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Natural Gas
Interconnector
Greece - Bulgaria

DOCUMENTATION FOR

Public Procurement Procedure of public competition with subject matter:

“Implementation of full rescue Archaeological Studies of additionally found Archaeological Sites, located along the Route of „Gas Interconnector Greece-Bulgaria “

Contents

ABBREVIATIONS AND DEFINITIONS	4
SECTION I. GENERAL INFORMATION	7
1. General information about the project.....	7
2. Information about the conducted archeological studies along the route.....	7
3. INFORMATION ABOUT THE CONTRACTING ENTITY.....	8
Section II. DESCRIPTION OF THE SUBJECT OF THE PUBLIC PROCUREMENT.	8
1. Technical specification	8
2. Place of implementation of the public procurement.	8
3. Term for implementation.....	9
4. Estimated value. Options.....	9
5. Payment.....	10
SECTION III. INFORMATION REGARDING THE PROCEDURE ON AWARD.....	10
1. Legal grounds for opening the Procedure. Opening decision. Announcement of the public procurement.....	10
2. Type of the procedure and arguments for its choice.....	10
3. Lots – description of the lots/grounds for impossibility the procurement to be divided to lots. 10	
4. Criterion for award of the procurement.	10
Section IV. REQUIREMENTS TO THE PARTICIPANTS.	12
1. Conditions and instructions for participation.....	12
2. Selection criteria.....	12
2.1. Eligibility (qualification) for exercising professional activity.....	12
2.2. Technical and professional capabilities	12
3. General requirements for participation in the procedure	13
3.1. Participants in the procedure	13
3.2. Grounds for mandatory exclusion.....	13
3.3. Reliability measures	15
3.4. Declaring and proving of selection criteria. Third party capacity. Subcontractors..	16
4. Instructions for filing in ESPD.....	17
4.1. European single procurement document (ESPD).....	18
4.2. Instructions for filling in ESPD.....	19
SECTION V. INSTRUCTIONS FOR SUBMISSION OF TENDERS. REQUIRED DOCUMENTS	21
1. Mandatory contents of the tender according to article 39 IRPPA:	21

2. Participant in the procedure.....	21
3. Evidences about the commitments, undertaken by the Subcontractors.	22
4. Price offer.....	22
5. Term of validity of the tenders.....	22
6. Other requirements.....	22
SECTION VI. ACCEPTANCE OF TENDERS. RETURNING OF TENDERS.....	24
SECTION VII. COMMUNICATION BETWEEN THE CONTRACTING ENTITY AND THE PARTICIPANTS. REQUESTS FOR CLARIFICATIONS.	24
SECTION VIII. DETERMINATION OF CONTRACTOR OF THE PUBLIC PROCUREMENT	25
1. Execution of a contract for public procurement.....	25
2. Proving lacke of grounds for exclusion	25
3.1. Documents before signing of a contract	26
3.2. Amendment of an executed contract	26
SECTION IX. TEMPLATES OF DOCUMNETS	
APPENDIX 1: TECHNICAL SPECIFICATION	27
APPENDIX 2 – LIST OF THE DOCUMENTS	27
APPENDIX 3: EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD).....	27
APPENDIX 4: DECLARATION ACCORDING TO ART. 67, PARA 3 PPA.....	27
APPENDIX 5: TECHNICAL OFFER	27
APPENDIX 6: PRICE OFFER	27
APPENDIX 7: DRAFT CONTRACT.....	27

ABBREVIATIONS AND DEFINITIONS

Contracting Entity	The executive directors of „ICGB“ AD
IGB	The gas pipeline connecting the Trans-Adriatic gas pipeline and the Greek national gas transmission network with the Bulgarian national gas network
Contract for Public Procurement	Contract for the award of Public Procurement with subject matter “Implementation of full rescue Archaeological Studies of additionally found Archaeological Sites, located along the Route of „Gas Interconnector Greece-Bulgaria“ concluded between the CONTRACTING ENTITY and the designated for contractor participant
Documentation regarding the Public procurement	This documentation regarding the Public procurement
The law of the country where the Participant/the selected Contractor is established	Applicable law as follows: <ul style="list-style-type: none">(i) As regards the natural person – the national law within the meaning of art.48¹ Private International Law Code;(ii) As regards the legal entity – the law of the country determined in accordance with art. 56² of the Private International Law Code;(iii) As regards the alliances which are not legal entities – the law of the country where they are registered or established.

¹ 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.

² 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.

PPA	The Public Procurement Act (promulgated SG, issue 13 of 16 February 2016)
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
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 “Implementation of full rescue Archaeological Studies of additionally found Archaeological Sites, located along the Route of „Gas Interconnector Greece-Bulgaria “
Tender	Offer submitted by a Participant to implement the Public procurement which contains the Technical offer and the Price offer
Subcontractor	Person which has given its consent to implement a specific part of the Public procurement, designated by the Candidate in the Request for participation and in the event that it is selected for a Contractor, it will conclude a subcontract
RIPPA	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“
Procedure	This Procedure for the award of a public competition, opened with a Decision № of the Contracting Entity
Buyer’s profile	Internet address of the Contracting Entity http://www.icgb.bg/profil-na-kupuvacha/proceduri-za-vuzlagane-na-op , where electronic documents regarding the Procedure are published
Decision for opening	Act issued under the PPA by the Contracting Entity 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 attached to the present Documentation for Public Procurement
Participant	Natural person or a legal entity or their alliance (where the alliance is not a legal entity) who has submitted a Tender in the present procedure



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Price offer

Part of the Tender containing the price offer of a Participant for performance of the Public procurement as per the template attached to the present Documentation for Public procurement.

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 Republic of Greece 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 present project envisages the gas pipeline to connect the national gas transmission systems of Republic of Greece (in the region of Komotini) and Republic of Bulgaria (in the region of Zagore village, Stara Zagora municipality), owned respectively by DESFA S.A. and „Bulgartransgas” EAD. There have been started the negotiations for preparation and signing of the agreement for connection between the two gas pipelines (Interconnection Agreement). It is agreed the connection point along the route of the Trans-Adriatic gas pipeline, its location and technical parameters.

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 of of between 0.8 and 1.0 m Crossing of each obstacle shall be done as per an individual design.

The route of the gas pipeline passes through the districts of Haskovo, Kardzhali and Stara Zagora as on Bulgarian territory it affects the territory of 9 municipalities.

2. Information about the conducted archeological studies along the route.

In the process of design of the gas pipeline and particularly upon the development of EIA Report was made a study of the gas pipeline route, which concerns affection of territories with located on them archeological sites. The results of this study are shown in the part „Cultural-historical heritage“ of the EIA Report and by Decision 1-1/2013 of the Minister of environment and water the EIA Report was approved as there were ordered measures for preservation (protection) of the localized archeological sites. The EIA Report was coordinated by the Ministry of culture with opinion №26-00-0429/19.04.2013. The measures comprise rescue archeological excavations prior to starting the construction works and observation in the process of the construction.

In 2018 „ICGB“ AD announced a procedure for selection of contractor for the activities on implementation of rescue archeological excavations and observation along the gas pipeline route in the period of the construction, envisaged in the EIA Report and the Decision for its approval. Subsequently NAIM-BAS was selected as a contractor and contract № P-10-C/06.08.2018 is concluded.

In implementation of a contract № P-10-C/06.08.2018 between „ICGB“ AD and NAIM-BAS, in 2018 were implemented field studies along the whole route of gas pipeline „Gas interconnector Greece – Bulgaria“.

In relation to the assigned activities under Contract № P-10-C/06.08.2018, in 2018 were conducted rescue studies of 13 of the archeological sites, falling within the right of way of the gas pipeline route. According to the requirements of the Cultural heritage act and contract № P-10-C/06.08.2018, the results of these studies were adopted by committees designated by the Minister of culture. In 2019 continued the preliminary studies of 12 more sites, from the completed ones 7 sites shall be released for construction, 4 shall be studied till complete exhaustion of the cultural layers within the right of way

and one site is still not studied. A work is in progress on completion of the sites which have recommendation for a full study from 2018 – one is almost completed, four are in a process of excavations, the studies of three sites shall start very soon. The twenty five (25) archeological sites, found along the gas pipeline route have various characteristics – type, chronology, area, thickness of the cultural layer and etc.

In relation to 12 of the archeological sites found along the route, which were determined for rescue excavations, it became needed conduction of full studies within the borders of right of way. All additional activities are ordered in the decisions of an Expert committee to the Ministry of culture, certified by the Minister of culture in accordance with art.158a of the Cultural heritage act. For 8 sites studied in 2018 the additional activities were assigned under the contract between „ICGB“ AD and NAIM-BAS as the needed funds are envisaged in the budget under the contract and their study is already running. By the assignment of the additional work on full study of 8 sites, studies in 2018 the funds envisaged under the contract were exhausted, including the options, envisaged in the cost of the public procurement.

About two sites – №A13, №A14, have to be performed full studies according to the decisions of the committees from the Ministry of culture. The costs for the full study of these sites exceed the amount, envisaged in the contract, including the cost of the options. The volume of the needed additional studies and the costs for their implementation is determined in accordance with the decisions of the expert committee to the Ministry of culture, approved by orders of the Minister of culture and estimates according Contract P-10-C/06.08.2018.

3. INFORMATION ABOUT THE CONTRACTING ENTITY.

The realization of the IGB project is implemented by the investment company „ICGB“ AD (the Company), at which shareholders with equal share are the Bulgarian company „Bulgarian energy holding“ EAD (50%) and the Greek company Interconnector Greece-Italy Poseidon SA (50%). „ICGB“ AD is established as a project company with main purpose construction, commissioning and operation of the gas pipeline.

Upon assignment of the present public procurement according to PPA and RIPPA the executive directors who represent the Company shall act as Contracting entities and shall apply the rules, valid for sectoral contracting entities.

The present documentation is drawn up in Bulgarian and English as in case of discrepancy between both versions, the Bulgarian version shall prevail.

Section II. DESCRIPTION OF THE SUBJECT OF THE PUBLIC PROCUREMENT.

1. Technical specification

Description of the services – subject of the procurement is contained in Appendix № 1 – Technical specification.

2. Place of implementation of the public procurement.

The services – subject of the present public procurement shall be implemented on the territory of Republic of Bulgaria.

3. Term for implementation.

The contract shall be implemented until the realization of the IGB project, within the frameworks of the term, envisaged in art. 113, para 1 of the Public procurement act, which (term) shall start running as considered from the effective date of the Contract.

The archeological studies shall be implemented in due term, coordinated with the schedule of the construction of IGB project.

The maximum deadline for completion of each particular site shall be up to four months, as considered from the date of assignment of the sites and ensuring access to them by the Contracting Entity.

The Contracting Entity may assign the sites simultaneously as for initial date for starting the field archeological studies for each particular archeological site shall be considered the date of receipt of notification on behalf of the Contracting Entity, that for a particular site is ensured access and the work can start.

For a final date of completion of the field archeological studies shall be considered the date of handing over the protocol for the results from a study (according to the provisions of art. 158a of the CHA) at the Ministry of culture. For completion of the work for each particular site shall be considered the date of handing over of a protocol by the Contractor to the Contracting Entity, which protocol is approved by order of the competent authority under art.158a para 6 of the Cultural heritage act, Minutes of meeting of the expert committee, approved by the Ministry of culture under art. 158a para 3, in connection with art.158a, para 5 of the Cultural heritage act.

4. Estimated value. Options.

4.1. Estimated value

The estimated value of the public procurement, including the value of the options amounts to BGN 860 000 (eight hundred and sixty thousand) exclusive VAT, including the options.

The estimated value is calculated according to the rules, envisaged in Appendix 3 of Ordinance № H-00-0001 of 14.02.2011 for implementation of field archeological studies and as considering the volume of the studies, ordered by the Expert committee to the Ministry of culture:

4.2. Options

If after presentation of the results from the conducted archeological studies an Expert committee of the Ministry of culture requires the conduction of additional studies, the Contracting Entity shall have the right to assign them additionally.

The scope of the additional assignments depends on the orders of the Ministry of culture, as the total volume of work should not exceed the estimated value of the present public procurement.

The cost of the additional assignments shall be determined in accordance with the conditions of the contract, on the grounds of additional agreement between the parties as the cost shall be calculated in observation of Appendix № 3 of Ordinance H-00-0001 of 14.02.2011 for implementation of field archeological studies of the Ministry of culture.

5. Payment.

The payment shall be made under the conditions, specified in the contract for award of public procurement.

SECTION III. INFORMATION REGARDING THE PROCEDURE ON AWARD

1. Legal grounds for opening the Procedure. Opening decision. Announcement of the public procurement.

The subject of the public procurement shall be provision of services by virtue of art. 3, para 1, point 3 of PPA.

The procedure shall be opened as a public competition on the grounds of art. 178 in connection to art. 20, para 2, p. 2 in connection with art. 18, para 1, p. 12 PPA, by Decision No2019 of the Executive directors of the company for approval of Announcement outg. No2019 and the Documentation for the public procurement.

2. Type of the procedure and arguments for its selection.

According to art.20, para 2, p. 2 of PPA in connection with art.18, para 1, p. 12 of PPA, upon award of public procurements amounting up to BGN 860 000 /for sectoral contracting entities/ there shall be conducted a public competition.

3. Lots – description of the lots/grounds for impossibility the procurement to be divided to lots.

The present procedure is not divided to lots. The Contracting Entity has made an assessment in accordance with art. 46, para 1 of PPA. According to § 2, p. 29 of the Additional provisions of PPA, "Lot" means such part of the subject of the public procurement, which though it can be an individual subject of public procurement, is systematically related to the other positions from the subject of the public procurement.

The aim of assignment of the procurement within the frameworks of one subject, without division to lots, is to be reached an optimum process of management of the whole project and responsibility of one contractor for the activities to a maximum extent.

4. Criterion for award of the procurement.

The participants in the procedure have to meet the requirements of PPA, RIPPA and the CONTRACTING ENTITY, including of **the selection criteria**, specified by the CONTRACTING ENTITY in the announcement and the present documentation. The examination and evaluation of the tenders, the ranking of the participants and the determination of Contractor shall be made under PPA, RIPPA and the present documentation.

The evaluation and ranking of the tenders shall be made on the grounds of "the most economically advantageous tender".

The most economically advantageous tender shall be determined on the grounds of **award criterion „the lowest price” under art. 70, para 2, p. 1 of PPA**. On the first place shall be classified the Participant, *which has offered the lowest price for implementation of the present public procurement.*

Section IV. REQUIREMENTS TO THE PARTICIPANTS.

1. Conditions and instructions for participation.

Participant in the present procedure can be any Bulgarian or foreign physical or legal person, their consortiums and all other formations, which meet the conditions, specified in the Public procurement act (PPA), the Rules on Implementation of the Public procurement act (RIPPA) and the preliminarily announced conditions by the Contracting Entity.

Each participant in the procedure shall have the right to submit only one tender. A person, who participates in a consortium or has given consent and appears as a subcontractor in the tender of another participant, may not submit an independent tender.

One physical or legal person may participate only in one consortium.

Related parties by virtue of § 2, p. 45 of the Additional provisions of PPA may not be independent participants in the procedure. A branch of a foreign person can be an independent participant in the procedure, if it can independently submit tenders and execute contracts according to the legislation of the state, in which it is established. In these cases, if for proving correspondence to the requirements for technical and professional capabilities the branch refers to the resources of the trader, the branch has to submit evidence that upon implementation of the procurement it shall have available these resources.

2. Selection criteria.

2.1. Eligibility (qualification) for exercising professional activity

2.1. Eligibility (qualification) for exercising the particular activity. The Participant has to be cultural and/or scientific institution according to Cultural heritage act and the Act for Protection and development of the culture act as well as to meet the requirement of art. 20, para 5 of Ordinance № H-00-0001 of 14.02.2011 for implementation of field archeological studies or to hold statute of cultural, scientific or university institution in the field of the archeology, it is a foreign legal person according to the legislation of the state, in which it is established.

Proving:

At the stage of participation in the public competition, the Participant has to fill in ESPD, Part IV, Section A as it has to specify a number, date and scope of the act for its establishment as a cultural or scientific institution.

Prior to the execution of the contract in accordance with the requirements of art.59, para 5 PPA, the Participant has to submit a copy of the act for establishment, by which it is established as a cultural and/or scientific institution.

2.2. Technical and professional capabilities

In the last three years as considered from the date of submission of the tender, the participants should have at least two completed rescue archeological studies, implemented during construction of projects of linear technical infrastructure according to art.64, para 1, p.1 and p.2 of the Spatial Development Act (SDA), with length of the linear project not less than 20 km, of which at least one full rescue archeological excavations under art. 147, para 4, p.2 of the Cultural heritage act.

For completed archeological studies shall be considered those, for which at the date of submission of the tender for participation in the present procedure, the scientific reports and the field archeological

documentation are accepted by the competent institutions and there is a report approved by order of the Minister of culture.

Proving:

At the stage of submission of tenders the Participant has to fill in ESPD, part IV, Section C „Technical and professional capabilities“, as it has to specify the type of the studies, the project which they concern, the period of implementation and its technical parameters, the Contracting Entity and the period of implementation.

At the stage of execution of the contract the Participant shall provide a list of the services, which are identical or similar to the subject of the public procurement, by specifying the values, dates and recipients, together with documents, which prove the performed service.

3. General requirements for participation in the procedure

3.1. Participants in the procedure

For the present public procurement "*Participant*", by virtue of § 2, p. 59 of the additional provisions of PPA is an economic subject, which has submitted a tender or is invited to participate in negotiations.

Each of the participants in the procedure upon realization of the respective legal and factual actions in conduction of the procedure has to be represented by the person, who represents it according to the law, or by a duly authorized person by him. For implementation of the respective actions on the name of and on the expense of the participant in relation to the conduction of the procedure on behalf of a representative by proxy, it has to be mandatorily submitted duly issued power of attorney, which has to be in original (with a signature and if possible with a stamp) or a copy certified by notary public.

3.2. Grounds for mandatory exclusion.

3.2.1. The CONTRACTING ENTITY shall exclude from the procedure a participant, when:

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 -353f of the Criminal 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 for taxes and mandatory social security contributions by virtue of art. 162, par. 2, pt. 1 of the Tax-Insurance Procedural Code and interest on them, to the state or to the municipality under the seat of THE CONTRACTING ENTITY and the participant or analogical liabilities according to the legislation of the state, in which the participant is established, proven by an effective act of a competent authority;

This item 3 shall not apply when:

-especially important or public interests need to be protected;

-the amount of the unpaid taxes or social insurance contributions due is up to 1% of the amount of the annual general turnover for the last finished financial year, but not more than BGN 50 000;

4. There is an 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 candidate 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 criminal order or a court judgment a 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 established.
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. a candidate 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 relation by virtue of par. 2, item 44 of the Additional provisions of the Public Procurement Act between candidates / participants in a particular procedure (Article 107, paragraph 4 of the PPA);
12. has submitted an application for participation or an offer, which does not meet the conditions for submission, including (the conditions regarding) form, way and term;
13. there are circumstances under art. 69 of the Law on Counteracting Corruption and forfeiture of illegally Acquired assets.
14. With respect to the /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 (EFRCRPTRJPRTTBOA).

15. The participant has not extended or has not confirmed the validity term of his offer, after he has been invited by the CONTRACTING ENTITY (art. 35a of RIPPA).

3.3. Reliability measures

3.3.1. A 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 candidate 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 ENTITY shall assess the measures undertaken by the participant, taking into account the weight and specific circumstances related to the crime or infringement

3.3.3. Application for the grounds for exclusion.

3.3.4. The grounds for exclusion under i. 3.2.1., sub-items 1-14 shall apply when they have arisen before or during the procedure.

3.3.5. The grounds for exclusion shall apply until the following periods expire:

- Five years after the sentence under item. 3.2.1., subitems 1 and 2 has become effective, except if the sentence indicates a different term of the punishment;
- Three years following the date of:
 - a) the effective date of the decision of the CONTRACTING ENTITY, by which the participant has been eliminated for existence of the circumstances under i. 3.2.1., subitem 5, letter "a";
 - b) the effective date of an act of a competent authority, by which has been established the existence of the circumstances under i. 3.2.1., subitem 6, except if the act determines a different term;
 - c) the effective date of a court judgment or (of) another document, by which is proven the existence of the circumstances under i. 3.2.1., subitem 14.

3.3.6. The grounds under i. 3.2.1, points 1, 2 and 7 shall refer to the persons, who represent the participant and for the members of its managing or supervisory bodies according

to the register, in which is entered the participant, if any, or the documents, certifying its legal personality. When in the composition of these bodies participate a legal entity, the grounds shall refer to the natural persons, which represent it according to the register, in which is entered the legal entity, if any, or the documents, certifying its legal personality. In these cases, when the candidate, or a legal entity in the composition of its controlling or managing body is represented by a natural person by proxy, the grounds under i. 3.2.1, points 1, 2 and 7 shall also refer to this natural person.

- 3.3.7. The grounds for exclusion of a participant in the procedure under i. 3.2.1, points 1 – 7 and under pt. 11 –15 shall apply also when the participant appears a consortium of natural and/or legal persons and for a member of the consortium exist any of the grounds for exclusion.

3.4. Declaring and proving of selection criteria. Third party capacity. Subcontractors.

- 3.4.1. THE CONTRACTING ENTITY sets the selection criteria and the documents evidencing their compliance in the notice which announces opening of the procedure. The selection criteria determine the minimum eligibility requirements. The selection criteria are described in detail in i. 2, Section IV above.
- 3.4.2. When consortiums, which are not legal persons, take participation, compliance with the selection criteria shall be evidenced by the participating consortium 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 a consortium.
- 3.4.3. The participants may for the particular procurement rely on the capacity of third parties, regardless of the legal relation between them, with respect to the criteria related to economic and financial standing, technical capabilities and professional competence.
- 3.4.4. With respect to the criteria related to professional competence, 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 Entity will participate in performing that part of the procurement for which this capacity is required.
- 3.4.5. When a participant relies on the capacity of third parties, it has to be able to prove that it will use their resources by providing documents for the commitments undertaken by the third parties.
- 3.4.6. Third parties have to meet the respective selection criteria, in order to prove them the participant refers to their capacity and no grounds for exclusion from the procedure should apply for them.

- 3.4.7. THE CONTRACTING ENTITY shall require from the participant to replace the third party, nominated by it, if this third party does not meet any of the conditions under pt. 3.2 for a reason of change in circumstances before execution of the contract for a public procurement.
- 3.4.8. Under the conditions of the procedure the CONTRACTING ENTITY sets a requirement for joint liability for performance of the procurement by the participant and the third party whose capacity is used to evidence compliance with the criteria related to economic and financial standing.
- 3.4.9. When a participant in the procedure is a consortium 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 i. 3.2.
- 3.4.10. The participants have to specify in the tender the subcontractors and the share of the procurement, which they shall assign to them, if they intend to use such subcontractors. In this case the participants have to submit evidence for the commitments of the subcontractors. When upon implementation of the procurement the participant envisages to use subcontractor/s, in ESPD has to be specified the services from the subject of the procurement, which shall be offered to subcontractors and the corresponding share to the services, in percentage from the value of the public procurement, and the envisaged subcontractors³.
- 3.4.11. The subcontractors have to meet the respective selection criteria according to the type and share of the procurement, which they shall implement and for them should not exist exclusion grounds.
- 3.4.12. The contractors shall execute a contract for subcontracting with the subcontractors, specified in the tender.
- 3.4.13. THE CONTRACTING ENTITY shall require a replacement of a subcontractor, which does not meet the conditions under pt. 3.4.11. for a reason of change in the circumstances before execution of the contract for a public procurement.
- 3.4.14. The subcontractors shall have no right to re-assign one or more of the activities, which are included in the subject of the subcontracting contract.

Because of the specific features of the subject of the public procurement the rules regarding direct payments with subcontractors shall not apply.

4. Instructions for filing in ESPD.

Upon submission of a tender for participation the Participant has to declare the lack of the grounds for exclusion and correspondence with the selection criteria by submission of ESPD, respectively it has to describe in ESPD the reliability measures under p. 3.3. above, undertaken prior to submission of the tender for participation. In ESPD has to be provided the respective information, required by the Contracting Entity and have to be stated the national data bases, in which are contained the declared circumstances or the competent bodies, which according to the legislation of the state, in which the Participant is established, are obliged to provide information.

The Participants shall be obliged to notify in written the Contracting Entity within 3 days following the occurrence of the respective circumstance for exclusion.

4.1. European single procurement document (ESPD)

The participants have to submit electronic ESPD or on appropriate digital or optic storage medium (for example USB flash, CD).

For this purpose ESPD has to be filled in through the information system for electronic ESPD (eESPD) of the European commission on the following address: <https://ec.europa.eu/tools/espd> as there have to be followed these steps:

- 1) in the system has to be noted the capacity „economic operator“;
- 2) after that it has to be selected uploading (the) file ESPD;
- 3) In the system is uploaded the xml file from Appendix № 4 (espd-request.xml);
- 4) there have to be filled in the necessary data;
- 5) after the review of ESPD it has to be downloaded in both forms - xml and pdf;
- 6) ESPD in pdf form has to be signed by electronic signature by the respective obliged persons;
- 7) The files of ESPD xml and pdf (signed) have to be uploaded on a digital/optic storage medium, which has to be enclosed.

In p.4.2 below is specified what information has to be filled in ESPD and particularly in which part/section/point the Participant has to declare the respective circumstances, related to the personal standing and the selection criteria.

ESPD has to be submitted by the participant (the economic operator) in accordance with the requirements of the law and the conditions of the CONTRACTING ENTITY, respectively when applicable - ESPD for each of the participants in the consortium, which is not a legal entity (upon need for declaring circumstances, referring to the consortium, ESPD has to be submitted for the consortium too), for each subcontractor and for each person, which resources shall be engaged in the implementation of the procurement.

The Participant has to specify on the respective places in ESPD, concerning the subcontractors and the third parties /the other subjects/ besides from the other requested information according to the model of ESPD also the names of the subcontractors and/or the third parties, if he envisages such, as respectively the subcontractors and the third parties have to submit electronic ESPD on appropriate digital or optic storage medium (for example USB flash, CD), all fields, which refer to them and to the procedure on award of the present public procurement.

ESPD shall be signed by electronic signature from the persons, who represent the participant, the members of its management and supervisory bodies according to the register, in which is entered the Participant, if any, or the documents, certifying its legal capacity. When amongst the members of these bodies participates legal entity, ESPD shall be signed also by the natural persons, who represent it according to the register, in which is entered the legal entity, if any, or the documents, certifying its legal capacity.

4.2. Instructions for filling in ESPD

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

The information requested by the Contracting Entity shall be provided in the eESPD, indicating the national data bases/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) which participates in the procurement on its own and shall not use the capacity of third parties and sub-contractors to meet the selection criteria, has to fill in and submit one eESPD.
- a participant (economic operator) which participates on its own but shall use the capacity of one or more third parties in respect to the selection criteria, has to submit 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, has to submit a filled in separate eESPD for each of the subcontractors.
- when in the public procurement shall participate a consortium of natural and/or legal persons, which is not a legal entity, an eESPD has to be submitted by the representative of the consortium (art. 41, para 4 of RIPPA).
- when the persons under art. 54, para 2 and 3 of PPA are more than one and for them there is no difference regarding the circumstances under art. 54, para 1, p. 1, 2 and 7 of PPA (p. 3.2.1., subsections 1, 2 and 7), ESPD can be signed only by one of these persons, if the signatory has information about the authenticity of the declared circumstances with regard to the other obliged persons (art. 41, para 1 RIPPA).

This ESPD may contain also the circumstances under art. 54, para 1, p. 3 - 6 of PPA, as well as those, related to the selection criteria, if the person, which signs it, can independently represent the respective economic subject. When there is need for protection of the personal data in case of difference in the circumstances related to the personal standing of the persons under art. 54, para 2 and 3 of PPA, the information regarding the requirements under art. 54, para 1, p. 1, 2 and 7 of PPA has to be filed in a separate ESPD, signed by the respective person (art. 41, para 3 IRPPA). In case of need for declaring the circumstances under art.54, para 1, p. 3 - 6 of PPA, as well as those, related to the selection criteria, referring to consortium, which is not a legal entity, the representative of the consortium has to submit ESPD about these circumstances.

- when for the participant in the public procurement (economic operator) exist any of the grounds under Art. 54, para. 1 of the PPA and before submitting the tender, he has taken measures to prove reliability under Art. 56 of the PPA, these measures have to be described in the eESPD. These measures shall be proven as to eESPD have to be enclosed:

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 with specified dates for the final payment of outstanding debts or is in a process of paying the due compensation.

b) a document from the respective competent authority confirming the above-described circumstances.

The documents, proving the lack of grounds for exclusion are those specified in art. 58 of PPA and has to be submitted by the participant selected for contractor prior to execution of a contract for public procurement.

- The Participant (economic operator) has to declare in eESPD in **Part III „Grounds for exclusion“, b. „D“ „Other grounds for exclusion which may be envisaged in the national legislation of the awarding authority or the Contracting Entity of a member-state“** with [yes] or [no] **information, concerning the following circumstances:**

a) convictions for crimes under art. 194 - 208, art. 213a – 217, art. 219 - 252 and art. 254a – 260 of the Criminal code.

** if the representative is convicted for crimes, analogical to the above-cited in another member-state or third country, the same has to state the requested information.*

b) Infringements under art 61, para 1, art. 62, para 1 or 3, art. 63, para 1 or 2, art. 228, para 3 of the Labor code and infringements under art. 13, para 1 of the Labor migration and labor mobility act (art. 54, para 1, p. 6 of PPA);

c) Circumstances under art. 3, p. 8 of the Act on the economic and financial relation with the companies, registered in preferential tax regime jurisdictions, the persons related to them and their beneficial owners, save in the exceptions, specified in art. 4 of the same act.

d) Existence of relation by virtue of paragraph 2, p. 45 of the additional provisions of PPA between the participants in the present procedure.

e) Circumstances under art. 69 of the Act on counteracting corruption and seizure of illegally acquired property.

** In case it applies specific national ground for exclusion from the above-specified, the economic operator has to specify in eESPD whether it has undertaken measures for rehabilitation upon its initiative. If „yes“, the same has to describe the undertaken measures.*

** When the requirements under letter „a“ above refer to more than one person and for these (persons) there is difference regarding the circumstances, ESPD can be signed only by one of these persons, in case the signatory has information about the reliability of the declared circumstances with regard to the other obliged persons (art. 41, para 1 RPPA). When there is need for protection of the personal data in case of difference in the circumstances, related to the personal standing of the obliged persons, the information about the requirements (under art. 54, para 1, p. 1, 2 and 7 of PPA) has to be filled in a separate ESPD, signed by the respective person (art. 41, para 3 RPPA).*

**In case of need for declaring the circumstances under art. 54, para 1, p. 6 of PPA, which refer to consortium, which is not a legal entity the representative of the consortium shall submit ESPD about these circumstances.*

Instruction for preparation and submission of eESPD (in electronic version, by use of electronic means of communication).

An eESPD is a personal declaration in electronic version.

When some of the obliged persons have to declare various circumstances, related to the personal standing, these persons have to fill in a separate ESPD.

In the cases when it is submitted more than one ESPD because of circumstances under the previous sentence, related to the selection criteria, (these) shall be filled in only in ESPD, signed by electronic signature from an individual, who can independently represent the respective economic subject.

SECTION V. INSTRUCTIONS FOR SUBMISSION OF TENDERS. REQUIRED DOCUMENTS

1. Mandatory contents of the tender according to article 39 RIPPA:

- List with the submitted documents – under a model – Appendix № 2;
- Electronic European single procurement document - Appendix № 3;
- Declaration under article 67, para 3, PPA /cancelled in SG issue 86 of 2018, effective from 01.11.2019/, that the Participants would like to use ESPD, which is already submitted and published - Appendix № 4;
- Technical offer, which contains the following documents:
 - ✓ Document for authorization when the person, which submits the tender, is not the legal representative of the participant;
 - ✓ Offer for implementation of the procurement in accordance with the Technical specification - Appendix № 1 and the requirements of the Contracting Entity, according to Appendix № 4;
 - ✓ Price offer – Appendix № 5;

The participants can state in their tenders which information from the submitted one they consider as confidential for a reason of commercial secret. The information, which the Participants have stated 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 as regards the offers from their tenders which are subject of evaluation.

Upon the preparation of their tenders, the Participant have to strictly observe the minimum contents, which is required by the Contracting Entity in the model of the Technical offer– Appendix № 4. The lack of minimum contents in the technical offer shall be grounds for exclusion from participation in the procedure on the grounds of art. 107 of PPA. 2.

- Document regarding the establishment of consortium

2. Participant in the procedure.

When the Participant is consortium, which is not a legal subject, it has to submit a document, certifying the statute of the consortium, for example: contract for consortium (which is not a company), contract for a civil partnership, contract for joint activity and etc. The document has to contain the legal grounds for establishment of the consortium as well as the following information in relation to the public procurement:

- a) a concrete associate, representing the consortium for the purposes of the public procurement;
- b) Contractual several and separate obligations of the participants in the consortium, when such are not envisaged according to the applicable law;
- c) the rights and obligations of the participants in the consortium;
- d) allocation of the responsibility between the members of the consortium;

e) the activities, which each member of the consortium shall implement.

3. Evidences about the commitments, undertaken by the Subcontractors.

The participants shall determine in the tender the subcontractors and the share of the procurement, which they shall assign to them, if they intend to use such (subcontractors). In this case the participants have to submit evidence about the commitments, undertaken by the subcontractors.

4. Price offer

The price offer shall be developed in accordance with Appendix № 6 – Price offer. The price offer shall be put in a separate sealed and non-transparent envelope with inscription „Offered price parameters“.

The price offer has to be accompanied by an Estimate according to (particular) form – Appendix № 6a, in which the Participant shall evaluate the costs for realization of the archeological excavations in accordance with Appendix № 4 to art. 20, para 6 of Ordinance № H-00-0001 от 14.02.2011 for implementation of field archeological studies

5. Term of validity of the tenders.

The term of validity of the tenders shall be the time, during which the Participants shall be bound by the conditions of the tenders, submitted by them.

The tenders have to be valid for a period, not shorter than 6 months following the final term for submission of tenders. If necessary, the Contracting Entity may require from the Participants to extend the term of validity of their tenders. Refusal for extension of the tenders after expiration of their validity shall lead to exclusion of the participant.

6. Other requirements

- 6.1. The tender and all related documents have to observe the requirements of the Contracting Entity, specified in the announcement about the procurement as well as in the present Documentation and have to be in a form under forms (models), enclosed to it and according to the instructions of the Contracting Entity.
- 6.2. The conditions for participation in the forms of the Documentation shall be mandatory for the Participants and may not be altered by them. The documents and the data in the tender shall be signed only by the persons with representative powers according to the law, respectively by explicitly authorized representative of the consortium and/or the persons, particularly authorized for that purpose. In case of a special authorization it has to be submitted power of attorney for implementation of these functions, certified by a notary public.
- 6.3. All documents, related to the tender have to be in Bulgarian. If the tender contains documents and information in a foreign language, they have to be accompanied by translation in Bulgarian. If the Contracting Entity does not explicitly require an original document, the Participant may submit a copy, certified by a person with representative powers and sealed with a stamp of the participant (if the participant has a stamp).
- 6.4. In the tender shall not be allowed supplements between the lines, deletions or corrections.
- 6.5. The Contracting Entity has to provide unlimited, full, free and direct electronic access to the documentation on the public procurement at the date of publication of the announcement for the public procurement at the Public procurement register through an electronic file of the procurement in the Buyer's profile.

- 6.6. The tender has to be submitted on Bulgarian, in original hard copy as well as on an electronic storage medium.
- 6.7. The electronic copies of the documents on the electronic storage medium have to be in Bulgarian and to be arranged in files in the same way, on which they are submitted on a hard copy. The names of folders and files have to clearly state the contents. The files have to be in a form, which allows full text search and copying part of the contents in order to be eased the work of the Committee. In case of discrepancy between the texts from the hard copy and those on the electronic storage medium, priority shall have the hard copy.
- 6.8. The documents, related to participation in the procedure shall be submitted by the participant or by a representative, authorized by it personally or by registered mail or by courier with receipt of acknowledgement at the address, provided by the Contracting Entity.
- 6.9. The documents shall be submitted in a sealed non-transparent envelope (*the type of the envelope shall be determined upon discretion of the participant).

The Participant has to submit its Tender together with all documents, required by the Contracting Entity on the below specified address.

The envelope has to be written down in the following way:

ICGB AD Sofia No 13 Veslets str., fl. 2

To the attention of: Vladislava Tzekova

TENDER

For participation in a public competition under art. 18, para 1, point 12 of PPA for award of public procurement for

„Implementation of full rescue archeological studies of additionally found archeological sites, located along the route of pipeline „Gas interconnector Greece-Bulgaria

Name of the participant, including members of the consortium (when applicable),

Address and contact phone and if possible – fax and e-mail:

The non-transparent sealed envelope has to contain the documents, specified in section V, point 1- 6, as well as a separate sealed nontransparent envelope with inscription „Offered price parameters“, which to contain the Price offer of the participant according to section V, point 4.

SECTION VI. ACCEPTANCE OF TENDERS. RETURNING OF TENDERS

Upon acceptance of the tenders on the envelope (pack) shall be marked the consecutive number, date and time of receipt, for which shall be issued a document to the bearer.

The Contracting Entity shall not admit for participation in the procedure and shall immediately return to the Participants tenders, which are submitted after expiration of the final term for receipt or (if they are) in a non-sealed envelope or a broken envelope. These circumstances shall be entered in the register under art. 48, para 1 RIPPA.

The received tenders shall be stored by the Contracting Entity until the date and time, determined for opening of the tenders. 1. The tenders are received by the Contracting Entity on the address and within the term, determined in the announcement for the present public procurement. 2. If within the case for receipt of tenders a tender for participation is not received or only one tender is received, the Contracting Entity may extend the term for receipt of tenders.

Each Participant has to ensure timely receipt of the tender from the Contracting Entity.

Until expiration of tenders each Participant may change, supplement or withdraw its tender.

The withdrawal of the tender shall terminate the further participation of the participant in the procedure. The supplement and alteration of the tender have to meet the requirements and conditions for submission of the initial tender as on the envelope has to be written the following text „Supplement/Alteration of tender” with incoming number for participation in an open procedure under PPA with subject: „(the whole subject has to be written down)”.

SECTION VII. COMMUNICATION BETWEEN THE CONTRACTING ENTITY AND THE PARTICIPANTS. REQUESTS FOR CLARIFICATIONS.

All communications and actions of the Contracting Entity and the Participants related to the present procedure shall be made in written.

The Participant can submit its letters and notifications at the office of the Contracting Entity in Sofia, No 13 Veslets str., fl.2, every business day by fax, by post or by courier service, or electronically on the site of the Contracting Entity under the conditions and under the order of the Electronic document and electronic signature act.

The persons may request in written from the Contracting Entity clarifications regarding the documentation for participation, the decision or the announcement up to 10 days before the expiration of the term for submission of the Tenders. The Contracting Entity shall not provide clarifications if the request is submitted after this term.

The clarifications shall be published on the Buyer’s profile within four days following receipt of the request as the clarifications shall not state the person, who has answered the request, but not later than 6 days before expiration of the term for receipt of Tenders.

If from provision of the clarifications under the documentation of the Contracting Entity till the final term for receipt of Tenders remain less than 6 days, the Contracting Entity shall extend the term for receipt of Tenders, except when the clarifications do not cause significant changes in the Tenders.

The Contracting Entity shall not provide clarifications when the request for these is made after the determined term.

SECTION VIII. DETERMINATION OF CONTRACTOR OF THE PUBLIC PROCUREMENT

1. Execution of a contract for public procurement.

The contract shall be executed between the selected participant for a contractor and the CONTRACTING ENTITY under the Public procurement act (PPA) and in subsidiary implementation of the Law on commerce (LC) and the Obligations and contracts act (OCA) of Republic of Bulgaria.

Before the execution of the contract for public procurement, the CONTRACTING ENTITY shall require from the participant, selected for contractor, to provide actual documents, certifying the lack of the grounds for exclusion from the procedure as well as documents for correspondence to the established selection criteria. There have to be submitted also the documents regarding the subcontractors and the third parties, if any.

2. Proving lack of grounds for exclusion

For proving lack of grounds for exclusion, the Participant, selected for contractor, shall be obliged to submit:

- a) About the circumstances under art. 54, para 1, p. 1, PPA – certificate showing no previous conviction;
- b) about the circumstance under art. 54, para 1, p. 3, PPA – certificate from the authorities on the revenues and certificate from the municipality under the seat of the CONTRACTING ENTITY and the participant;
- c) about the circumstance under art. 54, para 1, p. 6, PPA – certificate from the authorities of Executive agency „Chief labor inspection“. In case the certificate contains information about effective criminal order or judgment for infringement under art. 54, para 1, p. 6 PPA, the Participant shall submit a declaration, that the infringement has not been made in implementation of a contract for public procurement;

The documents shall be submitted in original or copy, certified by the participant. The documents shall be submitted for each member of the consortium as well as for each of the subcontractors and the third parties, if such shall be used.

When the Participant, selected for contractor, is a foreign entity, it shall submit the respective document, issued by a competent authority according to the legislation of the state, in which the Participant is established. If the respective state does not issue such document or when the document does not include all circumstances, the Participant shall submit a declaration, if such declaration has legal significance according to the legislation of the respective state. If such declaration has no legal significance, the Participant shall submit an official request, addressed to a competent authority in the respective state.

In the cases when the selected for a contractor is a foreign entity and in the respective state are not issued documents about the stated circumstances or when the document does not include all circumstances, the Participant shall submit a declaration, if such declaration has legal significance according to the legislation of the respective state.

In case the declaration has no legal significance, the Participant shall submit an official statement, made before a competent body in the respective state.

The Contracting Entity shall have no right to require documents, to which it has ex-officio access or through a public register or these can be provided by direct and free access to the national data bases of the member-states.

When the determined contractor is unincorporated consortium of natural and/or legal persons and in view of the circumstance that the CONTRACTING ENTITY has not envisaged in the announcement requirement for establishment of legal entity, the contract for public procurement shall be executed after the Contractor submits to the CONTRACTING ENTITY a certified copy from certificate for tax registration and registration under BULSTAT or equivalent documents according to the legislation of the state, in which the consortium is established.

3.1. Documents before signing of a contract

Upon signing of the contract for public procurement the Participant, selected for contractor, shall be obliged to submit:

1. when the selected contractor is a consortium, which is not a legal entity – a certified copy of certificate for tax registration and registration under BULSTAT or equivalent documents according to the laws of the state, where is established the consortium.
2. Actual documents, certifying the lack of the grounds for exclusion from the procedure, as well as the correspondence to the the selection criteria, specified in p. 2, section IV "Requirements to the participants" of the present documentation.

The Contract for public procurement has to correspond to the draft, enclosed to the documentation, supplemented with all offers from the tender of the participant, on the grounds of which (he) is selected for contractor.

3.2. Amendment of an executed contract

Amendment of an executed contract for public procurement shall be admitted by exception according to the applicable hypotheses under art. 116 PPA. The provisions of art. 75 RPPA shall apply for the contract with subcontractors.

After execution of the Contract for public procurement and to the latest before starting its implementation, the Contractor shall notify the CONTRACTING ENTITY about the contact data and the representatives of the Subcontractors, specified in the tender. The Contractor shall notify the CONTRACTING ENTITY for any changes in the provided information in the course of implementation of the procurement

SECTION IX. Forms of documents

APPENDIX 1: TECHNICAL SPECIFICATION

APPENDIX 2 – LIST OF THE DOCUMENTS

APPENDIX 3: EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD)

APPENDIX 4³: DECLARATION ACCORDING TO ART. 67, PARA 3 PPA⁴

APPENDIX 5: TECHNICAL OFFER

APPENDIX 6: PRICE OFFER

APPENDIX 7: DRAFT CONTRACT

³ The participants may use the opportunity under art. 67, para 3 PPA, when there is provided direct and unlimited access electronically to an ESPD, already drawn up and signed in electronic way. In such cases instead of ESPD shall be submitted declaration under a model (form), by which shall be confirmed the actuality of the data and the authenticity of the signatures in the published ESPD and shall be specified the address, on which is provided an access to the document.

⁴ The provision is cancelled, but the cancellation shall become effective on 01.11.2019.