

DOCUMENTATION
FOR A PUBLIC PROCUREMENT WITH SUBJECT MATTER

**SELECTION OF OWNER'S ENGINEER FOR THE GREECE-BULGARIA NATURAL
GAS INTERCONNECTOR PROJECT (IGB)**

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ABBREVIATIONS AND DEFINITIONS

PPA	Public Procurement Agency
Contracting entity	ICGB AD represented jointly by the Executives officers
Public procurement contract	Public procurement contract with a subject matter: “SELECTION OF OWNER’S ENGINEER FOR THE GREECE-BULGARIA NATURAL GAS INTERCONNECTOR PROJECT (IGB) “concluded between the Contracting entity and the selected Contractor
Subcontract	Written contract for implementation of one or more activities of the awarded Public procurement concluded between the selected Contractor and the Subcontractor referred to in the offer.
Documentation/Documentation regarding the Public procurement	This documentation regarding the Public procurement
ESIF	European structural and investment funds
EEPR	European energy programme for recovery
The law of the country where the Participant/the selected Contractor is established	The applicable law, as follows: <ul style="list-style-type: none">(i) About the natural person – the national law within the meaning of art. 48 Private International Law Code;(ii) About the legal entity – the law of the country determined in accordance with art. 56¹ of the Private International Law Code;(iii) About the consortiums which are not legal entities – the law of the country where they are registered or established.
PPA	The Public Procurement Act (promulgated SG, issue 13 of 16 February 2016, last amended SG, issue 63 of 04 August 2017 in

¹Art. 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.

force as of 30 June 2017)

Contractor	Participant in the Procedure selected for a Contractor with a decision of the Contracting entity and with which the Contracting entity concludes Public procurement contract
Participant	Natural person or a legal entity or their consortium (where the consortium is not a legal entity) which has submitted complete packaged of an Offer for participation in the Public procurement
Announcement on the Public procurement	A document with which the Contracting entity 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
Public procurement	Public procurement with a subject matter „ SELECTION OF OWNER'S ENGINEER FOR THE GREECE-BULGARIA NATURAL GAS INTERCONNECTOR PROJECT (IGB) “
Tender	Offer submitted by a Participant in the Public procurement award procedure which contains the Technical offer and the Price offer as well as other documents, provided in art. 39, para 3 of the Rules for implementation of the PPA.
Subcontractor	Person who has given its consent to implement a specific part of the Public procurement, designated by the Participant in the Offer and if it is selected for a Contractor, it will conclude a subcontract
RAPPA	Rules on the application of the Public Procurement Act (promulgated SG, issue 28 of 08 April 2016)
Project/Project IGB	Project „Gas interconnector Greece - Bulgaria “, hereinafter referred as the Project.
Procedure	This open Procedure for the award of a public procurement, commenced with a Decision №OP-05 от 08.11.2017 of the Contracting entity
Buyer profile	Internet address of the Contracting entity http://www.icgb.eu , where electronic documents regarding the Procedure are published

Decision for opening the procedure

Act issued under the PPA by the Contracting entity for the commencing 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 about 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 5.

Joint Venture

Joint Venture or Consortium of Companies

Price offer

Submitted price offer for participation in the Procedure by the Participant according the template in Appendix 6.

European Procurement Document (ESPD) Single

The said document shall supply the relevant information required by the Contracting entity and shall indicate the national databases which contain the circumstances declared or the competent authorities

Working day

A day that is not a public holiday or is not an official non - working day in Bulgaria

Section I. GENERAL INFORMATION.

1. General Information on the Project.

The Project for construction of Natural Gas Interconnector Greece-Bulgaria (the IGB Project) is implemented by ICGB AD - an investment company registered in the Republic of Bulgaria on 05.01.2011 with shareholders BEH EAD (50%) and the Greek company IGI Poseidon (50%). IGI Poseidon is an investment company registered in the Republic of Greece with shareholders the Greek public gas corporation DEPA S.A (50%) and the Edison International Holding NV (50%) fully controlled by the Italian Energy Group Edison SpA.

Greece-Bulgaria Gas Interconnector envisages construction of a pipeline which will directly connect the national gas transmission systems of the Republic of Greece and the Republic of Bulgaria. The entry point of IGB pipeline is in the region of the town of Komotini (Greece) and the exit point is in the region of the town of Stara Zagora (Bulgaria). IGB pipeline will have an essential strategic role and the direct effects will be in achieving real diversification of sources of natural gas supply for Bulgaria and for natural gas market in South East Europe.

The diameter of IGB pipeline will be DN800 (32") with a total length of approximately 182 km.

The Project has obtained the support of the Ministry of regional development of the Republic of Greece and Ministry of energy of the Republic of Bulgaria by a Memorandum of Understanding signed in 2009. The Project has been declared a project of national importance and a 'national site' project pursuant to decisions of the Council of Ministers of the Republic of Bulgaria No: 615/14.07.2009, No: 452/07.06.2012, as well as pursuant to Act 4001/2011 of the legislation of the Republic of Greece.

At European Union level, the IGB project has been obtaining consistent political and financial support which is of extreme importance for its successful implementation. Pursuant to a decision of the European Commission C(2010) 5813, amended by decision C(2012) 6405, co-financing has been allocated for the Project at the amount of EUR 45 million under the European Energy Program for Recovery.

2. Technical implementation and progress of 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 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.

The engineering design of the gas pipeline system has been completed in both sections, including all engineering site studies and coordination with the bodies responsible for approving the design as well as with third parties affected by the construction of the Site. The Front-End Engineering Design documentation has been prepared in accordance with the Greek Regulation for the high-pressure natural gas pipelines. On Bulgarian territory, the Technical design of the Gas pipeline has been prepared in accordance with the high-pressure pipeline engineering norms and more specifically the functioning Bulgarian Energy Act and the Spatial Development Act on the territory of Bulgaria and the Technical design has been approved by the Ministry of Regional Development and Public Works

The Technical Documentation for the Project includes the Technical design for the Bulgarian section and the FEED for the Greek section as well as other supporting additional documentation. The procurement activities for the start of the construction will be split into two main procedures that cover the whole scope of works for procurement and construction: the Line Pipe and the EPC packages. The Owner's Engineer contract, subject of this tender, is intended to manage the procurement and the construction of the IGB Project as better detailed here forth.

At the beginning of 2016 investment planning of both sections of the Site (Bulgarian and Greek) was practically completed for the purposes of permitting construction and the Project has obtained for the Bulgarian section Construction Permit No48 dated 12.09.2017 published in the State Gazette No76/2017.

3. Commercial implementation and progress of the Project

The project has started a procedure for 'temporary exemption' from regulated access under art. 36 of Directive 2009/73 before the national regulatory bodies in Bulgaria and Greece, Energy and water regulatory commission (EWRC) and Regulatory authority for Energy (RAE) respectively.

On 10th December 2015 the procedure for taking a final investment decision was completed (FID) by the shareholders. With the FID taken, the shareholders' commitment to construct is affirmed after obtaining all technical and regulatory permits for constructing the Gas pipeline and confirming the financial parameters set out with a view to implementation of the construction phase of the Project and achieving commercial operation from 2018 until the start of 2020.

In August 2016 as part of the 'temporary exemption' procedure ICGB AD started the binding phase of the Market Test for booking transmission capacity in the pipeline. On 30.11.2016 ICGB received binding offers for pipe line capacity in amount of 1.56 bcm/y. Following a Market Test finalized in March 2017, which confirmed interest in IGB for long term capacity reservations, in July 2017 ICGB officially submitted Exemption Refinement Report to RAE and SEWRC which initiated the final phase of the Exemption procedure under art. 36 of the Third Gas Directive (2009/73).

The Capex expenditures required for the implementation of the Project are at the amount of EUR 239 mln, where in this amount the cost of the equipment and the line pipe supply are also included. EU grant financing up to EUR 45 million under European Energy Program for Recovery (EEPR) has been obtained for the Project and has been extended until 2018. The recommendation of EC to Bulgarian and Greek authorities has been considered to investigate the options for additional grant financing of the Project through access to funds under European structural funds (ESIF) in both countries. As of today, the process for being included into the ESIF financed program is launched.

The IGB project has the status of a Project of Common interest under Regulation 347/2013 and it is a main priority project under the CESEC initiative for gas interconnectivity in Central and Southern Europe. In this context, the European Investment Bank and other international credit institutions have expressed active interest in financing the Project, including through instruments from the new European Fund for Strategic Investments (EFSI). The Bulgarian government in turn has included in the state budget for 2017 access to an increased amount of state financial guarantee when negotiating loan facilities for the project of up to EUR 110 million.

As of the time of awarding this service ICGB AD has not been licensed for transmission of natural gas and has not been certified as a transmission system operator.

4. Information regarding the Contracting entity.

Realization of the IGB Project is carried out by the investment company ICGB AD (the Company) in which shareholders with equal shares are the Bulgarian company Bulgarian Energy Holding EAD (50%) and the Greek company Interconnector Greece-Italy Poseidon SA (50%). ICGB AD has been incorporated as a project vehicle with the main purpose - to construct, commission and operate the Gas pipeline.

Upon assigning the present public procurement under the PPA and the RAPPAs the Executive directors who represent the Company act as representatives of contracting entity and apply the rules applicable to the sectorial contracting entities.

SECTION II. DESCRIPTION OF THE SUBJECT MATTER OF THE PUBLIC PROCUREMENT.

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

The objective of the OE's services is to assist Contracting entity in the implementation of the IGB Project up to the point of commissioning and training of personnel and to manage all the project related contractors of materials and services, like EPC, Line Pipe Supplier, etc. The technical specification and the detailed scope of service are set forth in Appendix 2 - Technical Specification. The terms and the conditions for performance of services are set in the draft contract – Appendix 9.

The required services are split in two phases:

- Phase 1 – services during tendering phase of the Project, before start of construction;
- Phase 2 – services during Construction phase of the Project.

In Phase 1 the OE shall get acquainted with the EPC and Line Pipe Supplier procurement documentation and shall support the Contracting entity in the tender evaluation process of offers during tendering process that will be conducted in accordance to the rules of the Bulgarian PPA.

The Contractor shall provide support to Contracting entity during tendering process of IGB project. The main objective shall be the award of public procurements of line pipe supply and the EPC, to the most suitable contractors for the IGB Project purposes and characteristics.in accordance with the packages approved by the Contracting entity. The Contractor shall support Contracting entity with its expertise to conduct the process in the most efficient way and in the best interest of the Project.

The services during tender phase of the Project will include, but not limited to:

- Getting acquainted with tendering documentations – scope of work, material specifications, work and price break-down, evaluation criteria and evaluation procedure,
- Getting acquainted with the public procurement documentation and the Project's technical documentation – FEED and Technical Design;
- During the public procurement procedure, review and answer questions and requests for clarification of tender documents requested by Participants;
- Perform evaluation of technical and price offers based on the criteria included in the approved evaluation methodology and provide Contracting entity with a detailed evaluation report;
- Support Contracting entity to formulate queries to Participants and responding to answers from Participants during procurement process providing drafts of documents or/and written opinions;
- Submit recommendations to Contracting entity for the selection of EPC Contractor and Line Pipe Supplier;
- Provide support to Contracting entity upon his request in case of appeals.

In Phase 2, OE shall provide services in the following main service areas, related to management and execution of the project:

- ✓ Project management on behalf of the Contracting Entity;
- ✓ Technical risk assessment and management on behalf of the Contracting Entity;
- ✓ Engineering support and design review services on behalf of the Contracting Entity;
- ✓ Verification of performed procurement and inspection as a Consultant of the Contracting Entity and as authorised representative when explicitly authorised for that activity;
- ✓ Fieldwork supervision on behalf of the Contracting Entity;
- ✓ Supervision over land acquisition/right of way process for the Greek territory and compensation of users and owners for affected crops for the Greek and Bulgarian section acting as a consultant to the Contracting Entity.
- ✓ Commissioning supervision on behalf of the Contracting Entity and.
- ✓ Completion and close-out.

For the performance of the Services OE shall have good knowledge of the specific tasks on Bulgarian and on Greek territory as the tasks, their scope and the specifics differ. The services shall be in compliance with the Project's execution based on two major contracts – line pipe delivery contract and contract for detailed engineering, procurement of the remaining equipment, construction, installation, staff training and commissioning of IGB pipeline (hereinafter referred to as EPC).

2. Place of implementation of services

The **place of implementation** of the public procurement is the territory of the Republic of Greece and the Republic of Bulgaria where Phase 1 shall be carried out on the territory of Bulgaria and Phase 2 shall be carried out on both territories. The pipe certification will take place in the factory where they will be produced.

3. Term for implementation.

The Contract will be implemented until the realization of the IGB Project within the term provided in article 113, para 1 PPA as of date of entering into force of the Contract.

The term for implementation shall be performed pursuant the proposed by the Contractor schedule for execution of activities aligned with the proposed schedule of activities of the EPC Contractor and Line Pipe Supplier.

The schedule shall be updated at the beginning of the execution of the Contract under the present procedure.

4. Estimated value

The estimated value of the public procurement is **8 450 000 EURO (in words: eight million and four hundred fifty thousand) VAT excluded.**

Estimated value for Phase 1 is **300 000 EURO (in words: three hundred thousand) VAT excluded.**

Estimated value for Phase 2 is **8 150 000 EURO (in words: eight million one hundred fifty thousand)** VAT excluded.

The estimated value constitutes the maximum amount of the financial resource of the Contracting entity and includes both the Phases 1 and 2. Each offer that exceeds the Procurement estimated value or the estimated values for Phase 1 and Phase 2 shall be excluded from the procedure.

The IGB Project is subject to financing by EU grant up to the amount of EUR 45 million under European Energy Program for Recovery (EEPR).

5. Payments and Payments Schedule

The payments shall be performed as it follows:

5.1. Lump sum payments of the price, for Phase 1 and Phase 2 in accordance with the Price Offer as specified in Appendix No 6.

5.2. The payment for Phase 1 shall be executed as progress ones. The payment for Phase 2 shall be executed as regular and progress ones. The payment scheme shall be as stipulated in the Draft contract - **Appendix 9**.

The payment schedule shall be executed on a regular basis, upon submitted invoice and request on behalf of the Contractor. The payment schedule based on progress shall be determined within the payment schedule and payment terms of the draft Contract - **Appendix 9**.

SECTION III. PROCUREMENT AWARD CRITERIA. EVALUATION METHOD.

1. *Award criterion*

The public procurement shall be awarded based on the most economically advantageous Tender.

The most economically advantageous Tender shall be determined based on the criterion “optimal ratio quality/price”.

2. *Indicators included in the criterion*

The assessment indicators, included in the criterion are specified in **Appendix No 4 – Evaluation Criteria. Evaluation Methodology.**

3. *Relative weight of the indicators*

The relative weighting of each of the indicators is set out in **Appendix No 4 – Evaluation Criteria. Evaluation Methodology.**

SECTION IV. INFORMATION REGARDING THE AWARD PROCEDURE

1. *Legal ground for the opening of the Procedure. Decision for opening of the procedure. 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 ground of art. 133 in conjunction with art. 18, para. 1, pt. 1 of the PPA with a Decision NoOP-05/08.11.2017 of the Executive directors of the Company approving Announcement with outg. No C-OP-05/08.11.2017 and the Documentation regarding the Public procurement.

The Documentation for the public procurement procedure and all related documents are prepared and approved in Bulgarian and English language and in case of discrepancies between both versions, the Bulgarian version shall prevail.

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

Pursuant to art. 132 of the PPA upon award of public procurements the contracting entities may freely opt for an open procedure.

The selection of an open procedure has been imposed by the complex nature of the subject matter of the Public procurement which includes services to be performed during tendering phase of the Project for selection of Line pipe supplier and EPC Contractor before start of construction and implementation of the IGB Project up to the point of commissioning and training and to manage all the project related vendors of materials and services, in such way that the given objectives of the Project – cost, schedule, quality, functionality - are reached.

3. *Motivation of impossibility of dividing the procurement into lots.*

The purpose of awarding the procurement without dividing it into lots is to achieve an optimum management process of the entire project and maximum level of responsibility of one contractor for the activities.

Dividing the Public procurement into lots is not feasible and would pose risks for the Contracting Entity and an unfounded delay in time for the construction and commissioning of the pipeline as the Contractor for the Owner's engineering should be selected before the start of the tendering process for selection of line pipe supplier and EPC Contractor.

Although the subject matter of this procedure provides for the realization of the contract in two phases as described in Section II, division of lots is not possible because Phase 1 defines the implementation of Phase 2 and change of Contractors enlarges the interface risks. Furthermore, the inclusion of individual lots preconditions the procedure to be developed autonomously with respect to each lot, which is not feasible in the present case as it would create risks for the Contracting Entity and would cause unjustified delay in time regarding the construction and commissioning of the pipeline.

At the same time, the decision of not splitting the Public Procurement into lots is also motivated by the fact that the Contractor must be selected prior to the start of the procedures for the selection of a Line Pipeline Supplier and the EPC Contractor, which could not take place if the two phases of the procedure are separated.

Therefore, it is necessary to avoid complexity of the coordination that requires a clear allocation of responsibilities among different Contractors. The convergences of the responsibility of coordination in single OE reduces chances of discrepancies in the implementation and possible failure to ensure consistent and coordinated implementation of the individual services and supplies and consequently unjustified postponement of the construction and commissioning of the Gas pipeline.

Awarding the contract to a single OE ensures optimal results and minimizes possible risks.

Section V. REQUIREMENTS TO PARTICIPANTS.

1. *General requirements. Declaring of personal status.*

- 1.1. Any Bulgarian or foreign person that complies with art. 10, par. 1 of the Public Procurement Act may participate in the procedure for public procurement award. Any Bulgarian or non-resident natural or legal person or any combinations thereof, as well as any other entity, who or which has the right to execute works, supplies or services according to the law of the State in which the said person is established, may be a Participant in a public procurement award procedure.
- 1.2. The Contracting entity shall exclude from participation Participants who fail to comply with both the **requirements of article 54, para 1 PPA** and **under article 55, para 1 PPA**.
- 1.3. The Contracting entity shall exclude also from participation Participant for which the following circumstances under article 54, para 1 PPA are present as follows:
 - a) the Participant has been convicted by an enforceable sentence, unless rehabilitated, of a criminal offence referred to in Article 108a, Articles 159a to 159d, Article 172, Article 192a, Articles 194 to 217, Articles 219 to 252, Articles 253 to 260, Articles 301 to 307, Articles 321, 321a and Articles 352 to 353f of the Criminal Code;
 - b) the Participant has been convicted by an enforceable sentence, unless rehabilitated, of a criminal offence like those referred to in letter “a”, in another Member State or a third country;
 - c) the Participant incurs obligations for taxes and compulsory social security contributions within the meaning given by Item 1 of Article 162 (2) of the Tax and Social-Insurance Procedure Code and the interest thereon, to the State or to the municipality where the Contracting entity and the participant or participant have their registered office, or any similar obligations, identified by a decision of a competent authority, under the law of the State where the participant or participant is established, unless the participant or participant has been allowed to reschedule, defer or secure the obligations or the obligation is under a decision which has not become enforceable;
 - d) unequal treatment is present in the cases referred to in Article 44 (5) PPA
 - e) it is found that:
 1. the Participant has presented a document making a false statement, related to attesting the absence of grounds for exclusion or fulfilment of the selection criteria;
 2. the Participant has failed to provide information required about attesting the absence of grounds for exclusion or fulfilment of the selection criteria.
 - f) the Participant is found, by an enforceable penalty decree or judgment, to have infringed Article 118, Article 128, Article 245 and Articles 301 to 305 of the Labour Code upon the performance of a public procurement contract or incurs any similar obligations identified by a decision of a competent body, under the law of the State where the Participant is established;

g) where there is a “Conflict of interest”² that cannot be remedied.

1.4. The Contracting entity shall exclude also from participation Participant for which the following circumstances under article 55, para 1, PPA are present as follows:

a) the Participant is bankrupt or is under bankruptcy proceedings, or is being wound up, or has entered into an out-of-court arrangement with the creditors thereof within the meaning given by Article 740 of the Commerce Act, or has suspended business activities, and in case the participant 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 participant or participant is established;

NOTE: The Contracting entity has the right to not exclude the Participant on this ground if the Participant proved that has not suspended business activities and is able to perform the procurement according to the applicable national rules on the continuation of business in the State in which the Participant is established.

b) the Participant is disqualified from pursuing an occupation or activity falling under the scope of the public procurement under the law of the State in which the act was committed;

c) the Participant has concluded an agreement with other persons for distorting competition, where the infringement has been identified by a decision of a competent authority;

d) the Participant has been proved guilty of non-performance of a public procurement contract or of a concession contract which led to early termination of that contract, damages or other comparable sanctions, except in the cases where the non-performance affected less than 50% of the value or extent of the contract;

e) the said participant attempted to:

- ✓ influence decision-making on the part of the Contracting entity in connection with the exclusion, selection or award, including by submitting untrue or misleading information, or
- ✓ obtain information that may confer thereupon undue advantage in the public procurement award procedure.

1.5. Ground for excluding under the requirements under points 1.3 and 1.4 shall be applied when they have arisen before or during the procedure.

1.6. Grounds for exclusion shall be applied until the following periods expire:

1.6.1. Five years after the sentence under point 1.3 letter “a” and “b” above has taken effect, except if the sentence indicates a different term;

1.6.2. Three years after the circumstances under point 1.3 letter “e”, point 1 and letter “f” and point 1.4, letters from “b” to “e” above have taken effect, except if another term has been indicated in the document certifying the circumstance.

² Pursuant to §2, item 21 of PPA Supplementary provisions /SP/ there is conflict of interest where the contracting entity, his employees or hired persons outside his structure, who participate in the preparation or awarding the public procurement or may influence the result of it, have interest, which may lead to benefit in the meaning of Art. 2, Para. 3 of the Act on Prevention and Finding Conflict of Interests and for which could be accepted that influences their impartiality and independence in relation to awarding the public procurement.

- 1.7. Grounds for exclusion** under requirements under point 1.3, letters “a”, “b” and “g” shall 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 authorities³.
- 1.8.** Participants that are companies registered in jurisdictions with a preferential tax regime and persons related to them through a civil partnership/consortium, in which a company registered in a jurisdiction with a preferential tax regime is a member, may not participate in this public procurement award procedure.
- 1.9.** A participant whose real owner is a person that is or has been over the past twelve months at a high state position in the Republic of Bulgaria or in another country or a related person in the sense of art. 8a of the Rules for Implementation of the Act on Measures against Money Laundering may not participate in the procedure. The non-existence of these circumstances shall be certified by signing Declaration under article 6, para 2 of the Act on Measures Against Money Laundering in Appendix 7
- 1.10.** The Contracting entity shall not require documents to be submitted evidencing the non-existence of grounds for exclusion when the circumstances in them are accessible through a public free-of-charge register or the information or access to it is provided by the competent authority to the contracting entity officially.
- 1.11.** A branch of a foreign entity can be an individual participant in a public procurement if they can submit offers individually and conclude contracts in accordance with the legislation of the state in which it is established.
- 1.12.** In case a participant in the procedure is joint venture/consortium which is not registered as an independent legal entity, each of the participants must meet the requirements described above. The participant – joint ventures of natural and/or legal entities shall be excluded from participation when for a member of the joint venture/ consortium is present one of the grounds under Art. 54, para. 1 and Art. 55, para. 1 of the Public Procurement Act and the same occurred before or during the procedure.
- 1.13. Related persons** may not be individual participants in one and the same procedure.
Related persons are:

³ These are:

- a) in case of a general partnership- persons under art. 84, par. 1 and art. 89, par. 1 of the Commerce Act;
 - b) in case of a limited partnership – general partners under art. 105 of the Commerce Act,
 - c) in case of a limited liability partnership- persons under art. 141, par. 1 and par. 2 of the Commerce Act and in case of a single person limited liability company – the persons under art. 147, par. 1 of the Commerce Act;
 - d) in case of a shareholding company- persons under art. 241, par. 1, art. 242, par. 1, art. 244, par. 1 of the Commerce Act;
 - e) in case of a partnership limited by shares – the persons under art. 256 with reference to art. 244, par. 1 of the Commerce Act;
 - f) in case of a sole trader- for the natural person- trader;
 - g) in case of a branch of a non-resident, the person that manages and represents the branch or has similar rights pursuant to the legislation of the state where the branch is registered;
 - h) in the cases of a-h- procurators where there are such.
- When the person has more than one procurator, the declaration is filed only by the procurators whose representative power includes the territory of the Republic of Bulgaria.
- i) in all other cases, non-residents included- for persons that represent, manage and control the participant pursuant to the legislation of the state where they are established.

- a) persons one of which controls the other or its subsidiary;
- b) persons whose activity is controlled by a third person;
- c) persons who jointly control a third person;
- d) spouses, relatives in the direct line without limitation and in the collateral line up to fourth degree inclusive, and relatives by affinity up to the fourth degree inclusive.

"Control" shall be in effect where a person:

- a) holds including through a daughter company or under an agreement with another person more than 50 percent of the shares/votes at the general meeting of a company or another legal entity; or
- b) may appoint, directly or indirectly, more than half of the members of the governing or the supervisory body of a legal entity; or
- c) may otherwise exercise a decisive influence on the decision-making in relation to the business of a legal entity.

1.14. Any Participant for which any grounds under Article 54 (1) of the PPA and the circumstances indicated by the Contracting entity under Article 55 (1) of the PPA apply or namely the circumstances under items 1.3 and 1.4. above, shall have the right to provide evidence to the effect that **Participant has taken measures ensuring the reliability** thereof despite the existence of a relevant ground for exclusion. For this purpose, the Participant may prove that:

1. it has extinguished the obligations thereof referred to point 1.3, letter "c", including the interest and/or fines charged, or that they are rescheduled, deferred or secured;

2. it has paid or undertaken to pay damages for all injuries resulting from the criminal offence or misconduct committed thereby;

3. it has clarified the facts and circumstances in a comprehensive manner by actively collaborating with the competent authorities, and has acted on concrete prescriptions, technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

Note: 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, it has been deprived of the right to participate in public procurement or concessions procedures the participant may not be able to make use of the measure for certifying reliability provided for in art. 56, par. 1 PPA (item 1.15 of this section respectively) for the period set in the sentence or the document.

1.15. Participants shall indicate in their offer the subcontractors and any share of the procurement the Participants may subcontract thereto if they intend to subcontract. In such case, participants have to supply proof of the obligations assumed by subcontractors for evidencing of which the ESPD signed by the respective subcontractor is sufficient.

- 1.16.** Subcontractors must fulfil the relevant selection criteria according to the type and the share of the procurement which is performed by them as well to the grounds for exclusion from the procedure must not apply thereto. The contracting entity shall require the replacement of a subcontractor that does not fulfil the conditions provided by the Contracting entity. Where the portion of the procurement which is performed by a subcontractor may be delivered as a separate site to the Contractor or to the Contracting entity, the Contracting entity shall pay the subcontractor remuneration for that part upon the estimation that this portion actually is subject to separate acceptance by the Contracting entity in compliance with the rules of acceptance of works under the contract.
- 1.17.** If the Participant has indicated that they will use the capacity of third parties to evidence compliance with the selection criteria or that they will use subcontractors, for each of these parties a separate ESPD shall be submitted which contains the information under art. 67, par. 1 PPA. The third parties must meet the relevant selection criteria for the proving of which the participant relies on their capacities, and the grounds for exclusion from the procedure must not apply thereto.
- 1.18. *Circumstances which need to be proved. Manner of proving circumstances declared in the ESPD.***

Upon submission of offers the Participants shall not submit other documents apart from ESPD with which to prove the lack of grounds for exclusion set out under items 1.3 and 1.4 and shall declare in ESPD the convergence with the selection criteria. When requirements for exclusion are applied or refer to more than one person all persons sign one and the same ESPD.

If protection of personal data is required or in case of a difference in the circumstances related to personal status, the information is entered in a separate ESPD for each of the persons or for some of the persons.

The Contracting entity may at any given moment require from the Participants to submit all or part of the documents with which to prove the information set out in the ESPD when this is necessary for the lawful conduct of the Procedure. The Contracting entity shall not require documents of which it is aware ex officio.

The Contracting entity may not accept evidence regarding technical and professional capabilities when it is produced by a person having interest which may lead to benefit⁴ within the meaning of art. 2, para. 3 of the Act on Prevention and Establishment of Conflict of Interests.

1.19. Guidelines on the filling of ESPD

The ESPD shall be presented for the Participant in accordance with the statutory requirements and the conditions of the Contracting entity and where applicable – for each of the participants of the consortium which is not a legal entity, as well as for each Subcontractor and for each person whose resources will be engaged in implementation of the Procurement.

⁴ Benefit is any revenue in money or in property including acquisition of shares, as well as provision, transfer or waiver of rights, grant of privilege or honors, obtaining goods or services free of charge or at prices lower than the market ones, help, voice, support or influence, advantage, getting a job or promise of a job, position, gift, reward, or promise to avert loss, liability, sanction or any other adverse event.

No	ESPD			Circumstances subject to declaration	Reference text
	Part	Section	Point		
1	2	3	4	5	6
1.	II (second)	A	N/A	Identification of the Participant/Subcontractor/Third party	N/A
			N/A	General information regarding the Participant/Subcontractor/Third party	N/A
			N/A	Type of participation of the Participant	N/A
		B	N/A	Information regarding the representatives of the Participant/Subcontractor/Third party	N/A
		C	N/A	Reliance by the Participant on the capacity of someone else	N/A
		D	N/A	Delegating to subcontractors whose capacity will not be used by the Participant	N/A
2.	III (third)	A	N/A	Information regarding convictions about the following crimes: (i) participation in a criminal organization – under art. 321 and 321a of the CC; (ii) corruption – under art. 301 – 307 of the CC; (iii) fraud – under art. 209 – 213 of the CC; (iv) terrorist crimes or crimes related to terrorist activities – under art. 108a, para. 1 of the CC; (v) money laundering or financing of terrorism – under art. 253, 253a or 253b of the CC and under art. 108a, para. 2 of the CC; (vi) child labour and other forms of traffic of people – under art. 192a or art. 159a – 159d of the CC.; (vii) crimes like the ones stated above upon presence of a conviction in another member state or third country.	pt. 1.3. a) and b) above
		B	N/A	Information regarding fulfilled obligations relating to payment of taxes or social security contributions or similar obligations to the government or municipality where the seat of the Contracting entity and	pt. 1.3. c) above

				Participant or Participant is, established in an act by a competent body.	
		C	N/A	Information regarding convictions about crimes under art. 172 and art. 352-353f of the CC and like the ones mentioned upon presence of a conviction in another member state or third country. Upon reply “yes” the following shall be stated: (i) date of entry into force of the conviction and the factual and legal ground for its imposition; (ii) term of the imposed punishment.	pt. 1.3. a) above
			N/A	Information regarding violation during implementation of a public procurement contract of art. 118, art. 128, art. 245 and art. 301-305 of the Labour Code established in an effective penalty statement or court judgment, or of similar obligations established in an act of a competent body in accordance with the laws of the country where the Participant is established.	pt. 1.3. f) above
			N/A	Information as to whether the Participant/Subcontractor/Third party: (i) has been declared insolvent, or (ii) is undergoing insolvency proceedings, or (iii) is undergoing liquidation procedure, or (iv) has concluded an out-of-court settlement with its creditors within the meaning of art. 740 of the Commercial Act, or (v) has terminated its activity, or (vi) in case of a foreign person – it must be in a similar position stemming from a similar procedure in accordance with the laws of the country where it is established.	pt. 1.4. h) above
			N/A	Information as to whether the Participant/Subcontractor/Third party has concluded an agreement with other	pt. 1.4. j) above

				herein upon presence of a conviction in another member state or third country.	
			N/A	Information regarding: (i) Whether the Participant/subcontractor/the third party is registered or not in a jurisdiction with a preferential tax regime and in the event, it is registered, it shall be stated where (ii) Whether the Participant/subcontractor/the third party is affiliated or not with persons registered in jurisdictions with a preferential tax regime, where the affiliated persons and the place of their registration shall be stated. (iii) Whether the Participant/subcontractor/the third party falls or does not fall within the exceptions under art. 4 of the Act on the economic and financial relations with the companies registered in jurisdictions with a preferential tax regime, the persons controlled by them and their actual owners (AEFRCRJPTRPCTTAO). If it falls within one of the applicable hypothesis of this provision, the concrete point of art. 4 shall be stated.	Pt. 1.8 above
			N/A	Information as to whether the Participant is an affiliated person ⁵ with another independent participant in the Procedure	N/A
3.	IV (fourth)	A	1)	Registration in the respective professional or commercial register	N/A
			2)	Presence of special permission, license and/or membership in a certain organization	N/A

⁵ „Affiliated persons“ within the meaning of § 2, pt. 45 of the Additional provisions of the PPA shall be:

- a) the persons, one of which controls the other person or its subsidiary;
- b) the persons whose activity is controlled by a third person;
- c) the persons which jointly control a third person;
- d) the spouses, relatives in a direct line without limitations, relatives in the collateral line to the fourth degree of consanguinity including.

		B	1a),	Information regarding the Minimum Total Turnover including a minimum turnover in the area covered by the procurement, calculated based on the annual turnovers for the last three years	pt. 2.2 below Selection criteria
		C	1b)	<p>Services with a scope</p> <ul style="list-style-type: none"> ✓ Project management services and ✓ Fieldwork supervision (construction supervision) and ✓ Elaboration of detailed engineering and/or assessment of detailed engineering of gas pipeline projects. <p>The accomplishment of the above might be demonstrated in different projects which must be in the field of Natural Gas for construction of pipeline system with at least 50 km length with diameter of the main pipe not less than 24" and project investment budget of an amount of at least seventy million (70.000.000,00) EURO.</p>	pt. 2.2.2 below
			2)	Team of key experts	Point 2.2.3 below
		D	N/A	The Participant shall apply a Quality Management System certified in accordance with BDS EN ISO 9001:2008/2015 Certificate for the Participant (or, in case of joint venture, for each of its members) or of any other equivalent quality system standard in the field of project management services for constructions of pipelines.	pt. 2.2.1 below

1.20. Where the participant has undertaken **reliability measures, the latter shall be described in ESPD and** documents shall be attached: as provided in art. 56, paragraph 1 of PPA.

1.21. If the Participant is a Joint Venture, a European Single Procurement Document (ESPD) shall be submitted for the Consortium and for each of its members.

1.22. In the cases under art. 41, par. 1 RAPPAs when more than one ESPD is submitted, the circumstances pertaining to the selection criteria shall be included only in ESPD signed by a person that can individually represent the respective economic entity.

Participant may use the option under art. 67, par. 3 PPA when direct and unlimited electronic access to ESPD already prepared and signed electronically is provided. In these cases, instead of ESPD, a declaration as per template shall be submitted which certifies that the data is up to date and the authenticity of the signatures of the ESPD published and the address where access to the document is provided shall be given (Appendix 8) (in the original) (if applicable).

When filling in Section D, part III, the Participant needs to consider that specific national exclusion grounds described above are applied and the Participant shall declare circumstances related to its status on and in the event of applicability of these grounds stipulated in Bulgarian legislation. The Participant for which the specific national exclusion grounds are present shall be excluded from this procedure.

2. Specific Requirements. Selection criteria

2.1. Economic and financial status requirements

Minimum Total Turnover calculated on the basis of annual turnovers for the last three years not less than EUR 25 mln (twenty-five million), depending on the date on which the Participant has been established or has started his activity.

On the grounds of article 61, para 2 PPA, the Contracting entity requires turnover which exceeds twice the estimated value due to the following reasons:

- ✓ Complexity of the Contracting strategy of the Contracting entity for the Project implementation envisaging two main contracts and related risks in that aspect;
- ✓ Complexity of the cross-border project which requires allocation of resources in two different countries which must be provided on cost of the Contractor;
- ✓ The service contract for the OE depends on the duration of the activities of the project realization which means that the resources shall be available for a period which is not fixed in the beginning.
- ✓ The payment scheme provided by the Contracting entity requires the payments to be made dependently on the EPC progress. If the EPC progress does not happen on regular basis or is in delay, the Contractor shall have the financial capability to bear the costs for the personnel.

Evidence: to prove compliance with the said criterion, the participant fills in field 1a of Section B: Economic and Financial Standing, in Part IV: Selection criteria of ESPD. The requirement set is evidenced with documents under art. 62, par. 1, item 1 or 3 PPA- bank' certifications or copy of financial statements, which the participant nominated for contractor submits before a public procurement contract is concluded. When submitting an offer, participants fill in only the respective ESPD section.

2.2. Technical and professional capability requirements.

2.2.1. Quality management system

The Participant shall apply a Quality Management System certified in accordance with BDS EN ISO 9001:2008/2015 Certificate for the Participant (or, in case of joint venture, for each of its members) or of any other equivalent quality system standard covering the scope of the present procedure in the field of project management for the construction of gas pipelines

Evidence: The Participant must certify the compliance with the said criterion by providing information required in Part IV, Section D of the ESPD. The requirement set is evidenced with documents under art. 64, par. 3 PPA – certificates for the quality control system issued by accredited persons in accordance with the requirements of art. 64, para 5 PPA which the participant nominated for contractor submits before a public procurement contract is concluded. When submitting an offer, participants fill in only the respective ESPD section with pointing out number of the certificate, certifying organization, scope, validity or the equivalent quality measures, which are applicable.

2.2.2. Relevant Experience:

The Participants shall demonstrate the execution and the successful completion of the following activities:

- ✓ **Project management services and**
- ✓ **Fieldwork supervision (construction supervision) and**
- ✓ **Elaboration of detailed engineering and/or assessment of detailed engineering of gas pipeline projects.**

The accomplishment of the above might be **demonstrated in different projects which must be in the field of Natural Gas for construction of pipeline system with at least 50 km length with diameter of the main pipe not less than 24” and project investment budget of an amount of at least seventy million (70.000.000,00) EURO.**

Project management services and Fieldwork supervision shall comprise at least investor's control services, including control of supplied and used materials and control of the quality, quantity and compliance of performed construction and installation works with the requirements of respective supply and EPC contracts

The Participants (or their nominated subcontractors) shall demonstrate also experience in both shop inspection of linepipes and field inspection for construction of gas pipeline systems.

The required experience as stated above shall be for the last 10 years as of the deadline for submission of offer. The period for the relevant experience to be demonstrated is extended to 10 years due to the specifics of the services and the complexity of the project pursuant to art. 63, para 2 PPA.

The „Project budget “shall be the amount of the investment budget of the Project which has been subject to the services as described above.

The projects shall be considered completed in case the listed Projects have obtained Taking Over Certificates pursuant the rules of FIDIC or Certificate for exploitation under the BG legislation or documents having the similar meaning.

Evidence: to prove compliance with the said criterion the participant fills in field 1b of Section C: technical and professional ability in Part IV: Selection criteria of ESPD. The requirement set is evidenced with documents under art. 64, par. 1, item 2 PPA- a list of the services which are identical or similar to subject-matter of the public procurement by indicating the amounts, dates and recipients as well as proof of services performed which the participant nominated for contractor submits before a public procurement contract is concluded. When submitting an offer, participants fill in only the respective ESPD Section.

2.3. Team of experts

The Participant shall have at least the following team of key experts who will oversee implementation of the public procurement:

- ✓ **Project manager**
- ✓ **Quality System Management Manager,**

- ✓ **Health, Safety, Security and Environmental Manager,**
- ✓ **Head Project Management Services,**
- ✓ **Head Engineering**
- ✓ **Head of Fieldwork supervision (Field Supervision)**
- ✓ **Head of QA/QC & Material inspection:**
- ✓ **Key experts for TPI (Third party inspection) Services for Field and Shop Inspectors – at least two experts**

Requirements for the qualification and skills to key experts for the TPI Services for Field and Shop Inspectors:

Field and Shop Inspectors for the TPI Services shall have a university degree in Engineering discipline.

Specific experience for the key experts for the TPI Services for Field and Shop Inspectors:

- Previous experience as approved inspectors by a TPI Entity, for at least 3 years (for the shop inspection, 6 years of experience as Inspector, 2 years of which concerning Shop Inspection of similar materials, with reference to Certificates issued as described below). Alternatively, they must have experience in a relevant field of at least ten (10) years.
- To dispose Level II Certificates according to EN 473 or ASNT TC1A or equivalent and proved experience of at least 1 year, with relevant references in the following Non-Destructive Methods:
 - Radiographic Testing/Assessment
 - Ultrasonic Testing/Assessment
 - Magnetic Particle Testing/Assessment
 - Liquid Penetrant Testing/Assessment

To prove compliance with the respective criterion, the participant fills in ESPD, Part IV, Section C, item 2).

Note: other requirements to professional capacity of the team of experts shall not be set forth herein as the competencies of the personnel shall be evaluated in compliance with the indicators defined with the Methodology for evaluation.

Section VI. Submission of Offers. Deadlines for submission of offers.

I. Each offer must contain all documents under article 39 of RAPP:

1. Each offer shall contain:

- 1.1. List of submitted documents – in accordance with the template – Appendix No 1
- 1.2. European Single Procurement Document - Appendix No 3
- 1.3. Declaration under 67, para 3 PPA that the participants would like to use ESPD which has already been submitted and published - Appendix No 8
- 1.4. Declaration under article 6, para 2 of the Act on Measures Against Money Laundering - Appendix No 7;
- 1.5. The Technical offer containing the following documents:
 - 1.5.1. Document for authorization when the person submitting the Tender is not the statutory representative of the Participant;
 - 1.5.2. Offer for implementation of the procurement in accordance with the Technical specifications and the requirements of the Contracting entity based on a form in Appendix No 5;
- 1.6. Price offer - Appendix No 6
- 1.7. The Participants may state in their Tenders which of the submitted information they consider confidential due to trade secret. The information which the Participants have referred to as confidential shall not be disclosed by the Contracting entity to third parties and shall not be published on the Buyer's Profile.

The Participants may not refer to confidentiality about the offers of their Tenders which are subject to evaluation.

In the preparation of Tender, the Participants shall follow strictly the minimal content as required and provided by the Contracting entity - Appendix 5. Lack of minimal content in the Technical Offer shall be ground for exclusion from participation in the procedure on the grounds of art. 107 of the PPA.

2. Document regarding the establishment of a consortium – a Participant in the procedure

When the Participant is a consortium, which is not a legal entity, it shall submit a document evidencing the status of the consortium, for instance: consortium contract (which is not a company), civil association contract, joint action contract, etc. The document shall contain the legal ground for establishment of the consortium, as well as the following information in relation to the public procurement:

- a) a specific partner representing the consortium for the purposes of the public procurement;

- b) agreed joint and several liabilities of the participants in the consortium when such is not envisaged in accordance with the applicable law;
- c) the rights and obligations of the participants in the consortium;
- d) the distribution of liability between the members of the consortium;
- e) the activities which each member of the consortium shall implement.

3. Proof regarding the obligations undertaken by the Subcontractors

The Participants shall state in the Offer the Subcontractors and the part of the public procurement which will be delegated to them if they intend to rely on such. In this case they shall submit proof of the obligations undertaken by the Subcontractors and the submission of the ESPD is entirely sufficient in that respect.

4. Price Offer

The Price offer shall be prepared based on a form in Appendix No 6 – Price offer.

The Price offer shall be placed in a separate sealed non-transparent package and shall bear the note: “Offered price parameters”.

The Price offer shall provide:

- ✓ The price offer shall be comprised of prices in EURO based on lump sums for Phase 1 and Phase 2.
- ✓ The price offer shall also include prices in EUR based on hourly Rates, excluding VAT which will apply in case of variations under the terms and the conditions of the contract. The price offer should include hourly rates of each team member by positions and according to the hierarchy in the team and the organizational structure.

5. Term for validity of the Offers

- 5.1. The validity term of the offers shall be the time during which Participants are bound by the terms of the offers submitted by them.
- 5.2. Offers shall have to be valid for a period not shorter than 6 months as of the deadline of submitting the offer.
- 5.3. If required, the Contracting entity may require Participants to extend the validity term of their offers. A refusal to extend their offers, following expiry of their validity, shall lead to exclusion of the Participant.

6. Other requirements

- 6.1. The offer and all documents to it shall have to meet the requirements of the Contracting entity set in the Procurement Notice as well as in this Documentation and to be in a format as per the templates attached to it and in accordance with the instructions of the Contracting entity. The provisions for participation in the templates from the Documentation shall be mandatory for Participants and may not be amended by them.
- 6.2. Documents and data in the offer shall be signed only by persons with representational functions as per the law, respectively the expressly authorized representative of the participant and/or persons specially authorized for this purpose. In the event of a

- special authorization a power of attorney for performing these functions certified by a notary shall have to be submitted.
- 6.3. All documents related to the offer shall have to be in Bulgarian and in English. If the offer contains documents and certificates/references in a foreign language, they shall have to be attached with a translation into Bulgarian and English.
 - 6.4. In the events when the Contracting entity does not expressly require an original document, the Participant may submit a copy certified by the person with representational powers.
 - 6.5. No entries between lines, deletions or corrections shall be admitted in the offer.
 - 6.6. The Contracting entity shall provide unlimited, full, free of charge and direct electronic access to the public procurement documentation as of the date of publication of the public procurement notice in EC OJ through the electronic file of the procurement in the Buyer's profile.
 - 6.7. The offer shall be submitted in Bulgarian and in English, in an original hard copy as well as a soft copy /with an exception of the Price Offer, which is only in hard copy/.
 - 6.8. Soft copies of documents shall have to be in Bulgarian and in English 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.
 - 6.9. In the event of mismatch between the hard copy texts and the soft copy ones, the hard copy document shall prevail.
 - 6.10. Documents related to participation in the procedure shall be submitted by the Participant or by a representative authorized by them in person or via registered post or courier with acknowledgement of receipt at the address given by the Contracting entity.
 - 6.11. Documents shall be submitted in a sealed non-transparent packaging (*the type of packaging is upon the discretion of the Participant). The Participant shall have to submit their offer along with all documents required by the Contracting entity at the following address: 1000 Sofia, 13 Veslets str., fl. 2. The packaging shall bear the following text:

ICGB AD

Sofia ,13 Veslets Street, floor 2

To the attention of: Vladislava Tsekova

OFFER

**For participation in an open procedure pursuant to art. 18, par. 1, item 1 and art. 132
PPA for awarding public procurement for:**

„ SELECTION OF OWNER’S ENGINEER FOR THE GREECE-BULGARIA NATURAL GAS INTERCONNECTOR PROJECT (IGB) “

**Participant’s name,
Including members of the Joint Venture (when applicable),
Contact address, telephone and
If possible- fax and e-mail,**

The non-transparent sealed packaging shall contain the documents referred to in Section VI, point I, item 1, as well as a separate sealed non-transparent envelope inscribed Offered Price Parameters which contains the price offer of the Participant under section VI, point I, item 4.

Section VII. Acceptance of OFFERS. Return of OFFERS.

Upon reception of the offer the number, date and time of receiving are indicated on it and a document for this is issued to the bearer. The Contracting entity shall not admit for participation in the procedure and shall immediately return to Participants offers that have been submitted after the deadline for receiving or are in an unsealed packaging or their packaging has been tampered with. These circumstances shall be reflected in the register under art. 48, par. 1 RAPPА.

Offers received shall be stored with the Contracting entity up to the date and time set for opening the offers.

1. The offers shall have to be received by the Contracting entity at the address and within the period set in the notice for this public procurement.
2. If within the period for receiving offers an offer for participation has not been received or only one offer has been received, the Contracting entity may extend the period for receiving offers.

Each Participant shall have to procure that the Contracting entity receives the offer in a timely manner.

Until expiry of the period for receiving offers each Participant may change, supplement or withdraw their offer. Withdrawal of an offer suspends further participation of the Participant in the procedure. Supplementing and changing the offer need to comply with the requirements and conditions for submitting the initial offer and the packaging shall have to bear the following text: **“Supplement/Change of an offer incoming number.... For participation in an open procedure pursuant to PPA for ... (the whole subject is indicated)”**.

Section VIII. Communication between the Contracting entity and the Participants. Clarifications inquiries.

All communication and actions of the Contracting entity and the Participant related to this procedure shall be in writing.

The Participant may submit their letters and notifications at the Contracting entity's office at the following address: Sofia, 13 Veslets Street, floor 2 every working day by fax, by post or courier or electronically at the Contracting entity's site pursuant to the terms and procedure of the Electronic Document and Electronic Signature Act.

Persons may request clarifications in writing from the Contracting entity on the documentation for participation, the decision or the notice within 10 days before expiry of the period for receiving offers.

Clarifications shall be published on the buyer's profile within four days as of receiving the request, and they shall not contain the person addressing the request, but not later than 6 days before expiry of the period for receiving offers.

If from the time clarifications on the documentation are provided by the Contracting entity to the deadline for receiving offers fewer than 6 days remain, the Contracting entity shall extend the period for receiving offers except when clarifications do not require material changes to offers or when they have been submitted with respect to clarification requests which have not been made in a timely manner.]

The Contracting entity does not provide clarifications when the request has been submitted after the designated term.

Section IX. Admission, evaluation and award procedure

Following expiry of the period for receiving offers the Contracting entity shall appoint a committee for selection of Participants, consideration and assessment of the offers. The committee comprises an odd number of members.

Admission, evaluation, ranking and award shall be done pursuant to Sections III and V above, set in accordance with art. 104, par. 1 PPA and art. 54, art. 55 art. 56, art. 57 and art. 58 of RAPP.

A price offer exceeding the weighted estimated value as well as the estimated value for Phase 1 and Phase 2 shall not be admitted to assessment. A Participant with such a price offer shall be excluded from participation in the procedure.

When a Participant's offer contains an offer related to a price or costs which is subject to assessment and which is more than 20 per cent more favourable than the average value of the offers of the rest of the Participants under the same assessment parameter, the Contracting entity shall request from it a detailed written justification for the way it has been formed which shall be submitted within 5 days upon receiving the request.

With respect to the contents of the justification and the procedure for accepting it, art. 72 PPA shall apply.

In addition to the grounds under art. 54 and art. 55, par. 1 PPA the Contracting entity shall exclude from the procedure:

1. a Participant that fails to meet the section criteria set or fails to comply with another condition set in the procurement notice or in the documentation;
2. a Participant that has submitted an offer which fails to comply with:
 - a). The initially announced terms and 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;
3. a Participant who 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.
4. Participants which are related entities.
5. A Participant who is not entitled to participate in public procurement pursuant to art. 3, item 8 regarding art. 5, par. 1, item 3 of Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions, the Persons Related to Them and Their Beneficial Owners Act (EFRCPTRJPRTTBOA) except when the conditions under art. 4 of the act are present.

Information on the lack or existence of the circumstances under item 4 and item 5 shall be filled in in Part III, Section D ESPD.

Section X. Public Procurement Contract. Performance Guarantee.

1. Public Procurement Contract

The Contracting entity shall conclude a public procurement contract with the Participant nominated for contractor. The contract shall be concluded after the decision for selection of a contractor which takes effect on a date referred in the contract and agreed by the parties.

The draft contract follows the rules of the Client/Consultant Model Services Agreement under the last revision of Client/Consultant Model Services Agreement 5th Ed (2017 – White book). The participants cannot copy or distribute the latter due to copyright restrictions.

The contract consolidates in one document the Form of Agreement, General and Particular Conditions and Appendices pursuant the FIDIC template and is an integral part of that tender package. The Contracting entity shall conclude the contract within one month after the decision for nominating a contractor takes effect or of the determination by which provisional enforcement of this decision has been allowed but not prior to expiry of a 14-day period of notification of the interested parties of the decision for nominating a contractor.

Before concluding a public procurement contract the Contracting entity shall request from the Participant nominated for a contractor to submit up-to-date documents certifying the non-existence of the grounds for exclusion from the procedure as well as compliance with the selection criteria set. The documents shall be also submitted for subcontractors and third parties if there are such.

I. In order to certify the non-existence of exclusion grounds the Participant 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 entity and the Participant;
3. for the circumstance under art. 54, par. 1 item 6 PPA- a certificate by Chief Labour Inspectorate Executive agency bodies. If the certificate contains information on an effective penal ruling or a court judgment for violation under art. 54, par. 1, item 6 PPA the Participant 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 Participant. 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 Participant 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 Participant is established.

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.

If the declaration is of no legal significance the Participant shall submit a formal request made to a competent body in the respective state. The Contracting entity 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 entity officially.

II. When the nominated contractor is an unincorporated joint venture of natural persons and/or legal entities and in view of the circumstance that the Contracting entity 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 entity certified copy of a certificate for tax registration and 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 - 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. Evidence for compliance with criteria for financial statement in the form of bank statement or the annual financial statements or extracts from the annual financial statements, where publication of financial statements is required; or a statement of the overall turnover and/or of the turnover in the area covered by the procurement. Where, for any valid reason, a Participant is unable to provide the references requested by the Contracting entity, the said participant may prove the economic and financial standing thereof by any other document which the Contracting entity considers appropriate.
4. Evidence for activities performed with a subject and scope identical or like those of the procurement for the past ten years as of the date of submitting the offer – references or good performance certificates to the services identical or like those indicated in ESPD which include the amount, date of completion, place, type and volume as well as whether it has been performed in accordance with regulatory requirements.
5. A valid certificate for quality management system as per standard EN ISO 9001:2008/2015 or equivalent or other evidence for equivalent measures to secure quality in the field of project management related to building and construction of gas pipelines – (*certified copy*).

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 RAPPAs 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 entity of the contact details and representatives of Subcontractors indicated in the Offer. The Contractor shall notify the Contracting entity of all changes in the information submitted during performance of the procurement.

2. Performance guarantee

2.1. Amount of the guarantee

The selected Contractor of the Public procurement shall submit a guarantee securing the performance of the contract. The guarantee shall be in the amount of 5% of the value of the contract.

2.2. Form of the guarantees

The guarantees shall be submitted in one of the following forms:

- a) money;
- b) bank guarantee;
- c) insurance securing performance by covering the liability of the Contractor.

The guarantees under letters a) and b) may be submitted on behalf of the Contractor at the expense of a third person – guarantor.

The participant selected for a Contractor shall choose the form of the performance guarantee.

2.3. Requirements regarding the guarantee

2.3.1. When the selected Contractor constitutes a consortium, which is not a legal entity, each of the partners in it can be an initiator under the bank guarantee, respectively deposit the amount of money under the guarantee in the bank account, or can be a party to the insurance contract.

2.3.2. The guarantee in the form of money shall be deposited into a bank account of the Contracting entity in bank: Bulgarian Bank for Development, IBAN: BG07NASB96201410249402; BIC: NASBBGSF

2.3.3. The performance bank guarantee, respectively the insurance, shall be issued in favour of the Contracting entity and shall contain the following conditions:

- a) a statement of the issuing bank, respectively statement of insurer, that it will pay within 5 working days to the Contracting entity the sum of the due payment or part thereof as stated by the Contracting entity in a written request;
- b) assuming a non-revocable and unconditional engagement for payment upon receipt of a written request by the Contracting entity, regardless of the objections of the Contractor or third persons.

2.4. Terms and conditions regarding retention or release of the guarantee

The Performance guarantee shall be subject to partial release in accordance with the two-phases performance of the Contract, proportional to the performed part of the subject-matter of the public procurement.

The terms and conditions regarding retention or release of the performance guarantee shall be set out in the Public Procurement Contract.



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Section XI. Appendixes and documents Templates.

Appendix No 1 – List of documents

Appendix No 2 - Technical specification

Appendix No 3 - Standard form for the European Single Procurement Document (ESPD)

Appendix No 4 - Evaluation Criteria. Evaluation Methodology.

Appendix No 5 - Technical offer

Appendix No 6 - Price offer

Appendix No 7 – Declaration under article 6, para 2 of the Act on Measures Against Money Laundering

Appendix No 8 - Declaration under art. 67, para 3 PPA⁶

Appendix No 9 – Draft Contract

⁶ The Participants may use the stipulated in article 67, para 3 of PPA in cases when it is assured direct and not limited access electronically to already elaborated and signed electronical ESPD. In these cases, in the place of ESPD a template declaration is presented to confirm the that the data, authenticity of signatures in the published ESPD contained are still up-to-date. The Participant must also point out the exact address where the ESPD has been published.