**STATE-OWNED ENETERPRISE “ELEKTROPRIVREDA SRBIJE” BELGRADE**



**TENDER DOCUMENTS**

For Submission of Offers pursuant to Low-Value Public Procurement Procedure

For Public Procurement of Services No. JNMV/1000/0070-1/2017

**ECONOMIC EXPERTISE IN COMPETITION AND STATE AID PROCEEDINGS, IN ACCORDANCE WITH THE TREATY ESTABLISHING ENERGY COMMUNITY**

 **C O M M I T T E E**

 For Implementation of JNMV/1000/0070-1/2017

 Formed by the Decision No.12.01.614657/3-17, dated 06.12.2017

(filed in PE EPS under No. 12.01. 614657/11-17 of 08.12.2017)

Belgrade, December 2017

 Pursuant to Articles 39, 61 and 124a of the Public Procurement Law (“Official Gazette of RS” no. 124/12, 14/15 and 68/15, hereinafter referred to as: the **Law**), Article 6 of the Rulebook on Mandatory Elements of Tender Documents in Public Procurement Procedures and on Manner of Proving Fulfillment of Conditions (“Official Gazette of RS” no 86/15), Decision on Initiating Public Procurement Proceеdings no. 12.01. 614657/2-17, dated 06.12.2017 and Decision on the Establishment of a Public Procurement Committee no. 12.01.614657/3-17, dated 06.12.2017, we have prepared the following:

**TENDER DOCUMENTS**

For Submission of Offers pursuant to Low-Value Public Procurement Procedure

**For Public Procurement of Services No. JNMV/1000/0070-1/2017**

Tender Documents Content:

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| 1. | General Information on Public Procurement |  |
| 2. | Information on Subject of the Public Procurement |  |
| 3. | Specifications of Service (type, technical characteristics, quality, scope and description of services...) |  |
| 4. | Conditions for Participation in the Public Procurement Proceedings and Instruction on the Manner of Proving Fulfillment of Pertinent Conditions |  |
| 5. | Criterion for Awarding the Contract |  |
| 6. | Instruction to Bidders on How to Prepare Offers |  |
|  | Forms  |  |
|  | Template of Contract for the Provision of Consulting Services and the Statement of Acceptance of Terms Thereof |  |

Total number of document pages: 67

# GENERAL INFORMATION ON PUBLIC PROCUREMENT

|  |  |  |
| --- | --- | --- |
| Contracting Authority’s name and address: |  | State-owned Enterprise “*Elektroprivreda Srbije“*  BelgradeCarice Milice 2, 11000 Belgrade |
| Contracting Authority’s website: |  | [www.eps.rs](http://www.eps.rs/) |
| Type of procedure: |  | Low-Value Public ProcurementAccording to Art. 124A of the Public Procurement Law (“Official Gazette of the Republic of Serbia”, Nos. 124/2012, 14/2015 and 68/2015), “the estimated value of public procurement of low value in the sectors of … energy … may not exceed the amount of 10,000,000.00 (ten million) dinars…”.  |
| Subject of Public Procurement: |  | Service:*Economic Expertise in Competition and State aid Proceedings, in accordance with the Treaty Establishing Energy Community* |
| Description per lots: |  | Public procurement is not divided into lots |
| Purpose of the procedure: |  | Conclusion of public procurement contract |
| Points of contact: |  | Mr Veljko KovačevićEmail: veljko.kovacevic@eps.rsMr Miloš ŽarkovićEmail: milos.zarkovic@eps.rs  |

# INFORMATION ON THE SUBJECT OF THE PUBLIC PROCUREMENT

# Description of the subject of the public procurement, name and designation in the Common Procurement Vocabulary

Description of the public procurement subject: *Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community*.

Name in the Common Procurement Vocabulary: *Business development consultancy services*.

Designation in the Common Procurement Vocabulary: 79411100-9

Detailed information on the subject of the public procurement are specified in the technical specification (Chapter 3 of the Tender Documents).

# SPECIFICATION OF SERVICE

Economic expertise services relating to the ongoing proceedings in relation to issues governed by the European Union *acquis* on competition and State aid.

# Information on the Contracting Authority

State-owned Enterprise “*Elektroprivreda Srbije*” (“**EPS**”) is a state-owned company whose prevailing activity is generation, supply and trade of electricity. EPS has two subsidiaries: Distribution System Operator “*EPS Distribucija” d.o.o. Belgrade* and “*EPS Trgovanje” d.o.o.* *Ljubljana*.

With the relatively low generation of electricity by industrial plants for their own needs and production of energy from renewable sources, EPS is the largest electricity producer in Serbia.

 As a parent company, EPS acquired, with the approval of the Serbian Government, seven (7) generating companies: “*RB Kolubara”*, “*HE* *Đerdap”*, “*Drinsko-Limske HE”*, “*TENT*”, “*TE-KO Kostolac”*, “*Panonske TE-TO”*, and “*EPS Obnovljivi Izvori”*, established “*EPS Distribucija*” by merging five (5) companies for distribution of electricity: “*Elektrovojvodina”* *d.o.o. Novi Sad*, “*EDB” d.o.o. Beograd*, “*Elektrosrbija”* *d.o.o. Kralјevo*, *ED “Jugoistok” d.o.o*. *Niš* i *ED “Centar” d.o.o. Kragujevac*, formed public supplier *(JS) “EPS Snabdevanje”* and established *“EPS Trgovanje”* in Slovenia. EPS has around 30,000 employees.

Total power of electricity generation capacities operated by EPS is 7,326 МW. Electricity generation from thermal power plants owned by EPS makes around 70 percent of electricity in Serbia, while around 30 percent of electricity is from 16 hydro power plants.

 For more information on the Contracting Authority, please visit the website (<http://www.eps.rs/en>).

# Scope of work

# Facts

The Republic of Serbia and EPS are involved in proceedings conducted with regard to certain State measures (State guarantees, property transfers etc.) granted in favor of the Contracting Authority, which need to be assessed in terms of their conformity with EU State aid rules.

State measures that are the subject matter of the State aid proceedings include a couple of State guarantees for bank loans, issued to the benefit of the Contracting Authority, and transfer of property rights from the Republic of Serbia to the Contracting Authority (“**Measures**”).

The Measures need to be assessed in terms of their conformity with the EU *acquis* on competition and State aid. In other words, it needs to be examined whether said Measures were granted in accordance with the State aid rules as applied by the European Union and corresponding national rules (harmonized primarily under Art. 73 of [the Stabilization and Association Agreement between Serbia and the EU](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/serbia/key_document/saa_en.pdf) and Annex III to [the Treaty Establishing the Energy Community](https://www.energy-community.org/legal/treaty.html)). Said assessment would include, but not be limited to, advice on applicability of the *market economy investor principle* (“**MEIP**”) or *market economy creditor principle* (“**MECP**”) (whichever is more adequate in the case at hand), economic analysis to verify whether the Measures were consistent with the economic principles of State aid measures adopted by the EU Commission, and/or with the Commission’s practice in State aid cases in the energy sector.

# Type of Service

In consideration of the above, the Bidder is obliged to conduct a detailed economic analysis of the Measures in terms of applicability of the MEIP/MECP to granting of said Measures, and perform overall economic assessment which is to verify whether the Measures were granted in accordance with the economic principles of State aid adopted by the European Commission, and/or with the European Commission’s practice in State aid cases in the energy sector, all in accordance with terms and conditions of the present Tender Documents, as well as provide advice on economic issues related to the alleged State aid.

# Report

The Bidder shall prepare and submit a detailed report on the economic analysis referred to in point 3.2.2 above (“**Report**”). The Report must be prepared in both English and Serbian language (the version in Serbian language can be submitted within two weeks as of delivery of the English original).

The final Report will be delivered to the Contracting Authority both in print and in electronic form (stored on CD, USB or some other electronic data carrier).

# Report Submission Deadlines

The terms for the provision of the subject service and for submission of the Report are defined in section [6.12](#_Term_for_execution) of the Tender documents.

# Methodology

Bearing in mind complexity of the task, **the Bidder shall submit to the Contracting Authority, as an integral part of its offer, a methodology** in which it shall provide a detailed explanation of the process of provision of services that are the subject of the Invitation to Tender and of these Tender Documents, which are published on the Public Procurement Portal. The approach which shall be followed by the Bidder in respect of the provision of the subject services, as well as reasons for selection thereof, should be stated in the methodology.

# Qualitative and Quantitative Assessment

Quality control of the subject services and verification of their conformity with the characteristics required by the technical specification of the service in terms of scope and quality, will be performed at the Contracting Authority’s location (in Belgrade, 13 Balkanska Str.) by an authorized person of the Contracting Authority in presence of the Bidder ’s representative, and acknowledged in the Minutes of Qualitative and Quantitative Assessment at the Time of Acceptance of the Service.

Assessment of the quality of the service shall be performed on the occasion of receipt of the draft acts by responsible/authorized person of the Contracting Authority, while the quantity of the service shall be made possible by receipt of the documents in printed or electronic form (disc, USB or other data carrier).

The Contracting Authority reviews the submitted documents and, if necessary, gives remarks and makes adjustments of said documents with the Bidder, which is obliged to act in accordance with the final remarks of the Contracting Authority before the deadline set by the Contracting Authority.

If it is established, on the occasion of receipt of the services, that the services do not comply with the scope and quality requirements, the Contracting Authority is obliged to make a complaint stating such non-compliance, and submit said complaint to the Bidder, within 2 (two) days at the latest.

The Bidder is obligated to remedy at its own expense the defects established by the Contracting Authority as result of quantitative and qualitative assessment, within 5 (five) days from the date of receipt of the complaint.

# REQUIREMENTS FOR PARTICIPATION IN PUBLIC PROCUREMENT PROCEEDINGS STIPULATED UNDER ARTICLES 75 AND 76 OF THE PUBLIC PROCUREMENT LAW AND INSTRUCTION ON THE MANNER OF PROVING FULFILLMENT OF SAID CONDITIONS

* 1. **Mandatory requirements stipulated in Art. 75 of the Public Procurement Law**
		1. **Requirement: the Bidder is registered with the competent authority**.

**Evidence:**

* **for legal entities:** Extract from the companies’ register of the Serbia Business Registers Agency, i.e. extract from the register of the competent Commercial Court
* **for entrepreneurs:** Extract from the companies’ register of the Serbian Business Registers Agency, i.e. extract from other competent register
* **for foreign** **entities**: Extract from an official local companies/commercial register, in accordance with laws of the jurisdiction in which said entity is incorporated and registered.

**Instead of providing the evidence listed above, the Bidder may comply with section 4.3.12 of the Tender Documents.**

*Note:*

*In case of submission of offer by a group of Bidders, this evidence shall be submitted for each member of the group*

*In case of submission of offer by the Bidder with subcontractor, this evidence shall be also submitted for each subcontractor*

* + 1. **Requirement: the Bidder and its legal representative(s) have not been convicted of any criminal offence as members of an organized criminal group; the Bidder has not been convicted of economic crime, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud.**

**Evidence:**

* **for legal entity:**
1. FOR LEGAL REPRESENTATIVE **– certificate from criminal records of the competent Police Administration of the Ministry of Interior** – request for issuance of this certificate can be submitted in the **place of birth** or in the place of **residence**.
2. FOR LEGAL ENTITY – for criminal offences of participating in an organized crime – certificate of special department (for organized crime) of the High Court in Belgrade, certifying that the Bidder (legal entity) has not been convicted of any criminal offence as a member of an organized criminal group. The following information has been published on the website of the High Court in Belgrade <http://www.bg.vi.sud.rs/lt/articles/o-visem-sudu/obavestenje-ke-za-pravna-lica.html>
3. FOR LEGAL ENTITY – for economic crime, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud – **certificate of the Basic Court (which includes information from criminal records for crimes within the jurisdiction of the regular Criminal Division of the High Court)** in whose territorythe seat of the local legal entity, or the representative office or branch of the foreign legal entity is located, certifying that the Bidder (legal entity) has not been convicted of criminal offence against economy, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud.

*Special note:*

*If the certificate of the Basic Court does not include information from criminal records for crimes within the jurisdiction of the regular criminal division of the High Court, it is necessary, in addition to certificate of the Basic Court, to submit also the certificate of the High Court in whose teritorry the seat of the local legal entity or the representative office or branch of the foreign legal entity is located, certifying that the Bidder (legal entity) has not been convicted of* ***crimes against the economy and the crime of receiving bribe*.**

* **for natural persons and entrepreneurs: certificate from criminal records of the competent Police Administration of the Ministry of Interior –** request for issuance of this certificate can be submitted **in the place of birth** or **in the place of residence**.

*Note:*

*In case of submission of offer by a legal entity, this evidence should be submitted for the legal entity and for the legal representative.*

*If the legal person has more than one legal representatives, the evidence should be submitted for each of those representatives.*

*In case of submission of offer by a group of Bidders, the evidence should be submitted for each member of the group.*

*If the Bidder submits an offer with subcontractor, the evidence should be submitted for each subcontractor.*

* **for foreign Bidders,** a certificate issued by the competent authority of the state in which they have their registered seat is required. If there are several legal representatives, it is necessary to provide certificate from criminal records for each representative, issuedin the place of the Bidder ’s registered seat, and in the place of citizenship of the legal representative, if said place is different from the country in which the Bidder has its registered seat.

**Instead of providing the evidence listed above, the Bidder may comply with section 4.3.12 of the Tender Documents.**

**The above-listed evidence cannot be older than two months as of the date of opening of offers**.

* + 1. **Requirement: the Bidder has settled all due taxes, contributions and other public duties in accordance with the regulations of the Republic of Serbia or a foreign state if the seat of business is located on the territory of a foreign state.**

**Evidence:**

* **for legal entities, entrepreneurs and natural persons:**
1. Certificate **issued by the Tax Administration** of the Ministry of Finance indicating that all due taxes and contributions were settled, and
2. **Certificate** issued **by the Public Revenues Administration of local self-government (town, or municipality**) in the place of seat of the legal entity and entrepreneur, or in the place of residence of the natural person, indicating that all liabilities on the basis of local public revenues were settled

*Note*:

*If the local (municipal) public revenues administration states in its certificate that the evidence for certain local public revenues are also to be obtained from the other local bodies/organizations/institutions, the Bidder shall submit along with the certificate of local public revenues administration the certificates issued by those other local bodies/organizations/institutions.*

*If the Bidder is under the privatization process, instead of the two above mentioned pieces of evidence, it is necessary to submit the* ***certificate from Privatization Agency proving that it is under privatization process.***

*If the Tender is submitted by a group of Bidders, the evidence shall be submitted for each member of the group.*

*If the Bidder submits the offer with a subcontractor, the evidence shall be submitted for the subcontractor as well (if there are several subcontractors required evidence shall be submitted for each of them).*

* **For foreign Bidders –** the certificate issued by the competent Tax Authority of the state in which the Bidder is incorporated and registered**.**

**Instead of providing the evidence listed above, the Bidder may comply with section 4.3.12 of the Tender Documents.**

**The evidence cannot be older than two months as of the date of opening of offers.**

* + 1. **Requirement: the Bidder has respected its obligations arising from regulations on health & safety at work, employment conditions, protection of environment, and the Bidder is not subject to a prohibition to perform business activities effective at the time of submission of a offer.**

**Evidence:** Signed Statement Form pursuant to Article 75 paragraph 2 of the Public Procurement Law ([Form 5](#_FORM_5.) of the Tender Documents)

*Note:*

*The statement shall be signed by the authorized representative of the Bidder, and stamped (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required).*

*If the offer is submitted by а group of Bidders the Statement shall be submitted for each member of the group. The Statement shall be signed by the person authorized to represent the Bidders from the group of Bidders, and stamped (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required).*

* 1. **Additional requirements based on Article 76 of the Public Procurement Law**
		1. **Requirement: Possession of necessary operational capacity which consists in performance of relevant services by the Bidder in the period of five (5) years prior to submission of the offer:**
* The Bidder participated in implementation of no less than three (3) projects, whose primary purpose was collaboration with EU Member States, their authorities and institutions and/or alleged beneficiaries of State aid granted by those states, on preparation of arguments in proceedings initiated due to alleged granting of State aid, before institutions of the Energy Community, the European Union or any other competent authority that applies State aid rules of the European Union, out of which at least one (1) project is in the energy sector, at least one (1) project includes overall business analysis (including the economic impact study, feasibility study and business case analysis) in the energy sector, at least one (1) project is related to provision of services to state-owned enterprises, and in at least one (1) project the MEIP/MECP was successfully applied before the EU institutions; and
* The Bidder has experience in providing advisory services to the Directorate General for Competition of the European Union.

Relevant project services are only those services that were contracted, initiated and completed within the last five (5) years, prior to the offer submission deadline.

**Evidence:**

**List of executed services** – The Bidder 's credentials ([Form 8](#_Form_8.) of the Tender Documents), filled in, signed and stamped (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required) by the authorized person of the Bidder confirming, under full criminal and civil liability, that the data stated in the list are accurate; and

**Statement on relevant experience** (filled-out and signed by the authorized representative of the Bidder, stamped except in case that Bidder is foreign entity incorporated in a jurisdiction in which stamp is not required) on [Form 8/A](#_Form_8/а.), issued under full civil and criminal liability, confirming that the Bidder satisfies the stated operational capacity requirement, as well as that the relevant projects listed in the List of executed services – Relevant professional credentials of the Bidder are true and accurate.

* + 1. **Requirement: Possession of necessary staff capacity:**

It is necessary that, at the time of the offer submission, the Bidder organizes a team of at least three (3) employed/engaged persons with minimum five (5) years of experience in conducting economic analyses in the field of EU State aid rules and practice, whereby all three (3) team members must have relevant experience in proceedings before the institutions of the European Union (i.e. the European Commission and/or the Court of Justice of the European Union), and at least one (1) team member has working experience within Directorate General for Competition of the European Union, or experience in providing advisory services to said authority.

**Evidence:**

**Professional biographies (CVs)** of team members accompanied with the statement of each team member and the Bidder that a CV is accurate and true, given under civil and criminal liability and on the Bidder’s letterhead.

* 1. **Instruction on the manner of proving the requirements from sections 4.1 and 4.2 of Tender Documents**
		1. A offer that does not fulfill all mandatory and additional requirements set forth in sections 4.1. and 4.2. of Tender Documents, will be rejected as unacceptable.
		2. Each subcontractor must fulfill mandatory requirements set forth in sections 4.1.1 – 4.1.3 of Tender Documents, and prove fulfillment of said requirements by submitting evidence stated in this section. Conditions regarding additional requirements stipulated in section 4.2 hereof must be fulfilled by the Bidder independently, regardless of engaging of the subcontractor.
		3. Each Bidder from the group of Bidders that submits a *joint offer* must fulfill mandatory requirements set forth in section 4.1 hereof, and prove fulfillment of said requirements by submitting evidence stated in this section. Conditions regarding additional requirements stipulated in section 4.2 hereof must be fulfilled by all the Bidders together, based on the submitted evidence in accordance with this section of the Tender Documents.
		4. Evidence pertaining to fulfillment of the requirements stipulated in sections 4.1 and 4.2 hereof, may be submitted in uncertified copies. Before making a decision on the awarding of the Contract, the Contracting Authority may require the Bidder, whose offer has been proclaimed as the most favourable one according to the report of the public procurement committee, to produce the original document, or certified copies of all or certain documents. If the Bidder does not submit the original or certified copies of the required documents within a reasonable term, which cannot be shorter than five (5) days, the Contracting Authority shall reject its offer as unacceptable.
		5. The Contracting Authority may, before issuing the decision on the awarding of the contract, request that the Bidder, whose offer has been as the most favorable one in the report of the public procurement committee, produce a certificate, issued by the contracting authority or beneficiary of the relevant procurement project as proof of the assertions made in the statement of the Bidder required under section 4.2.1 of Tender Documents. If the Bidder does not submit the required certificate within a reasonable term, which cannot be shorter than five (5) days, the Contracting Authority shall reject its offer as unacceptable.
		6. If a person registered in the Register of the Bidders (maintained by the Serbian Business Registers Agency ([link](http://www.apr.gov.rs/eng/Registers/Bidders.aspx))) submits the offer, such person is not required to prove the fulfillment of the mandatory requirements for participation in the public procurement procedure, i.e. the Contracting Authority cannot reject the offer as unacceptable on the grounds of not containing the evidence required by the Public Procurement Law or the Tender Documents, provided that the Bidder has specified in the offer the website where the requested information is publicly available. In that event, the Bidder may declare that it is registered in the Register of the Bidders, in its Statement (which must be signed and certified). Together with said Statement, the Bidder may also submit a copy of the Decision on the Registration of the Bidder in the Register of the Bidders.

According to Article 79 paragraph 5 of the Public Procurement Law, the Bidder is not required to submit the following documents, which are publicly available on the website of the competent authorities, as follows:

1. excerpt from the register of competent authority:

- excerpt from the register of Serbian Business Registers Agency: [www.apr.gov.rs](http://www.apr.gov.rs)

1. documents listed in Article 75 paragraph 1 items 1), 2) and 4) of the Law

- register of the Bidders: [www.apr.gov.rs](http://www.apr.gov.rs)

* + 1. If the evidence on fulfillment of the requirements is in the form of an electronic document, the Bidder shall submit the copy of the electronic document in the written form, in accordance with the law governing the electronic documents.
		2. If the Bidder has its registered seat in another country, the Contracting Authority may check whether the documents by which the Bidder proves fulfillment of the requested conditions are issued by the competent authorities of that country.
		3. If the Bidder could not obtain the requested documents within the deadline for submission of the offer, because said documents may not have been issued until the offer submission deadline under the laws of the country where the Bidder has its registered seat, and if the Bidder submits adequate evidence on that, being part of the offer, the Contracting Authority will allow the Bidder to deliver the requested documents within a reasonable period of time.
		4. If the country in which the Bidder has its registered seat does not issue the documents listed in section 4.1, the Bidder may submit, instead of the documents, its written statement given under criminal and civil liability, and certified before a judicial or administrative authority, public notary or another competent authority of that country.
		5. The Bidder shall, without any delay, аnd no later than five (5) days from the day of amendments regarding any of the data submitted, inform the Contracting Authority in written form about such amendments and prove them in an appropriate manner.
		6. In accordance with Article 77, paragraph 4 of the Public Procurement Law, fulfillment of the mandatory requirements stipulated in section 4.1 hereof is to be proven by submission of the Bidder ’s statements ([Form 5](#_FORM_5.) and [Form 6](#_FORM_6.) of the Tender Documents) whereby it confirms, under full civil and criminal liability, that it fulfills the conditions for participation in the public procurement procedure.
		7. Each subcontractor must fulfill the mandatory requirements stipulated in sections 4.1.1-4.1.3 hereof , which it proves by submission of the required statements ([Form 6A](#_FORM_6А)). The Bidder should fulfill independently the conditions regarding additional requirements under section 4.2 hereof, regardless of the engagement of the subcontractor.
		8. Each Bidder from the group of Bidders which submits a joint offer must fulfill the mandatory requirements stipulated in section 4.1, which is to be proven by submission of the required statements ([Form 5](#_FORM_5.) and [Form 6](#_FORM_6.)). Conditions regarding the additional requirements under section 4.2 hereof, must be fulfilled by all the Bidders together, based on the submitted evidence/Statement in accordance with this section of the Tender Documents.
		9. If the Bidder has submitted the Statement from section 4.3.12 hereof (as provided under Article 77, paragraph 4 of the Public Procurement Law) proving the fulfillment of conditions from sections 4.1.1-4.1.3. hereof ([Form 6](#_FORM_6.) of Tender Documents), the Contracting Authority may, before making a decision on the Contract award, request the Bidder whose offer has been selected as the most favourable one to submit copies of the requested documents that prove fulfillment of the conditions. Also the Contracting Authority may request from that Bidder to submit the original documents or certified copies of all or certain documents for insight.
		10. The Contracting Authority may also ask from other Bidders to submit the copy of requested documents that prove fulfillment of the conditions.
		11. The Bidder shall submit the requested documents within the reasonable deadline that cannot be shorter than 5 (five) days from the day of receipt of the written request from the Contracting Authority.
		12. If the Bidder does not submit the requested documents and other evidence within the reasonable deadline that cannot be shorter than 5 (five) days, its offer shall be rejected as unacceptable.

# CONTRACT AWARD CRITERION

* 1. **The principal criterion**

The selection of the most favourable offer shall be done on the basis of the **“lowest offered price“** criterion**.**

The **“**lowest offered price” criterion on evaluation of the offersis based on the offered price as the only criterion.

Unit prices and the total offered price must be expressed with two decimal places in accordance with the rule of rounding numbers.

* 1. **Auxiliary criterion**

If two or more offers have the same lowest offered price, and it is not possible to select the most favourable offer, the contract will be awarded by draw.

The Contracting Authority shall perform public drawing, in the presence of the Bidders that offered the same lowest price. On the special papers of the same size and color, the Contracting Authority shall write the names of the Bidders and put those papers in a box, from which the member of the Committee will draw only one paper. The Contract shall be awarded to the Bidder whose name is written on the drawn paper.

# INSTRUCTION TO BIDDERS ON HOW TO PREPARE OFFERS

The Tender Documents contains the instruction to Bidders on how to prepare offers and the necessary data on the Contracting Authority’s requirements in terms of a offer content, as well as the conditions under which the selection of the most favorable offer is carried out under the public procurement procedure.

The Bidder shall meet all conditions stipulated by Law and Tender Documents. The tender shall be prepared and submitted on the basis of the Invitation, in accordance with the Tender Documents, otherwise, the tender shall be rejected as unacceptable.

* 1. **Information on the language of the offer**

The Contracting Authority has prepared the Tender Documents in Serbian and English language, whereas the public procurement proceedings shall be conducted in Serbian language.

The offer with all annexes shall be prepared in Serbian and/or English language. If some of the evidence or documents are in another foreign language, the latter shall be translated into Serbian or English language and certified by the authorized translator/interpreter.

If the offer with all its annexes is not prepared in Serbian and/or English language, it shall be rejected as unacceptable.

# Method of preparation and submission of the offer

The Bidder shall prepare the offer by filling in the Forms which make the integral part of the Tender Documents. The offer shall be stamped (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required) and signed by the legal representative of the Bidder, other representative registered in the register of the competent authority, or any other person authorized by the legal representative of the Bidder, in which case it must submit the power of attorney. The power of attorney shall be submitted together with all other documents which make the integral part of the offer.

All documents submitted in the offer shall be numbered and bound in one whole (with a string or tape and similar), thus preventing subsequent insertion, removal or replacement of individual sheets of paper.

Evidence attached to the offer, which cannot be damaged, numbered due to its importance, (e.g. promisory notes), shall be put in a special plastic pocket, while this plastic pocket shall be visibly numbered on each page of the offer on both sides. The plastic pocket shall be glued at the top to protect the important evidence which cannot be damaged due to its importance.

The Bidder shall submit the offer in a closed envelope or a box, so that it can be verified with certainty that it was closed, and when it was closed, to the following address: *Javno preduzeće* “*Elektroprivreda Srbije*”, 11000 Belgrade, Serbia, Balkanska 13 , PAK 103925 Record Division – labeled with: „Offer for the public procurement – **ECONOMIC EXPERTISE IN COMPETITION AND STATE AID PROCEEDINGS, IN ACCORDANCE WITH THE TREATY ESTABLISHING ENERGY COMMUNITY–** Public procurement number **JNMV/1000/0070-1/2017** – DO NOT OPEN“.

The back of the envelope shall contain the exact name and address of the Bidder, Bidder ’s phone and fax (if applicable) numbers as well as the full name of the authorized contact person.

In case the offer is submitted by the group of Bidders, it should be stated on the back of the envelope that it is submitted by the group of Bidders with names and addresses of all group members.

In case the Bidders are to submit a *joint offer,* the group of Bidders may decide that all members of the group should sign and stamp (except in case of foreign persons/offerders incorporated in jurisdictions which do not require stamps) the Forms included in the Tender Documents, or the group of Bidders may appoint one member/Bidder from the group to sign and stamp the forms stipulated in the Tender Documents, except for the Forms containing the statement under full civil and criminal liability which must be signed and stamped by each Bidder from the group. In case the Bidders decide that one Bidder from the group of Bidders should sign and stamp the Forms stipulated in the Tender Documents (except for the Forms containing the statement under full civil and criminal liability), said decision must be defined in a mutual agreement entered into among the Bidders and the Contracting Authority, by which the Bidders assume obligation to carry out public procurement. This agreement makes the integral part of the joint offer according to the Article 81 of the Public Procurement Law (see section [6.10](#_Submission_of_joint) of the Tender Documents).

In case a Bidder needs to amend its offer and correct errors it has made while preparing it and filling in the Forms stipulated in the Tender Documents, any such corrections would need to be signed by the person or persons which have signed the tender Form, and certified by the Bidder’s stamp (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required).

* 1. **Mandatory content of the offer**

The offer should encompass the Forms and other documents stipulated in the Tender Documents, signed and stamped (except in cases that a Bidder is a foreign person incorporated in a jurisdiction that does not require stamps), as follows:

1. [FORM 1](#_FORM_1.) - Form of the Offer;

1. [FORM 2](#_FORM_2.) - Price Structure;
2. [FORM 3](#_FORM_3.) - Form for Claiming Costs of Preparation of the Offer (in case the Bidder requests reimbursements of expenses in accordance with the Article 88 of the Public Procurement Law);
3. [FORM 4](#_FORM_4.) - Statement on Independent Bid;
4. [FORM 5](#_FORM_5.) - Statement given in accordance with Article 75 paragraph 2 of the Public Procurement Law[[1]](#footnote-1);
5. [FORM 6](#_FORM_6.) - Statement of the Bidder confirming fulfillment of the requirements for participation in the public procurement proceedings OR other adequate evidence, as stipulated in section 4.1 of Tender Documents;
6. [FORM 6A](#_FORM_6А) - Statement of the subcontractor confirming fulfillment of the requirements for participation in the public procurement proceedings, in case of submission of the offer with a subcontractor OR other adequate evidence, as stipulated in section 4.1 of Tender Documents;
7. [FORM 7](#_Form_7.) - Statement on Staff Capacity;
8. [FORM 7A](#_Form_7/a.) – Professional biographies of team members – CVs;
9. [FORM 8](#_Form_8.) – the List of Executed Services – Professional Credentials of the Bidder;
10. [FORM 8A](#_Form_8/а.) – the Statement on Relevant Services;
11. Template of the Contract for the Provision of Consulting Services, including the signed Statement of Acceptance of Terms thereof ([link](#_TEMPLATE_OF_THE));
12. Methodology referred to in section [3.2.5.](#_Methodology) of the Tender Documents;
13. Authorization referred to in section [6.2](#_Method_of_preparation) of the Tender Documents;
14. Copy of the insurance policy referred to in section [6.15](#_Financial_security_instruments) of the Tender Documents;
15. Statement of the Bidder, given under full criminal and civil liability, and issued on a paper bearing the letterhead of the Bidder, that the submitted professional biography of team member is true and accurate;
16. Statements of each of team members given under full criminal and civil liability, that their respective submitted biographies are true and accurate;
17. Agreement on joint execution of the service subject to the public procurement, in case a joint offer is submitted in line with section [6.10](#_Submission_of_joint) of the Tender Documents.

The Contracting Authority shall reject as unacceptable all offers that do not satisfy the conditions provided in the Invitation to Tender and the Tender Documents.

If the Contracting Authority determines during the expert evaluation of offers that the evidence which makes the integral part of the offer contains false information, it shall reject such offer as unacceptable.

#  Opening of offers

A timely submitted offer is deemed to be a tender received in accordance with the Invitation to Tender published on the Public Procurement Portal, regardless of the delivery method.

If a offer is submitted after the expiry of the offer submission deadline indicated in the Invitation and the Tender Documents, it shall be considered as untimely, while the Contracting Authority shall after the finalization of the tender opening procedure return it to the Bidder unopened, with an indication that it was not submitted in time.

Public Procurement Committee shall open timely submitted offers publicly at the premises of State-Owned Enterprise “Elektropriveda Srbije”, in Belgrade, Balkanska 13, room on the second floor.

The Bidder s’ representatives intending to take part in the procedure of public opening of the offers shall, prior to start of the procedure, submit a power of attorney in writing for the participation in the said procedure to the Public Procurement Committee (preferably issued on the Bidder 's letterhead), filed, sealed with the Bidder ’s company stamp (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required) and signed by the Bidder’s legal representative or other representative registered with register of the competent authority, or by person authorized by legal representative, provided that power of attorney is submitted within the offer.

The Public Procurement Committee shall take Minutes of Offers Opening that shall contain data required by the Public Procurement Law.

The Minutes of Offers Opening are to be signed by members of the Committee and the present authorized representatives of Bidder(s), and each shall receive a copy of the Minutes.

The Contracting Authority shall within three (3) days from the day on which Offers Opening Procedure has been finalized send the Minutes of Offers Opening by post or e-mail to the Bidders that did not participate in the Offers Opening Procedure.

# Terms of submission of offers

A Bidder may submit only one offer.

An offer may be submitted by a Bidder individually, by a group of Bidders, as well as by a Bidder with a subcontractor.

The Bidder who has submitted an offer individually may not simultaneously participate in a joint offer or appear as a subcontractor. In the event that a Bidder acts contrary to these instructions, all offers in which such Bidder has taken part shall be rejected.

A Bidder may be a member of only one group of Bidders submitting a joint offer, i.e. participate in only one joint offer. If a Bidder, participating in a group of Bidders, submits two or more joint offers, the Contracting Authority shall reject all such offers.

A Bidder who participates in a joint offer may not simultaneously participate as subcontractor in another offer. In the event that a Bidder acts contrary to these instructions, each offer it participates in shall be rejected.

# Amendments and withdrawal of an offer

Within the offer submission period, a Bidder may amend or supplement an already submitted offer by communicating such change in writing to the Contracting Authority’s address, labeled with the following reference “AMENDEMENT – ADDITION – Bid for the public procurement of services - Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community - Public Procurement number JNMV/1000/0070-1/2017 – DO NOT OPEN“.

In the event that amendments or supplements have been submitted in relation to an already submitted offer, the Contracting Authority shall take into consideration such amendments and supplements in the course of expert evaluation of the offer only if submission thereof has been made entirely on, and in accordance with the pertinent form of the submitted offer.

Within the offer submission period, a Bidder may withdraw its already submitted offer by communicating such decision in writing to the Contracting Authority’s address, labeled with the following reference: “CANCELLATION – Bid for the public procurement of services- Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community - Public Procurement number JNMV/1000/0070-1/2017 – DO NOT OPEN“.

If a Bidder cancels an already submitted offer prior to the expiry of the offer submission period, the Contracting Authority shall not open this offer, and it shall return it unopened to the Bidder.

# Lots

The subject public procurement is not divided into lots.

# Bid with variants

Tender with variants is not permitted.

# Submission of a offer with subcontractors

A Bidder should specify in the offer if it intends to entrust the subcontractor with partial performance of the services subject to public procurement. If a Bidder states in the offer that it shall entrust the subcontractor with partial performance of services subject to the procurement, it must state the following:

- the name of the subcontractor, so that if the contract between the Contracting Authority and a Bidder is concluded, the subcontractor shall be stated in the contract;

- percentage of the total value of services subject to procurement the performance of which shall be entrusted to subcontractor, which cannot be greater than 50% as well as the designation of the services that shall be performed by the subcontractor.

A Bidder shall be fully responsible to the Contracting Authority for the execution of contracted services, regardless of the number of subcontractors and upon the Contracting Authority’s request, a Bidder must provide access to the subcontractor for the purpose of verification of fulfillment of stipulated conditions.

A Bidder must provide evidence that the subcontractor fulfills mandatory and additional requirements under sections 4.1.1-4.1.3. and 4.2 hereof, which is proved by submitting the Statement.

All forms in the offer shall be signed and stamped (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required) by the Bidder, except for the forms signed under full civil and criminal liability , which shall be filled-out, signed and stamped (except in case of foreign entities/offerders incorporated in jurisdictions where stamp is not required) by every subcontractor on its own behalf.

A Bidder may not engage as a subcontractor a person not indicated in a offer, otherwise, Contracting Authority shall collect security instruments and terminate the Contract, unless the Contracting Authority would suffer significant damage by Contract termination.

A Bidder may engage as subcontractor a person not indicated in a offer, if upon the offer submission subcontractor sustained lasting insolvency, if the person fulfills all requirements defined for subcontractor and if it obtains previous consent by the Contracting Authority. Upon the subcontractor’s request and if the nature of the subject of procurement permits that option, the Contracting Authority shall be allowed to transfer the due receivables directly to the subcontractor, for the part of the procurement falling within the ubcontractor’s scope of works. Before deciding on the transfer of due receivables directly to the subcontractor, the Contracting Authority shall enable the supplier to file an objection within 5 days since the day of receiving the Contracting Authority’s notice, in case of not receiving the due receivables. The provisions above do not affect the clause that the Bidder (supplier) shall be fully responsible to the Contracting Authority for the execution of the subject of this public procurement, i.e. the execution of the contracted services, regardless of the number of subcontractors.

The Contracting Authority in this procedure does not envisage the application of provisions of paragraph 9 and 10 of Article 80 of the Public Procurement Law[[2]](#footnote-2).

# Submission of joint offer

In the case that several Bidders submit a joint offer, they need to submit a Joint Service Execution Contract, proving the commitment between themselves and towards the Contracting Authority to jointly execute the service subject to the public procurement, which has to contain the following information stipulated by Article 81 paragraphs 4. and 5.of the Public Procurement Law:

* Information on the member of the group who shall be the leading service provider for the work, i.e. who shall submit the offerand represent the group of Bidders before the Contracting Authority;
* Description of responsibilities of each Bidder from the group in respect of contract execution.

Each Bidder from the group that submits a joint offer needs to fulfill mandatory requirements set forth in section 4.1 hereof, and to provide proof thereof by submitting а Statement.

In case of the joint offer, each member of the group of Bidders must sign and certify on its own behalf the forms that are signed under full civil and criminal liability ([Form 4](#_FORM_4.) and [Form 5](#_FORM_5.) of Tender Documents).

The members of the group of Bidders shall be severely and jointly liable towards the Contracting Authority.

# Price

An offer in which a price exceeding the statutory upper limit of the value of public procurement proceedings of low value referred to in [section 1](#_GENERAL_INFORMATION_ON) of the Tender Documents (RSD 10,000,000.00) shall not be taken into consideration.

The price in a offer shall be expressed in RSD/ЕUR, VAT excluded.

In case that the submitted offer does not specify whether the offered price includes VAT or not, it shall be deemed that it does not include VAT according to the Public Procurement Law.

**A Bidder may express the price in Euro (EUR)**, so that such price for offer evaluation purposes **shall be converted into RSD by using the middle exchange rate** of the National Bank of Serbia **on the day of opening of the offers**. The middle exchange rate of the National Bank of Serbia for any given day is available on the following URL:

<http://www.nbs.rs/export/sites/default/internet/english/scripts/kl_srednji.html>

Offered price must cover and include all costs that the Bidder shall incur in the course of performance of the subject services.

Offered price must be expressed with two decimal points, pursuant to the rule of rounding up the numbers. In case of the error in calculation, the unit price shall be deemed as valid.

Offered price shall be fixed during the entire contract effectiveness and it shall not be amended not even if the prices of the elements making the basis for the tender price increase after the conclusion of the contract.

If the tender contains an unusually low price, the Contracting Authority shall act pursuant to Article 92 of the Public Procurement Law[[3]](#footnote-3).

# Term for execution of services

The term for execution of the subject service is as follows:

1. The Service Provider shall deliver the **draft Report** to the Client, in the English language, within 21 calendar days of the date of effectiveness of the Contract.
2. The Service Provider shall deliver the **draft final Report** to the Client, in the English language, within 28 calendar days of the date of effectiveness of the Contract. After said deadline, the Service Provider shall be obliged to provide additional clarifications to the Client with respect to the draft final Report within next 10 calendar days of the date when the draft final Report has been delivered to the Client.
3. The Service Provider shall deliver the **final Report** to the Client, in the English language, within 41 calendar days of the date of effectiveness of the Contract.
4. The Service Provider shall deliver the **final Report** to the Client, in the Serbian language, within 10 calendar days of the date of delivery of the final Report pursuant to Article 3.1.3 hereof.

# Manner and terms of payment

The Contracting Authority shall be obliged to pay to the Bidder (i.e. the Service Provider) for the executed services, as follows:

• 100% of the full service value including relevant VAT shall be paid after the service execution, within 45 (in words: forty five) days since the day of receipt of the invoice which shall be issued on the basis of accepted and approved report on executed service, and upon mutual signing of the Minutes of Qualitative and Quantitative Assessment upon Acceptance of service (with no complaints), signed by the authorized representatives of the Contractual Parties.

In the event that a price in Euro has been stipulated with a local Bidder, invoicing shall be done in dinars by calculating the amount thereof on the basis of to the middle exchange rate of the National Bank of Serbia on due date.

The invoice shall be submitted to the address of the Contracting Authority: Public Enterprize ‘Electric Power Industry of Serbia’, Belgrade, Carice Milice, TAX ID 103920327, including the relevant evidence.

# Validity of the offer

The offer shall be valid not less than sixty (60) days since the day of opening of the offers.

In case the Bidder defines shorter validity period, the offer shall be rejected as unacceptable.

# Financial security instruments

According to the Article 61 of the Public Procurement Law ('Official Gazette of the Republic of Serbia' 124/12, 14/15 and 68/15) and the Article 12. 'Rules for obligatory elements of tender documents in the public procurement procedures' ('Official Gazette of the Republic of Serbia' no.29/13 and 104/13), the Contracting Authority demands that the Bidder (or a member of the group of Bidders appointed by the Joint Service Execution Contract), as a financial security instrument, submit ***a valid professional liability insurance policy*** valid on the day of opening of the offers, with a minimum insurance coverage of at least EUR 100,000.00 оr equivalent value in Serbian dinars at middle exchange rate of the National Bank of Serbia as of the day of submission of the offer, per adverse event, and valid for an unlimited number of adverse events, otherwise the offer shall be deemed unacceptable and shall be rejected.

The validity term of the insurance policy shall be from the first day of its validity until the expiry term of the contract. A Bidder shall provide the insurance coverage under the policy throughout the entire validity of the contract for the subject public procurement.

The Contracting Authority shall only accept the liability insurance policies without the Bidder 's participation in the damage and if the limit of coverage for one adverse event is at least EUR 100,000.00 оr equivalent value in Serbian dinars at middle exchange rate of the National Bank of Serbia as of the day of submission of the offer, payable up to the full amount of the total policy value.

The Bidder shall submit all supplementary documents (General Terms of Insurance) together with the copy of the insurance policy.

The Bidder shall bear all costs related to the provision of the stated financial security instruments.

**Enclosure to the offer:**

The Contracting Authority requests that the Bidder (or a member of the group of Bidders appointed by the Joint Service Execution Contract) submits the copy of the financial security instrument together with a offer.

**Submission of the financial security instruments**

Financial security instruments shall be submitted in person or by post to: Public Enterprize ‘Electric Power Industry of Serbia’, Belgrade, Balkanska 13, Belgrade, labelled as: **Financial security instrument for the public procurement of services -** Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community - Public Procurement number **JNMV/1000/0070-1/2017.**

# Method of designation of confidential data in the Offer

Data appropriately labeled by the Bidder as confidential shall be used only within the public procurement procedure in accordance with the Invitation to Tender and they shall not be made available to anyone outside the group of persons included in the public procurement procedure. Such data shall neither be published during the procedure of opening of offers, nor in any other administrative procedure relating to subject public procurement.

The Contracting Authority may refuse to provide information that would entail a breach of data confidentiality received in the offer.

The Bidder may label as confidential those documents containing personal data, not contained in any public register, or otherwise not available, as well as business data defined by the regulations as confidential.

The Contracting Authority shall regard as confidential the documents labeled in capital letters with “CONFIDENTIAL” in the upper right corner.

The Contracting Authority shall not be responsible for the confidentiality of information not labeled in the above specified manner.

If certain information is labeled as confidential and it does not meet the above specified conditions, the Contracting Authority shall request from the Bidder to remove the confidentiality label. The Bidder shall execute this in the following manner: its authorized representative shall write CANCELLED above the confidentiality label, with the date, time and signature.

If the Bidder does not cancel the confidentiality of documents within the period specified by the Contracting Authority, the Contracting Authority shall regard this offer as one without confidential information.

The Contracting Authority shall duly observe lawful interests of the Bidders, by protecting their technical and business secrets in terms of the law governing the protection of business secrets.

Evidence on fulfilment of mandatory requirements set forth in section 4.1 hereof, price and other information from the offer relevant for applying elements of the criterion and for the ranking of the Bidders shall not be deemed confidential.

# Compliance with labour law regulations and other regulations

Bidder shall when preparing the Tender explicitly state that it complied with all valid regulations on safety at work, employment and working conditions, environmental protection, as well as that it is not being prohibited to execute the industry actual at the time of Tender submission.

# Royalty

Royalty, as well as responsibility for infringement of protected intellectual property rights of third parties shall be borne by the Bidder.

# The principle of environmental protection and energy efficiency

The Contracting Authority shall procure services which do not contaminate, i.e. have minimum impact on the environment, i.e. which provide adequate reduction of energy consumption – energy efficiency.

# Additional information and clarifications

A person with legitimate interest may require additional information or clarifications in written form regarding the preparation of a offer, while it may indicate to the Contracting Authority possibly noted faults and irregularities in the Tender Documents, not later than five (5) days prior to the expiry date for submission of offers, at the address of the Contracting Authority, with the label: “CLARIFICATION – Invitation to Public procurement No. JNMV/1000/0070-01/2017“ or via e-mail address: veljko.kovacevic@eps.rs and milos.zarkovic@eps.rs, during business days (Monday - Friday) from 08:00-15:00h. Any request that is received after the mentioned working hours or during weekend/holiday will be registered as received on the first coming working day.

The Contracting Authority shall, within three (3) days of receipt of the request, publish a response to the request on the Public Procurement Portal and its website.

Requesting additional information and clarification via phone is not allowed.

If any document in the public procurement procedure is submitted either by the Contracting Authority or Bidder by e-mail of fax, a party which submits the document shall request from the other party to confirm receipt of the document in the same manner, and the other party shall execute the requested action when this is necessary as an evidence of submission.

If the Contracting Authority, within the time foreseen for submission of offers, either amends or supplements the Tender Documents, it shall, without any delay, publish the amendments and supplements on the Public Procurement Portal and its website.

If the Contracting Authority amends or supplements the Tender Documents in at least eight (8) days prior to expiration of due date for submission of offers, the Contracting Authority shall extend a deadline for submission of offers and publish information on the extension of deadline for Tender submission.

Upon expiration of deadline for submission of offers, the Contracting Authority may neither amend nor supplement the Tender Documents.

Communication in the public procurement procedure is performed in a manner stipulated by the Article 20 of the Public Procurement Law[[4]](#footnote-4).

Depending on selected communication manner, тхе Contracting Authority shall act in accordance with the principle stance No.13 which the Republic Commission for safeguarding rights in public procurement procedures adopted at the Third General Meeting on 14th April 2014 (published on the internet page [www.кjn.gov.rs](http://www.кjn.gov.rs)).

# Bid preparation costs

Costs for preparation and submission of the offer will be borne exclusively by the Bidder and cannot be reimbursed by the Contracting Authority.

A Bidder may include in its offer the total amount and structure of costs for the offer preparation by completing, signing and verifying with the stamp (except in case that the Bidder is incorporated in a jurisdiction that does not require stamps) the [Form 3](#_FORM_3.) of Tender Documents.

If the public procurement procedure is cancelled for reasons caused by the Contracting Authority, the Contracting Authority shall reimburse the costs listed in [Form 3](#_FORM_3.) of Tender Documents, provided that the Bidder asked for reimbursement of these costs in its offer, i.e. that it has submitted the said form..

# Additional explanations, control and permitted corrections

The Contracting Authority may request from the Bidder additional explanations that shall help during review, evaluation and comparison of the tenders, as well as to perform the control (insight) of the Bidder s and/or its subcontractor.

If additional explanation is necessary, the Contracting Authority shall set a reasonable due date to Bidder to act as per the Contracting Authority's request, i.e. to enable the Contracting Authority the control (insight) of the Bidder s and its subcontractor as well.

The Contracting Authority may, with the consent of the Bidder, make the corrections of calculation errors observed during the consideration of the offer upon finalized tender opening procedure.

In the event of the difference between unit and total price, unit price shall prevail. If a Bidder does not agree with the correction of calculation errors, the Contracting Authority shall reject its offer as unacceptable.

# Reasons for rejecting a offer

A offer shall be rejected if:

* it is not submitted in timely manner, it is unacceptable or inappropriate;
* Bidder does not agree with a correction of calculation errors;
* it has significant faults according to Article 106 of the Public Procurement Law

namely if:

* Bidder does not provide evidence on meeting mandatory requiremens for participation;
* Bidder does not provide evidence on meeting additional requirements;
* Bidder does not submit the requested security instrument;
* the offered validity period of a offer is shorter than prescribed;
* a offer includes some other faults due to which it is not possible to establish a real content of the offer or it is not possible to compare it to other offerds.

The Contracting Authority shall make a decision on cancellation of the public procurement procedure in accordance with Article 109 of the Public Procurement Law.

# Term for making Decision on awarding the contract/cancellation thereof

The Contracting Authority shall make a decision on awarding the contract/cancellation of the procedure within maximum 10 (ten) days from a date of public opening of offers.

The Contracting Authority shall publish the Decision on awarding the contract/cancellation of the procedure, on the Public Procurement Portal or on its website within 3 (three) days from a date of making such decision.

# Negative references

The Contracting Authority may reject a offer if it has the evidence that a Bidder, in the past three (3) years prior publishing the tendering invitation, has acted in the following manner during public procurement procedure:

* acted in opposite to prohibition from Article 23 (*Protection of integrity of proceedings*) and Article 25 (*Prohibition of employment with supplier*) of the Law;
* breached competition rules;
* submitted false data in tender or without justified reasons refused to conclude the public procurement contract, after contract was awarded to it;
* refused to submit evidence and security instruments for which it was obliged according to tender.

The Contracting Authority may reject the offer if it has the evidence confirming that the Bidder did not fulfil its obligations under previously concluded public procurement contracts referring to the same subject of procurement, for the period of three years prior to publication of the Invitation to Tender.

Evidence of the stated may be:

* final and binding court decision or final decision of other competent body;
* document on collected security instrument for the fulfilment of obligations in public procurement procedure or fulfilment of contractual obligations;
* document on collected liquidated damages;
* complaints of the customers, i.e. users, if not solved in the agreed deadline;
* statement on contract termination due to failure to fulfil essential contractual elements, given in the manner and under conditions prescribed by the law governing contracts and torts;
* evidence on having engaged the persons not named in tender as subcontractors i.e. members of the group of Bidder s to implement public procurement contract;
* other corresponding evidence appropriate for the subject of public procurement referring to fulfilling obligations in previous public procurement procedures or as per previously concluded contracts on public procurement.

The Contracting Authority may reject a offer if it possesses evidence under paragraph 3 Item 1) of Article 82 of the Public Procurement Law which refers to procedure executed or contract awarded by another Contracting Authority, where it refers to the same type of public procurement subject.

The Contracting Authority shall also act in the stated manners in the case of joint offer of the group of Bidders if it finds that aforementioned evidence for one or more members of the group of Bidder s exist.

# Performing insight into the documents

A Bidder is entitled to have insight into the documents on the executed public procurement procedure after a decision on awarding the contract is made, or after a decision on cancellation of the procedure is made, for which it may submit a written request to the Contracting Authority.

The Contracting Authority shall enable the person from para. 1 above to have insight into the documents and to copy documents from the procedure at the applicant's costs, within two days upon receiving the request in written, with obligation to protect data in accordance with Article 14 of the Public Procurement Law[[5]](#footnote-5).

# Safeguard of Bidders’ rights

Information on due dates and manner for submitting a request for safeguard of rights, with detailed instructions on contents of the complete request for safeguard of rights in accordance with Article 151, Paragraph 1, Clauses 1)-7) of the Public Procurement Law, as well as fee amount from Article 156, Paragraph 1, Clauses 1)-3) of the Public Procurement Law, and detailed instruction on the confirmation from Article 151, Paragraph 1, Clause 6) of the Public Procurement Law which confirms that the fee is paid, and this is submitted together with the request for safeguard of rights during submission of the request to the Contracting Authority, in order to deem this request as complete:

**Due dates and manner of submission of the request for safeguard of rights:**

A Request for safeguard of rights is submitted in person or via mail at the address: Public Enterprise Electric Power Industry of Serbia, with note “Request for safeguard of rights for low value public procurement services – economic counselling in procedures from competition rights and state aid, in accordance with the agreement on establishing energy community – public procurement No. JNMV/1000/0070-1/2017“, whereby a copy is delivered to the Republic Commission at the same time.

The Request for safeguard of rights may be submitted via e-mail to: veljko.kovacevic@eps.rs and milos.zarkovic@eps.rs, during business days (Monday - Friday) from 08:00-15:00h.

The request for safeguard of rights may be submitted during the entire public procurement procedure, against any Contracting Authority's action, unless otherwise stipulated by the Public Procurement Law .

The Request for the safeguard of rights challenging the type of procedure, the contents of the invitation for the submission of offers or tender documents, shall be considered timely if received by the Contracting Authority at latest **3 (three)** days before the expiry of the deadline for the submission of offers, regardless of the manner of delivery, and if the applicant, in accordance with Article 63, Paragraph 2 of the Public Procurement Law, indicated possible faults and irregularities to the Contracting Authority, and the Contracting Authority has not rectified these.

The Request for safeguard of rights challenging actions taken by the Contracting Authority prior expiration of deadline for submission of offers, and upon expiration of deadline from Paragraph 3 of this Clause, shall be deemed as timely if submitted at latest by the expiration date for submission of offers.

After adoption of the decision on awarding contract and decision on cancelling the procedure, the deadline for submitting request for the safeguard of rights shall be **5 (five)** days from the day when the decision is published on the Public Procurement Portal.

The Request for safeguard of rights shall not detain further Contracting Authority's actions in the public procurement proceedings in accordance with provisions set in Article 150 of the Public Procurement Law.

The Contracting Authority shall publish information on submitted request for safeguard of rights on the Public Procurement Portal and on its website at latest within two days upon receiving the request for safeguard of rights.

Contracting Authority may decide to stop further activities in case of submission of the request for safeguard of rights, while it shall stipulate that it stops further activities in the public procurement procedure within the information on the submitted request for safeguard of rights.

**Detailed instructions on contents of a complete request for safeguard of rights** in accordance with Article 151, Paragraph 1, Clause 1) – 7) of the Public Procurement Law :

A Request for safeguard of rights includes the following:

1) name and address of an applicant and a contact person

2) name and address of the Contracting Authority

3) information on public procurement being a subject of the request, i.e. on the Contracting Authority's decision

4) violation of regulations which regulate public procurement procedure

5) facts and evidence for proving violations

6) confirmation on paid fee from Article 156 of the Public Procurement Law

7) applicant's signature.

**If the submitted request for safeguard of rights does not include all mandatory elements, Contracting Authority shall reject such request with the conclusion.**

The Contracting Authority shall submit a Conclusion to the applicant and the Republic Commission within three days from a date of making this Conclusion.

The applicant may file an appeal to the Republic Commission against the Contracting Authority's conclusion within three days upon the receipt of the conclusion, while submitting a copy of the appeal to Contracting Authority.

**Fees from Article 156, Paragraph 1, Clause 1)- 3) of the Law:**

The Applicant for safeguard of rights shall pay a fee amounting to RSD **60,000.00** to the account of budget of the Republic of Serbia (account No. 840-30678845-06, payment code 153 or 253, number reference JNMV/1000/0070-1/2017, remittance purpose: Request for safeguard of rights, PE EPS, Carice Milice 2, Belgrade, Serbia, public procurement No. JNMV/1000/0070-1/2017, beneficiary: the budget of the Republic of Serbia) in the low value public procurement procedure.

Each party involved shall bear expenses caused by its own actions.

If the Request for safeguard of rights is reasonable, Contracting Authority shall reimburse costs to the Applicant incurred on the basis of the safeguard of rights upon the request in written.

If the Request for safeguard of rights is not reasonable, the Applicant for safeguard of rights shall reimburse costs to Contracting Authority incurred on the basis of safeguard of rights upon the request in written.

If the Request for safeguard of rights is partially adopted, the Republic Commission shall decide whether each party bears its own expenses or these expenses are to be divided proportionally to the adopted request for safeguard of rights.

Parties in the request shall precisely indicate costs for which they claim reimbursement.

Reimbursement may be claimed until Contracting Authority makes the decision, i.e. until the Republic Commission makes a decision on the submitted Request for safeguard of rights.

The Republic Commission shall decide upon costs. The decision made by the Republic Commission is the executive title.

**Detailed instruction on confirmation from Article 151, Paragraph 1, Clause 6) of the Public Procurement Law**

Confirmation which confirms that the fee is paid, and which is submitted with the Request for safeguard of rights during submission of the Request to Contracting Authority, in order to deem the Request as complete.

Article 151 of the Law (Official Gazette of the RS, No. 124/12, 14/15 and 68/15) prescribes that the Request for safeguard of rights has to include, among the others, confirmation of the fee payment from Article 156 of the Public Procurement Law .

The Applicant for safeguard of rights shall pay a fee to the account of budget of the Republic of Serbia in the amount prescribed by Article 156 of the Public Procurement Law.

As a confirmation of fee payment, in terms of Article 151, Paragraph 1, Clause 6) of the Public Procurement Law , the following shall be accepted:

**1.** Confirmation of fee payment from Article 156 of the Public Procurement Law which includes the following elements:

(1) that it is issued by a bank and to hold the bank's stamp;

(2) that it represents an evidence on fee payment, which means that the confirmation has to include information that the order for fee payment, i.e. order for money transfer, has been executed, as well as a date of order execution. The Republic Commission may have insight into corresponding account report submitted by the Ministry of Finance – Treasury Administration and to check additionally whether the money transfer order is executed.

(3) the fee amount from Article 156 of the Public Procurement Law for which a payment is made;

(4) account number: 840-30678845-06;

(5) payment code: 153 or 253;

(6) number reference: information on a number or designation of public procurement for which the Request for safeguard of rights is submitted;

(7) remittance purpose: Request for safeguard of right; name of Contracting Authority; number or designation of public procurement for which the Request for safeguard of rights is submitted;

(8) beneficiary: the budget of the Republic of Serbia;

(9) name of a payer, i.e. name of an applicant for request for safeguard of rights for which a fee is paid;

(10) a signature of bank's authorized person.

**2**. Payment order, the first copy, verified by a signature of an authorized person and bank or post stamp, including all other necessary elements from confirmation of fee payment listed in point No. 1.

**3**. Certificate issued by the Republic of Serbia, the Ministry of Finance, Treasure Administration, signed and verified by stamp, which includes all elements from confirmation on fee payment from point No. 1, except those listed under (1) and (10), for applicants for request for safeguard of rights who have account within appurtenant consolidated treasury account, and which is registered in the Treasury Administration (beneficiaries of budget funds, beneficiaries of organizations funds for mandatory social insurance and other public funds beneficiaries);

**4**. Certificate issued by National Bank of Serbia, which include all elements from confirmation of fee payment from point No. 1, for applicants for request for safeguard of rights (banks or other subjects) which have an account with National Bank of Serbia in accordance with law and other regulation.

A copy of properly completed money transfer order and a copy of properly completed payment order can be seen on the website of the Republic Commission for safeguard of rights in the public procurement procedures <http://www.kjn.gov.rs/ci/uputstvo-o-uplati-republicke-administrativne-takse.html> and <http://www.kjn.gov.rs/download/Taksa-popunjeni-nalozi-ci.pdf>

PAYMENT FROM ABROAD

Payment of the fee for submission of request for the protection of rights from abroad may be made to the foreign currency account of the Ministry of Finance - Treasury Administration

BANK’S NAME AND ADDRESS:

National Bank of Serbia (NBS)

11000 Belgrade, Nemanjina No. 17

Serbia

NAME AND ADDRESS OF THE INSTITUTION:

Ministry of Finance

Treasury Administration

Pop Lukina No. 7-9

11000 Belgrade

IBAN: RS 35908500103019323073

NOTE: During the payment it is necessary to state the following information on the payment - “details of payment“ (FIELD 70: DETAILS OF PAYMENT):

– number in the public procurement procedure to which the request for the protection of rights refers to and name of the Contracting Authority in public procurement procedure.

# Conclusion and effectiveness of the Contract

The Contracting Authority will submit the contract on public procurement ([link](#_TEMPLATE_OF_THE)) to the Bidder to whom the contract has been awarded within eight (8) days from the expiration date for submitting a claim for rights protection.

A Bidder to whom the contract has been awarded has the obligation that on the execution date, and at the latest within 10 (ten) days of the day of execution of the contract, submit original insurance policy from professional responsibility together with supplementary documentation (see section [6.15](#_Financial_security_instruments) of Tender Documents).

If within the term for submission of offers only one offer has been submitted and that offer is acceptable, the Contracting Authority will conclude the contract, according to Article 112. Paragraph 2. Point 5 by the Public Procurement Law, with the Bidder before the deadline for submission of the request for protection the offerders’ rights.

# Changes during the duration of the contract

After conclusion of the contract on public procurement, the Contracting Authority may allow changes of material elements of the contract due to objective reasons, such as: Force Majeure, amendment of valid legal regulations, measures of state authorities and changed circumstances on the market due Force Majeure.

The Contracting Authority may increase the scope of the public procurement stipulated in the contract on public procurement for maximum 5% of the total contract value, under condition it has contingency resources in case of unexpected circumstances during contract realisation, for which circumstances it wasn’t able to know during the planning of the procurement.

# FORM 1

FORM OF THE OFFER

Offer No.\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ for public procurement proceedings of low value – service: Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community – Public procurement No. PPLV/1000/0070-1/2017

***1) GENERAL INFORMATION ABOUT THE BIDDER***

|  |  |
| --- | --- |
| Name of the Bidder : |  |
| Type of the legal entity:  |  |
| Address of the Bidder : |  |
| Identification number of the Bidder : |  |
| Tax identification number of the Bidder (TIN): |  |
| Name and surname of contact person: |  |
| Bidder’s E-mail address: |  |
| Phone number: |  |
| Fax number: |  |
| Current account number of the Bidder and name of bank: |  |
| Person responsible for contract signing |  |

***2) SUBMITS THE OFFER:***

|  |  |
| --- | --- |
| **А) INDEPENDENTLY** |  |
| **B) WITH SUBCONTRACTOR** |  |
| **C) AS JOINT OFFER** |  |

***Note:*** *circle the way of submitting the Offer and write down data about Subcontractor, if Offer is submitted with subcontractor, i.e. data about all participants of joint Offer, if Offer is submitted by a group of subcontract Bidders.*

***3) INFORMATION ABOUT SUBCONTACTOR***

|  |  |  |
| --- | --- | --- |
| 1) | Name of the subcontractor: |  |
|  | Type of the legal entity:  |  |
|  | Address |  |
|  | Identification number: |  |
|  | Tax identification number: |  |
|  | Name and surname of contact person: |  |
|  | Percentage of total procurement value which will be executed by the subcontractor: |  |
|  | Part of the procurement scope which will be executed by the subcontractor: |  |
| 2) | Name of the subcontractor: |  |
|  | Type of the legal entity:  |  |
|  | Address |  |
|  | Identification number: |  |
|  | Tax identification number: |  |
|  | Name and surname of contact person: |  |
|  | Percentage of total procurement value which will be executed by the subcontractor: |  |
|  | Part of the procurement scope which will be executed by the subcontractor: |  |

***Note:***

*Only Bidders which submit the Offer with subcontractor fill in the table “Data about subcontractor”, but if there are larger numbers of subcontractors than spaces provided in table, it is necessary to copy this form in sufficient number of copies, fill in and submit for each subcontractor individually.*

***4) INFORMATION ABOUT MEMBER OF THE GROUP OF BIDDERS***

|  |  |  |
| --- | --- | --- |
| *1)* | *Name of member of the group of bidders:* |  |
|  | *Type of legal entity: (micro, small, middle, large, individual)* |  |
|  | *Address:* |  |
|  | *Identification number:* |  |
|  | *Tax identification number:* |  |
|  | *Name and surname of contact person:* |  |
| *2)* | *Name of member of the group of bidders:* |  |
|  | *Type of legal entity: (micro, small, middle, large, individual)* |  |
|  | *Address:* |  |
|  | *Identification number:* |  |
|  | *Tax identification number:* |  |
| *3)* | *Name and surname of contact person:* |  |
|  | *Name of member of the group of bidders:* |  |
|  | *Type of legal entity: (micro, small, middle, large, individual)* |  |
|  | *Address:* |  |
|  | *Identification number:* |  |
|  | *Tax identification number:* |  |
|  | *Name and surname of contact person:* |  |

***Note:***

*Only Bidders which submit the joint Offer fill in the table “Data about participant in joint Offer”, but if there are larger number of participants in a joint offer than spaces provided in table, it is necessary to copy this form in sufficient number of copies, fill in and submit for each Bidder who participates in the joint offer.*

***5) PRICE AND COMMERCIAL TERMS OF THE OFFER***

***PRICE***

|  |  |
| --- | --- |
| **SUBJECT AND NO. OF THE PROCUREMENT** | ***TOTAL AMOUNT\_\_\_\_\_ RSD VAT excluded*** |
| Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community, in accordance with the treaty establishing energy community – Public procurement No PPLV/1000/0070-1/2017 |  |

***COMMERCIAL TERMS***

|  |  |
| --- | --- |
| ***CONDITIONS REQUESTED BY THE CONTRACTING AUTHORITY*** | ***OFFER OF THE BIDDER***  |
| **TERM AND MANNER OF PAYMENT:**Within 45 (in written: forty-five) days of receiving accurate bill and Record of qualitative and quantitative acceptance of services | Agreed with Contracting Authority’s requestYES/NO (circle) |
| **EXECUTION DEADLINE:**Within terms stipulated in section 6.12 of the Tender Documents | Agreed with Contracting Authority’s requestYES/NO (circle) |
| ***EXPIRY DATE OF THE OFFER:******cannot be shorter than 60 days from the day of opening of the Offer*** | ***\_\_\_\_\_*** days from the day of opening of the Offer |
| The Offer of the Bidder who does not accept terms requested by the Contracting Authority in respect of the term and manner of payment, execution deadline, warranty period, place of execution and expiry date of Offer will be considered as unacceptable. |

Date Bidder

***\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ stamp \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

***Notes:***

*- Bidder is obliged to fill in all commercial terms in the Form of the Offer (all empty boxes).*

*- If a group of Bidders submits a joint Offer, the group of Bidders may authorise one Bidder from the group to fill out, sign and verify by stamp (unless such Bidder is incorporated in a jurisdiction that does not require use of stamps) the Form of the Offer or the Form of the Offer may be signed and stamped (if applicable) by all the Bidders from the group of Bidders (in that case, this Form should be adjusted in order to accommodate the larger number of signatories).*

# FORM 2

**PRICE STRUCTURE**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| *No* | ***Type of services***  | ***Unit*** | ***Scope***  | ***Unit price RSD –VAT excluded/EUR*** | ***Unit price RSD – VAT included / EUR*** | ***Total price RSD – VAT excluded / EUR*** | ***Total price RSD – VAT included / EUR*** |
| ***(1)*** | ***(2)*** | ***(3)*** | ***(4)*** | ***(5)*** | ***(6)*** | ***(7)*** | ***(8)*** |
| ***1.*** | Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community | *Report* | *1* |  |  |  |  |

|  |  |  |
| --- | --- | --- |
| **I** | **TOTAL TENDERED PRICE – VAT excluded (column No 7)** | ................RSD / EUR |
| **II** | **TOTAL VAT AMOUNT** | ................RSD / EUR |
| **III** | **TOTAL TENDERED PRICE – VAT included****(row No I+row No II)**  | ................RSD / EUR |

|  |  |  |
| --- | --- | --- |
| Date: |  | Bidder  |
|  | stamp |  |
|  |  |  |
|  |  |  |

***Note:***

- If a group of Bidder submits joint Offer, the Leading Bidder should sign and stamp (if applicable) this Form.

- If Bidder submits an Offer with subcontractor(s), the Bidder should sign and stamp (if applicable) this Form.

**Instruction for filling out the Form for Price Structure**

Bidder should fill in the Form for Price Structure Table No 1 in following way:

in column 5. write the amount of the unit price – VAT excluded for performed services;

in column 6. write the amount of the unit price – VAT included for performed services;

in column 7. write the amount of the total price – VAT excluded by multiplying the unit price – VAT excluded (stated in column 5.) with required scope-quantity (stated in column 4.);

in column 8. write the amount of the total price – VAT included by multiplying the unit price – VAT included (stated in column 6.) with required scope-quantity (stated in column 4.).

* in row No. I – total tendered price for all positions – VAT excluded has to be written (column No. 7)
* in row No. II – total VAT amount has to be written
* in row No. III – total tendered price – VAT included has to be written (row No. I + row No. II).

# FORM 3

 **FORM FOR CLAIMING EXPENSES FOR PREPARATION OF THE OFFER**

for public procurement of services: Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community – Public procurement of low value

No PPLV/1000/0070-1/2017

In accordance with Article 88. Paragraph 1. of the Law on Public Procurement (“Official Gazette of RS” No.124/12, 14/15 and 68/15), Article 5. Paragraph 1. Point 6) sub-item (3) and Article 15. of the Policy of obligatory elements of Tender documents in procedures of public procurements and manners of proving the fulfillment of conditions (“Official Gazette of RS” No. 86/15), together with the Offer I also submit

THE STRUCTURE OF EXPENSES FOR PREPARATION OF THE OFFER

|  |  |
| --- | --- |
| costs of providing the security instruments | ................RSD / EUR |
| Total costs – VAT excluded | ................RSD / EUR |
| VAT | ................RSD / EUR |
| Total costs – VAT included | ................RSD / EUR |

I submit this structure of expenses of prepration of the offer and ask for compensation of stated costs if Contracting Authority suspends this proceedings of Public procurement from the reasons which are on the attributable to the Contracting Authority, in accordance with Article 88. Paragraph 3. of the Law on Public Procurement (“Official Gazette of RS” No.124/12, 14/15 and 68/15).

|  |  |  |
| --- | --- | --- |
| Date: |  | Bidder  |
|  | stamp |  |
|  |  |  |
|  |  |  |

***Note:***

*-only those Bidders who had stated costs and who claim compensation from the Contracting Authority by Law regulated cases fill in the Form for Claiming Expenses of Preparaton of the Offer*

*-all other expenses of preparation and submission of the Offer are borne entirely the Bidder so that Bidder cannot claim compensation thereof from the Contracting Authority (Article 88. Paragraph 2. of the Law on Public Procurement (“Official Gazette of RS”, No.124/12, 14/15 and 68/15)*

*-if the Bidder does not fill out and submit the for Claiming Expenses of Preparaton of the Offer, the Contracting Authority has no obligation for costs compensation by Law regulated case*

-*If group of Bidders submits joint offer, the Leading Bidder should sign and stamp (if applicable) this Form. If the Bidder submits the Offer together with subcontractor, the Bidder should sign and stamp (if applicable) this Form*.

# FORM 4

Pursuant to Article 26 of the Law on Public Procurement ("Official Gazette of RS", No. 124/2012, 14/15 and 68/15), Article 5 paragraph 1 item 6) sub-item (4) and Article 16 of Rulebook on Mandatory Elements of Tender Documents in Public Procurement Procedures and on Manner of Proving Fulfillment of Requirements (“Official Gazette of RS” no. 86/15) the Bidder issues a:

**STATEMENT ON INDEPENDENT OFFER**

and under full civil and criminal liability confirms that the Offer no.:\_\_\_\_\_\_\_\_ for the Public procurement of services Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community – Public procurement no JNMV/1000/0070-1/2017,

of the Contracting Authority Public Enterprize “Electric Power Industry of Serbia” Belgrade, pursuant to the Invitation to Tender published on the Public Procurement Portal and on the website of the Contracting Authority, is submitted independently, without agreement with other Bidders or interested parties.

The signatory is aware that if contrary is true, according the Article 168, paragraph 1, item 2) of the Law on Public Procurement ("Official Gazette of the Republic of Serbia" no.124/12, 14/15 and 68/15), the Contract on Public Procurement shall be null and void.

|  |  |  |
| --- | --- | --- |
| Date: |  | Tederer/group member |
|  | L:S. |  |
|  |  |  |
|  |  |  |

***Note:*** *If a joint Offer is submitted by a group of Bidders, the statement is submitted for each member of the group. The statement shall be filled out, signed by the person authorised to represent Bidder form the Group of Bidders and stamped (if applicable).*

*When submitting the offer, this form should be copied in the required number of copies.*

# FORM 5

Pursuant to Article 75, paragraph 2 of the Law on Public Procurement ("Official Gazette of the Republic of Serbia" no.124 / 2012, 14/15 and 68/15) as a offerder / subcontractor we issue a:

**S T A T E M E N T**

whereby we explicitly state that we have in our previous work and in the preparation of the Offer no: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ for the Public procurement of services Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community, in the proceedings of Public procurement of low value number JNMV/1000/0070-1/2017, followed all obligations arising from valid regulations about safety at work, employment and work conditions, environmental protection, and that we do are not banned from performing the activity that is in effect at the time of submitting the Offer.

|  |  |  |
| --- | --- | --- |
| Date: |  | Bidder /group member |
|  | L:S. |  |
|  |  |  |
|  |  |  |

***Note:*** *Тhe statement should be submitted by the Bidder, or by each member of the Group of Bidders in case the Offer is submitted by such group.*

*In case that the Bidder submits the offer with the subcontractor, the Statement is submitted by the Bidder and by each Subcontractor.*

 *The statement should be filled out, signed by the person authorised to represent the Bidder, or the subcontractor, and stamped (unless the Bidder/subcontractor is incorporated in a jurisdiction that does not require use of stamps).*

*When submitting the offer this form should be copied in the required number of copies.*

# FORM 6

**S T A T E M E N T**

**WHEREBY BIDDER /GROUP MEMBER CONFIRMS FULFILLMENT OF REQUIREMENTS FOR PARTICIPATION IN** **PUBLIC PROCUREMENT PROCEEDINGS**

Pursuant to Article 77, paragraph 4 of the Law on Public Procurement ("Official Gazette of the Republic of Serbia", No.124/12, 14/15 and 68/15), under full civil and criminal liability, the Bidder issues a

**S T A T E M E N T**

Confirming that it meets mandatory requirements comprised in the Tender Documents for Public procurement of services – Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community – Public procurement no. JNMV/1000/0070-1/2017, pursuant to the Invitation to Tender published on the Public Procurement Portal and on the website of the Contracting Authority.

 **Mandatory conditions:**

1. It is registered with the competent authority;

2) It, or its legal representative have not been convicted of any criminal act as

members of an organized criminal group; that it has not been convicted for

commercial criminal offence, criminal offence against environment, criminal,

offence of receiving or offering bribe, criminal offence of fraud

3) It settled all due taxes, contributions and other public duties in accordance with the regulations of the Republic of Serbia, or with foreign state of its head office.

|  |  |  |
| --- | --- | --- |
| Date: |  | Bidder /group member |
|  | L:S. |  |
|  |  |  |

*Note: Тhe statement should be submitted by the Bidder, or by each member of the Group of Bidders in case the Offer is submitted by such group.*

*The statement should be filled out, signed by the person authorised to represent the Bidder and stamped (unless the Bidder is incorporated in a jurisdiction that does not require use of stamps).*

*When submitting the offer this form should be copied in the required number of copies.*

# FORM 6А

**S T A T E M E N T**

**WHEREBY SUBCONTRACTOR CONFIRMS FULFILLMENT OF REQUIREMENTS FOR PARTICIPATION IN PUBLIC PROCUREMENT PROCEEDINGS**

Pursuant to Article 77, paragraph 4 of the Law on Public Procurement ("Official Gazette of the Republic of Serbia", No.124/12, 14/15 and 68/15), under full civil and criminal liability, the Subcontractor gives a

**S T A T E M E N T**

Confirming that it meets mandatory requirements comprised in the Tender Documents for Public procurement of services – Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community – Public procurement no. JNMV/1000/0070-1/2017, pursuant to the Invitation to Tender published on the Public Procurement Portal and on the website of the Contracting Authority

 Mandatory conditions:

1. It is registered with the competent authority i.e. entered into the corresponding register;

2) It or its legal representative have not been convicted for any criminal act as

members of an organized criminal group; that it has not been convicted for

commercial criminal offence, criminal offence against environment, criminal,

offence of receiving or offering bribe, criminal offence of fraud

3) It settled all due taxes, contributions and other public duties in accordance with the regulations of the Republic of Serbia, or with foreign state of its head office

|  |  |  |
| --- | --- | --- |
| Date: |  | Subcontractor |
|  | L:S. |  |
|  |  |  |

***Note:*** *In case the Bidder submits the Offer with the Subcontractor, the Statement is submitted by each Subcontractor. The statement shall be filled in, signed by the person authorised to represent Subcontractor and stamped (unless the Subcontractor is incorporated in a jurisdiction that does not require use of stamps).*

*When submitting the Offer, this form should be copied in the required number of copies.*

# FORM 7

Pursuant to Article 76, paragraph 2 of the Law on Public Procurement (Official Gazette of the Republic of Serbia No. 124/14, 14/15 and 68/15), **under criminal and material responsibility**, as a Bidder (member of a group of Bidders), I hereby issue the following:

**STATEMENT ON STAFF CAPACITY**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*(fill in Name and Seat)*

We dispose with the necessary staff capacity to meet conditions for the participation in Procurement JNMV no. 1000/0070-1/2017 Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community, in the proceedings for public procurement of low value number, as follows:

at least three (3) employed/engaged persons with minimum five (5) years of experience in conducting economic analyses in the field of EU State aid rules and practice, whereby all three (3) team members must have relevant experience in proceedings before the institutions of the European Union (i.e. the European Commission and/or the Court of Justice of the European Union), and at least one (1) team member has working experience within Directorate General for Competition of the European Union, or experience in providing advisory services to said authority.

LIST OF KEY STAFF ENGAGED ON CONTRACT EXECUTION

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| *No.* | Name and Surname of Team member  | *Position within company / organization or legal grounds of engagement* | *Length of relevant professional experience* | *Specific requirement from section 4.2.2. of Tender Documents fulfilled by pertinent team member* |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |
|  |  |  |  |
| Date: |  |  | Bidder /group member  |
|  |  L:S. |  |  |

*If in case of submission of a joint offer two or more bidders together fulfill the requirements from section 4.2.2. of the Tender Documents, each bidder shall submit this statement for those team members on the grounds of whose engagement it claims fulfillment of some or all of stated requirements.*

# FORM 7A

**PROFESSIONAL EXPERIENCE OF TEAM MEMBER - CV**

**Proposed position:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_

 [*only one candidate is appointed for a particular position*]

1. Name of person (full name and surname): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Date of birth: \_\_\_\_\_\_\_\_\_\_\_
3. Education:

|  |  |  |
| --- | --- | --- |
| 4.1 | Degree(s) / Diploma(s) acquired: |  |
| 4.2 | Educational institution(s) - duration: from (month/year) to (month/year): |  |

1. Membership in professional associations:
2. Other trainings (specify all the institutions and the title qualifications awarded):
3. Countries where professional experience was gained (list of countries):
4. Language skills (rate from 1 to 5, where 1 is maximum):

|  |  |  |  |
| --- | --- | --- | --- |
| Language | Speaking | Reading | Writing |
| Serbian |  |  |  |
| English |  |  |  |
|  |  |  |  |

1. Occupation / position held (starting from the most recent downwards to the first job):

|  |  |
| --- | --- |
| Period:from (month/year) to (month/year)  |  |
| Address |  |
| Company |  |
| Name of occupation/postion held |  |
| Main activities and responsibilities |  |

|  |  |
| --- | --- |
| Period:from (month/year) to (month/year)  |  |
| Address |  |
| Company |  |
| Name of occupation/position held |  |
| Main activities and responsibilities |  |

|  |  |
| --- | --- |
| Period:from (month/year) to (month/year)  |  |
| Address |  |
| Company |  |
| Name of occupation/position held |  |
| Main activities and responsibilities |  |

1. Engagement schedule (list of tasks to be engaged in):
2. Former engagement on the positions that are the subject of the service (based on previous activities and tasks completed on this position, specify only those authenticating the relevant experience of the proposed team member according to the request from the Tender Documentation)

|  |  |
| --- | --- |
| **Information on the activities performed:**[ *List all the activities performed on this position*] | **The jobs/projects describing the ability to perform assigned tasks at the most**Name of task/project: Year: Location/Place: Client: Activities:  |

Date:

Signature of Team Member:

# FORM 8

**LIST OF EXECUTED SERVICES – PROFESSIONAL CREDENTIALS OF THE BIDDER**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| No. | Contracting Authority providing the reference | Date of the contract conclusion and period of performance of services | The subject of the relevant service / project | The specific term(s) stipulated in section 4.2.1 of the Tender Documents fulfilled by the stated service / project. |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

Under full civil and criminal liability I claim veracity of information stated in this list.

|  |  |  |
| --- | --- | --- |
| Date: | L.S. | Service Provider/Team Member |
|  |  |  |
|  |  |  |

***Note:*** *In Form 8. List of Executed Services the contracts for services that have been performed and that conform to requirements from the Tender Documents should be listed in numerical order.*

*If in case of submission of a joint offer two or more bidders together fulfill the requirements from section 4.2.1. of the Tender Documents, each bidder shall submit this statement for the services that it has executed.*

# FORM 8A

**THE STATEMENT ON RELEVANT SERVICES**

**WHEREBY THE BIDDER/MEMBER OF THE GROUP OF BIDDERS CONFIRMS THAT IT FULFILLS THE REQUIREMENT OF ORGANIZATIONAL CAPACITY FOR PARTICIPATION IN THE PUBLIC PROCUREMENT PROCEEDINGS**

Pursuant to Article 77, paragraph 4 of the Law on Public Procurement ("Official Gazette of the Republic of Serbia", No.124/12, 14/15 and 68/15), under full civil and criminal liability, the Bidder issues a

**S T A T E M E N T**

confirming that it fulfills the additional requirement of organizational capacity stipulated in section 4.2.1. of the Tender Documents for public procurement of services – Economic expertise in competition and State aid proceedings, in accordance with the Treaty establishing Energy Community – Public procurement no. JNMV/1000/0070-1/2017, on the basis of the Invitation to Tender published on the Public Procurement Portal and on the website of the Contracting Authority,

namely that the Bidder has performed relevant services / projects listed in the List of Executed Services ([Form 8](#_Form_8.)) which the same Bidder has submitted within the Offer for the subject public procurement.

|  |  |  |
| --- | --- | --- |
| Date |  | Bidder / Member of Group of Bidders |
|  | L.S. |  |
|  |  |  |

***Note:*** *In case of a joint offer, this statement should be submitted by each member of the group who submits the List of Executed Services (Form 8).*

*The statement must be filled out, signed by authorized representative of the bidder and stamped (unless the bidder is incorporated in a jurisdiction that does not require use of stamp).*

*The form should be copied in the required number of copies for the purpose of submission of the offer.*

# TEMPLATE OF THE CONTRACT FOR THE PROVISION OF CONSULTING SERVICES

**CONTRACT FOR THE PROVISION OF CONSULTING SERVICES**

between

**STATE-OWNED ENTERPRISE “ELEKTROPRIVREDA SRBIJE” BELGRADE**

as Client

and

**[*NAME OF BIDDER*]**

as Service Provider

**In Belgrade, on this December […], 2017**

**THIS CONTRACT FOR THE PROVISION OF CONSULTANCY SERVICE** (hereinafter: the Contract) is concluded in Belgrade, on this December […] 2017, by and between the following parties:

1. STATE-OWNED ENTERPRISE “ELEKTROPRIVREDA SRBIJE” BELGRADE, with its registered seat at 2 Carice Milice Str., 11000 Belgrade, Republic of Serbia, corporate number 20053658, TIN 103920327, current account no. 160-700-13, Banca Intesa a.d. Beograd, represented herein by Milorad Grcic, as acting director (hereinafter: the **Client**);

and

1. [*NAME OF SERVICE PROVIDER*], an entity duly incorporated and existing in accordance with […] law, registered with […], corporate number […], with its registered seat at […], represented herein by […], acting as […] (hereinafter: the **Service Provider**).

For the purpose of this Contract, the Client and the Service Provider shall be jointly hereinafter referred to as the “**Parties**” and indivifually as a “**Party**”.

**PREAMBLE:**

1. The Client has executed a low-value public procurement procedure, pursuant to Articles 39 and 124a of the Public Procurement Law ("Official Gazette of RS" No 124/2012, 14/2015 and 68/2015)(hereinafter: the **Law**) for the Public Procurement of Services - ECONOMIC EXPERTISE IN COMPETITION AND STATE AID PROCEEDINGS, IN ACCORDANCE WITH THE TREATY ESTABLISHING ENERGY COMMUNITY JNMV/1000/0070-1/2017.
2. The Invitation to Tender concerning subject public procurement was published on the Public Procurement Portal on December […], 2017, as well as on the website of the Client.
3. The offer made by the Service Provider which is registered with the Client under JP EPS No. […] dated […].2017 (hereinafter: the **Offer**) fully complies with the request of the Client from the Invitation to Tenders and the Tender Documents.
4. The Client, based on the Offer and the Decision on Awarding the Contract, has selected the Service Provider for the implementation of the service as stipulated in point (A) of the Preamble.

**NOW, THEREFORE**, the Parties have agree as follows:

1. **INTERPRETATION**
	1. The Preamble represents an integral part of the Contract.
	2. The following Schedules of the Contract represent an integral part thereof:

SCHEULE 1 – The Tender Documents

SCHEDULE 2 – Offer no. […], of […]

SCHEDULE 3 - Price Breakdown

SCHEDULE 4 - Joint Service Execution Agreement No. […] dated […]

SCHEDULE 5 - List of key personnel engaged in the Contract implementation.

* 1. This Contract should be read in conjunction with its Schedules. In case of any inconsistencies or conflicts between the provisions of the Contract and the provisions of the Schedule, the provisions of the Contract shall prevail.
	2. Except the Contract explicitly provides otherwise, all terms written with the first capital letter in the Schedules will have the same meaning when used in this Contract and *vice versa*.
	3. A reference to any law or legal provision is a reference to the valid law or legal provision in accordance with the latest amendments and supplements, as well as to any secondary legislation and decisions which have been adopted/issued on the basis of the foregoing (in accordance with the latest amendments and supplements).
1. **SUBJECT OF THE CONTRACT**
	1. **Services**

By this Contract, the Service Provider undertakes to perform and provide the following service for the Client: ''ECONOMIC EXPERTISE IN COMPETITION AND STATE AID PROCEEDINGS, IN ACCORDANCE WITH THE TREATY ESTABLISHING ENERGY COMMUNITY“ (hereinafter: the **Service**), all in accordance with the Tender Documents, the Service Provider's Offer and Price Breakdown, which constitutes Schedule 1, Schedule 2 and Schedule 3 of this Contract.

* 1. **Report on economic analysis**

As a final result of the Service under the Contract, the Service Provide shall prepare and deliver to the Client a detailed report on performed economic analysis (hereinafter: the **Report**). The Report shall be prepared in both Serbian and English language and will be duly executed and stamped (where applicable) by the authorized representative of the Service Provider.

* 1. **Quantitative and qualitative acceptance**
		1. The control of quality of the Service and verification whether the same has been performed in accordance with the required technical specifications in terms of volume and quality will be performed at the Headquarter of the Client (in Belgrade, 13 Balkanska Str.), by the authorized representative of the Client and the representative of the Service Provider, which shall be confirmed by the Minutes on Qualitative and Quantitative Accepting of Service (hereinafter: the **Minutes**). Upon execution of the Minutes, it shall be deemed that the Service Provider has discharged all of its obligations in respect to the Service.
		2. The quality of the service is determined by the acceptance of the final Report by the responsible/authorized person of the Client, and the quantity by the receipt of said document in hard copy and in electronic form (on disk, USB or other adequate data carrier).
		3. The Client reviews the submitted documents and, if necessary, makes remarks and harmonizes the same with the Service Provider, who shall act upon the final remarks of the Client within the deadline specified by the Client.
1. **DEADLINES**
	1. The Service Provider shall be obliged to perform the Service and deliver the Report to the Client, respecting the following deadlines:
		1. The Service Provider shall deliver the **draft Report** to the Client, in the English language, within 21 calendar days of the date of effectiveness of the Contract.
		2. The Service Provider shall deliver the **draft final Report** to the Client, in the English language, within 28 calendar days of the date of effectiveness of the Contract. After said deadline, the Service Provider shall be obliged to provide additional clarifications to the Client with respect to the draft final Report within next 10 calendar days of the date when the draft final Report has been delivered to the Client.
		3. The Service Provider shall deliver the **final Report** to the Client, in the English language, within 41 calendar days of the date of effectiveness of the Contract.
		4. The Service Provider shall deliver the **final Report** to the Client, in the Serbian language, within 10 calendar days of the date of delivery of the final Report pursuant to Article 3.1.3 hereof.
	2. Upon fulfillment of the Service Provider’s obligations from Article 3.1.4 hereof, the Parties will jointly execute the Minutes.
2. **VALUE OF THE CONTRACT**
	1. The price of the Service that will be performed under the Contract, will amount to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (in letters: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_) RSD/EUR (hereinafter: the **Price**).
	2. The Price is excluded of Value Added Tax (VAT), which may be charged in accordance with Serbian law.
	3. The Parties hereto agree and acknowledge that the Price is fixed and that it may not be changed throughout the term of the Contract.
3. **METHOD OF PAYMENT**

The Client shall pay the Price for executed Services to the Service Provider by transferring the entire amount of the Price (including VAT if applicable) to the account of the Service Provider, account no. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, held with the bank \_\_\_\_\_\_\_\_\_\_\_\_\_\_, within 45 (forty five days) of the date of receipt of an invoice of the Service Provider, issued on the basis of the accepted and approved Report, and after executed Minutes. The Service Provider’s invoice shall be delivered to the Client’s address, and will be addressed as follows: State-owned Enterprise “Elektroprivreda Srbije”, Belgrade, 2 Carice Milice Str. TIN 103920327.

1. **THE CLIENT’S UNDERTAKINGS**
	1. Throughout the term of this Contract, the Client shall be obliged to provide to the Service Provider all relevant data, documents and information that it has at his disposal at the date of conclusion of this Contract, and which data, documents and information are relevant for the performance of this Contract.
	2. In order to meet the purpose of the Contract, the Client has the right to request from the Service Provider all necessary clarifications regarding the material prepared by the Service Provider during the provision of the Service, as well as to request amendments and supplements of said material.
2. **THE SERVICE PROVIDER’S UNDERTAKINGS**
	1. Without prejudice to any other obligations of the Service Provider set forth in this Contract, the Service Provider:
		1. shall perform the Service with the care of a good expert, in accordance with the applicable law and other local and international standards applicable for the services subject to this Contract;
		2. shall fully cooperate with the Client and comply with the provisions of the Contract;
		3. shall act in accordance with reasonable instructions of the Client or the persons authorized by the Client, which instructions pertains to the Service, and shall make sure that all its staff engaged on the provision of the Service act in the same manner; and
		4. shall, if required under applicable law of any other law, obtain and/or keep valid all licenses and/or authorizations pertaining to its business activity, and inform the Client in case any such license and/or authorization has been expired or revoked by the state authority.
3. **AUTHORIZED REPRESENTATIVES FOR MONITORING OF IMPLEMENTATION OF THE CONTRACT**
	1. Authorized representatives that will monitor the performance of the Services under this Contract are as follows:

 - for the Client: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

 - for the Service Provider:1)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

 2)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ .

* 1. Specified persons of the Service Provider shall be responsible for organizing all contracted services, contact and coordination of activities with the person appointed by the Client, as well as to prepare and execute the Minutes.
1. **KEY PERSONNEL ENGAGED**
	1. Key personnel is a personnel engaged by the Service Provider. The Service Provider delivers to the Client the list of key personnel engaged for the Client’s approval, with stated qualifications of all persons and precisely defined activities to be performed while performing the Service (the List of key personnel engaged is provided in Schedule 5 hereof).
	2. If, during the performance of the Service, there is a reasonable need to replace one or more key personnel, or if the Client so requests, which request does not need to be justified, the Service Provider will, subject to the Client’s prior approval, replace the abovementioned personnel with the new personnel, who at the least has equal professional qualification and qualities as the one being replaced.
	3. In the case the Service Provider needs to withdraw or replace any of its key personnel throughout the term of this Contract, all costs incurred by such replacement shall be borne by the Service Provider.
2. **CONFIDENTIALITY**
	1. The Service Provider and its personnel engaged in the execution of activities being subject of this Contract shall keep confidential all data and information contained in documents, reports and notices, obtained while performing the Service under the Contract and will use them solely for said purpose.
	2. Information, data and documents that the Client has made available to the Service Provider during execution of the subject of this Contract, the Service Provider cannot make available to third parties without prior written consent of the Client.
3. **FINANCIAL SECURITY INSTRUMENTS**

At the date of conclusion of the Contract, the Service Provider shall provide the Client with the valid insurance policy against professional liability, along with supplementary documentation (general terms and conditions) with a minimum insurance coverage of at least EUR 100,000.00 or in RSD equivalent calculated at the middle exchange rate of the National Bank of Serbia on the date of submitting the Offer. Said amount of insurance coverage will apply to a single harmful event and for an unlimited number of harmful events.

1. **INDEMNITY**
	1. The Service Provider is, subject to applicable law, liable for the damage the Client sustained as a result of the Service Provider’s default, partial fulfilment or delay in fulfilment of its obligations under this Contract.
	2. If Client suffers damage due to the Service Provider's activity or non- activity and if the Parties agree on the basis and amount of sustained damage, the Service Provider hereby agrees to reimburse any such damage to the Client, in a manner that the Client shall be entitled to indemnification without sending a separate notice to the Service Provider rather only by issuing a corresponding calculation with payment due date within 15 days in (fifteen) of the date such calculation is issued.
	3. Neither Party shall be liable for any indirect losses and/or loss of profit, which arose in relation to the Contract, except in case of gross negligence or when the Service Provider fails to comply with professional standards for this type of service.
2. **CONTRACTUAL PENALTY**
	1. In the event that the Service Provider due to its own fault fails to discharge its contractual obligations within the deadlines agreed hereunder, the Service Provider shall pay to the Client the contractual penalty in the amount of 0.2% of the Price per each day of delay, in the maximum amount of 5% of the Price.
	2. Payment of the contractual penalty pursuant to Article 13.1 hereof falls due within 10 (ten) days of the date when the Client issued a relevant invoice.
	3. If the Client, due to delay of the Service Provider as provided in Article 13.1 hereof, suffers damage that exceeds the amount of the contractual penalty, the Client shall be entitled to compensation of the difference between the amount of damage and the amount of contractual penalties paid out.
3. **FORCE MAJEURE**
	1. In the event of Force Majeure - unexpected events beyond the control of the Parties, which prevent any Party to fulfil its obligations under this Contract - the performance of the contractual obligations shall be terminated to the extent that the Party is affected by such an event and during a time for inability to execute contractual Services due to the occurrence of unforeseen events, provided that the other Party is informed, within a maximum of 3 (three) business days of the Force Majeure occurrence.
	2. In the event of Force Majeure, the Service Provider shall have the right to extend the term of the Contract for the duration of Force Majeure event that have caused the delay in performance of the Service.
	3. Each of the Parties shall bear its own costs incurred during the period of Force Majeure, that is, for the period of suspension of the Contract due to Force Majeure, for which period the Contract shall be extended.
	4. If Force Majeure event continues over a period longer than 90 (ninety) days, each Party may terminate this Contract by sending a written termination notice to the other Party. The Contract shall be deemed terminated by the expiry of a deadline, which has to be reasonable and stated in said termination notice.
4. **TERMINATION**
	1. Each Party may unilaterally terminate this Contract before the expiry of its term in case the other Party breaches the Contract, or in case a Party fails to start performing the Service, or performs the Service in a manner it does not meet the quality standards, by sending a 15 days prior written termination notice to the other Party.
	2. If the Service Provider terminates this Contract without a justified cause, the Client shall be entitled to charge contractual penalty from Article 13.1 hereof in the amount of 5% of the Price, all in accordance with applicable law. Should the Client terminates the Contract without justified cause, the Service Provider shall be entitled damages, in accordance with applicable law.
5. **CONCLUSION AND ENTRY INTO FORCE**
	1. This Contract shall be deemed concluded and shall be effective as of the date of its execution by the authorized representatives of the Parties, under condition that the Service Provider delivered to the Client the financial security instrument on or by said date.
	2. This Contract is concluded and will be valid until both Parties discharge their respective obligations
6. **FINAL PROVISIONS**
	1. **Status change**

If a Party performs a status change during the term of Contract, all its rights and obligations shall be transferred to its legal successor(s). Upon conclusion and effectiveness of the Contract, the Client may allow, and the Service Provider shall be obliged to accept the change of the parties to the Contract due to status change with the Client, in accordance with the relevant contract on status change.

* 1. **Assignment**

Neither Party may assign, sell or pledge to any third party any of its rights and obligations under this Contract without the prior written consent of the other Party.

* 1. **Severability**

Invalidity of any provisions hereof shall not impact the validity of other provisions of the Contract, unless it significantly affects the implementation of the Contract.

* 1. **Changed circumstances**

In case of changed circumstances as defined in Article 115 of the Law, the Parties may, throughout the term of the Contract, amend or supplement the Contract by concluding a written annex to the Contract.

* 1. **Applicable law**

This Contract is governed and shall be construed in accordance with Serbian law.

* 1. **Jurisdiction**

Any disputes that may arise under or in connection to this Contract, the Parties will try to settle amicably. In case amicable solution is not possible, the Parties agree that any such dispute shall be finally settled by the competent court in Belgrade / (*Permanent Arbitration at the Chamber of Commerce of Serbia, with the application of its Rulebook (****note****: the final text in the Contract depends on whether it is a local or foreign Service Provider*). Any proceedings shall be conducted in the Serbian language.

* 1. **Language; counterparts**

The Contract is made in 6 (six) identical copies, all made in both Serbian and English language, 3 (three) copies for each of the Parties *(****note****: the final text in the Contract depends on whether it is a local or foreign Service Provider*).

|  |  |
| --- | --- |
| For the CLIENT: | For the SERVICE PROVIDER: |
|  |  |
|  |  |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: Milorad Grčić | Name: […] |
| Function: Acting Director | Function: […] |

STATEMENT ON ACCEPTANCE OF THE TEMPLATE OF THE CONTRACT FOR THE PROVISION OF CONSULTING SERVICES

In case the offer I have submitted in relation to the public procurement no JNMV/1000/0070-1/2017 is declared successful, I hereby acknowledge and accept to execute the Contract for the Provision of Consulting Services in the same form and substance as provided in the above Template of the Contract for the Provision of Consulting Services that represents an integral part of these Tender Documents.

|  |  |  |
| --- | --- | --- |
| Date: | L.S. | Service Provider / Team Member authorized under the agreement to represent the group of offerders |
|  |  |  |

1. Art. 75. para 2 of the Public Procurement Law – “Contracting Authority shall require from the bidders or candidates to explicitly state when preparing their offers that they obeyed the obligations arising from applicable legislation on safety at work, employment and working conditions, environmental protection, as well as that they do not have a ban on carrying out the activity which is in force at the time of submission of bid.” [↑](#footnote-ref-1)
2. Art. 80, paras. 9 and 10 – “[9] Contracting Authority may, at the request of subcontractor and where the nature of the subject of procurement allows this, transfer due claims directly to subcontractor for share of procurement that is implemented by that subcontractor [10] In the case under paragraph 9 of this Article, the Contracting Authority shall enable the supplier to object if the claim has not become due.” [↑](#footnote-ref-2)
3. Art. 92 - Uncommonly Low Price

Contracting Authority may reject a bid due to its uncommonly low price.

For the purpose of this Law, uncommonly low price is the offered price which substantially deviates from comparable market price thus raising doubts in feasibility of implementing the public procurement pursuant to the offered conditions.

Where contracting authority assesses that a bid contains abnormally low price, it shall demand the bidder a detailed explanation of all constituent elements of the bid it considers relevant, in particular those concerning the cost effectiveness of the construction method, production or selected technical solutions, in view of exceptionally favorable circumstances for implementing contract available to the bidder, or in view of the originality of products, services or works proposed by the bidder.

In the case under paragraph 3 of this Article, the contracting authority shall set an appropriate deadline for bidder’s response.

After having received requested explanation, the contracting authority shall check the relevant constituent elements of the bid referred to in paragraph 3 of this Article.

Contracting authority shall in particular check the fulfillment of bidder’s or candidate’s obligations arising from the applicable legislation on safety at work, employment and working conditions, environmental protection and protection of intellectual rights, and may demand that the bidder provides adequate evidence. [↑](#footnote-ref-3)
4. Art. 20 – Communication

Communication in public procurement procedure and in relation with execution of public procurement tasks is carried out in writing, i.e. by means of mail, e-mail or fax, as well as by means of publishing by the contracting authority on the Public Procurement Portal.

Chosen means of communication has to be widely available, so not to limit possibility for participation of interested parties in public procurement procedure.

Communication shall be made so as to observe all deadlines set by this Law and, to this end, when it is possible, by using electronic means.

Communication shall be carried out in a manner which enables protection of confidential data and information about interested parties, information on offers and bidders until opening of offers, keeping records of actions taken in the procedure and keeping records of documents in accordance with the regulations that govern the field of documentation and archives.

Tools used in means of electronic communication and their technical characteristics shall be widely available and interoperable, so that they use information technology products in general usage.

Where a document in public procurement procedure was delivered by contracting authority or bidder by e-mail or fax, the party that carried out the delivery shall require the other party to confirm the receipt of that document in the same way and that other party shall do so when it is needed as proof of executed delivery. [↑](#footnote-ref-4)
5. Art. 14 - Data Protection

Contracting Aauthority shall:

1) Keep confidential all data on bidders contained in a bid that the bidder designated as such in the bid in compliance with the law;

2) Refuse to disclose information that would amount to breach of confidentiality of data received in a bid;

3) Keep as a business secret the names of interested parties, bidders and applicants, as well as information on submitted offers, or applications, until the opening of offers or applications.

Evidence on fulfillment of mandatory requirements, price and other information from the bid relevant for applying elements of the criterion and for the ranking of offers shall not be deemed confidential [↑](#footnote-ref-5)