CONTRACTING AUTHORITY pursuant to the Public Procurement Act (PPA) and under subsidiary application of the Commercial act (CA) and the Contracts and Obligations Act (COA) of the Republic of Bulgaria.

Before concluding a public procurement contract, the CONTRACTING AUTHORITY shall require from the participant nominated for contractor to submit updated documents certifying the non-existence of the grounds for exclusion from the procurement as well as compliance with selection criteria set. The documents shall be also submitted for the subcontractors and third parties if there are such.

1. In order to certify the non-existence of exclusion grounds the applicant selected for contractor shall have to submit:

1. for the circumstances under art. 54, par. 1, item 1 PPA- a conviction certificate;
2. for the circumstance under art. 54, par. 1, item 3 PPA- a certificate by the revenue authorities and a certificate from the municipality as per the seat of the contracting authority and the applicant;
3. for the circumstance under art. 54, par. 1 item 6 PPA- a certificate by Chief labour Inspectorate Executive agency bodies. In the event that the certificate contains information on an effective penal ruling or a court judgment for violation under art. 54, par. 1, item 6 PPA, the applicant shall submit a declaration that the violation has not been effected in performance of a public procurement contract.
4. for the circumstances under art. 55, par. 1, item 1 PPA- a certificate issued by the Registry Agency.

The documents shall be submitted in their original or a copy certified by the applicant. The documents shall be for each member of the alliance as well as for each of the subcontractors and third parties if such are used.

When the applicant nominated for contractor is a foreign entity, they shall submit the respective document issued by a competent authority in accordance with the legislation of the state where the applicant is established. When the respective country does not issue such a document or when this document does not contain all circumstances, the Participant is to submit a declaration if such a declaration is of legal significance as per the legislation of the respective state. In the event that such a declaration is not of legal significance the Participant shall submit a formal request addressed to a competent body in the respective state.

In the events when the contractor nominated is a foreign entity and in the respective country documents are not issued for the said circumstances or when the documents do not include all circumstances, the participant shall submit a declaration if such a declaration has legal significance in accordance with the laws of the respective state.

In the event that the declaration is of no legal significance, the applicant shall submit a formal request made to a competent body in the respective state.

The CONTRACTING AUTHORITY shall not require the documents referred to above to be submitted when circumstances in them are accessible through a public free-of-charge register or access to it is provided by the competent authority to the CONTRACTING AUTHORITY officially.

II. When the contractor nominated is an unincorporated alliance of natural and/or legal persons and in view of the circumstance that the CONTRACTING AUTHORITY has not stipulated in the notice a requirement for establishment of a legal entity, the public procurement contract shall be concluded after the Contractor submits to the CONTRACTING AUTHORITY a certified copy of a certificate for tax registration and a BULSTAT registration or equivalent documents in accordance with the legislation of the state where the alliance has been established.

III. Upon signing of the public procurement contract the Participant nominated for contractor shall be required to submit:

1. the guarantee set which is to secure performance of the contract;
2. when the selected Contractor is a consortium which is not a legal entity – a certified copy of a certificate of tax registration and BULSTAT registration or equivalent documents in accordance with the laws of the country where the consortium is established.
3. Declaration pursuant to art. 6, par. 2 of the Measures Against Money Laundering Act (MAMLA).
4. Evidence for regular and/or rescue archeologic studies on at least 5 (five) archeological sites performed for the past three years as of the date of submitting the application From which 5 (five) objects, for at least 2 (two) objects to be conducted full rescue archaeological excavations under the procedure of Art. 147, para 4, item 2 of the Cultural Heritage Act.- references or good performance certificates for procurements identical or similar to those indicated in ESPD which include the amount, date of completion, place, type and volume.

The public procurement contract shall have to comply with the draft attached to the documentation appended with all proposals of the offer of the Participant based on which it has been nominated for contractor. Changes to the draft contract shall be exceptionally admitted when the provision under art. 116, par. 1 item 5 has been complied with and they are required by circumstances that have occurred during or after the procedure.

Amendment of a public procurement contract concluded shall be exceptionally allowed in accordance with the applicable scenarios under art. 116 PPA. The provisions of art. 75 RAPP shall apply to the contract with subcontractors.

Following conclusion of the Public procurement contract and before the start of its performance at the latest the Contractor shall inform the CONTRACTING AUTHORITY of the contact details and representatives of Subcontractors indicated in the Application for participation. The Contractor shall notify the CONTRACTING AUTHORITY of all changes in the information submitted in the course of performance of the procurement.



**SECTION VIII. STAGE 1 DOCUMENTS.**

APPENDIX №1 – TECHNICAL SPECIFICATION

APPENDIX №2 - LIST OF DOCUMENTS

APPENDIX №3 - APPLICATION

APPENDIX №4 - EUROPEAN SINGLE PROCURMENT DOCUMENT (ESPD)

APPENDIX №5 – DECLARATION PURSUANT TO ART. 67, PAR. 3 PPA

**SECTION IX. STAGE 2 DOCUMENTS – SUBMISSION OF OFFERS.**

APPENDIX №6 - TECHNICAL OFFER

APPENDIX №7 – PRICE OFFER

APPENDIX №7a – TAMPLATE OF A BILL OF QUANTITIES

APPENDIX №8 – DRAFT CONTRACT