



PUBLIC ENTERPRISE ELECTRIC POWER INDUSTRY OF SERBIA, BELGRADE

Carice Milice 2

Number: 2392/57-IV

Belgrade,

13-11-2014

**Subject: additional clarifications no. 39** in accordance with Article 63 paragraph 3 of Public Procurement Law ("Official Gazette of the Republic of Serbia" number 124/12) in public procurement procedure **PP number 61/14/DEFP**, for which Invitation to Tender was published on Public Procurement Portal on **10.10.2014**.

Five and more days prior to expiry date foreseen for submission of tenders in subject public procurement procedure, interested party has submitted to the Employer via e-mail request for additional information, i.e. clarifications, regarding which the Employer, i.e. Public Procurement Committee, in accordance with provision of Article 54 paragraph 12 item 1) of the Law shall provide the following information i.e. clarifications within three days from the day of the receipt of the request:

**Potential Tenderer asked QUESTION No. 39.1:**

"In accordance with Article 4.10, we address you with request for explanation of part of the Tender documents provided for Invitation for public procurement of long-term loans as financial service in portions in open public procurement procedure no. 61/14 DEFP of 10/10/2014 - in part of item 3. article 3.1 (3.1.2, 3.1.3, and 3.1.4).

In fact, this particular article of Tender documents stipulates that the Bidder is required to submit documentation in accordance with Article 75, paragraph 1, item 1) - 4).

In accordance with Article 78 and 79 of Public Procurement Law, it is provided that the Bidder which is registered in the Register of Bidders is not obligated to submit documentation provided in Article 3.1 (specifically 3.1.1; 3.1.2; 3.1.3 and 3.1.4 of Tender documents, if it is registered in the aforementioned register, ie:

"Register of Bidders

Article 78

Organization competent for registration of economic operators shall keep public register of bidders – entrepreneurs and legal persons (hereinafter: register of bidders) who fulfill mandatory requirements under Article 75, Paragraph 1, Items 1) through 4), of this Law.

Register of bidders shall be available on a website.

Any person registered with the organization body for registration may submit request to be registered in register of bidders, by submitting documents which prove fulfillment of mandatory requirements.

Organization authorized to issue proofs referred to in Article 77, Paragraph 1 of this Law, or body authorized to pronounce sanctions and measures that prevent

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participation of persons in public procurement procedures, shall notify organization competent for registration of economic operators, immediately after having detecting any change or pronouncing any sanction or measure against person registered in register of bidders,

Person registered in register of bidders is not obliged to prove fulfillment of mandatory requirements when submitting a bid or an application.

Register of bidder shall register following data on bidders and their changes:

- 1) identification or registration number;
- 2) tax identification number;
- 3) business name and the address of the seat;
- 4) personal name and Single Citizen Identification Number, or number of passport and the issuing state, of bidder's legal representative, where this legal representative is natural person, and business name and identification number of bidder's legal representative, where this legal representative is legal person.

Register of bidder shall also register the date of bidder's registration, or date of change of any data on bidder that are the subject of registration.

Bidder will be deleted from registry of bidders pursuant to bidder's request to be deleted, or ex officio if it ceases to fulfill any of legally prescribes requirements.

Decision of registrar in charge of registry of bidders may be challenged by appeal addressed to the minister in charge of economy.

Minister in charge of economy will determine the contents of the registry of bidders and the documentation to be attached to the application to register a bidder.

#### Manner of Supplying Proofs

##### Article 79

Proofs on fulfillment of requirements may be supplied as uncertified copies, and contracting authority may, before decision on awarding contract, demand from the bidder, whose bid was evaluated as most advantageous on the grounds of the report of public procurement committee, to present the original documents or certified copies of all or of only some of proofs.

Where bidder supplied declaration under Article 77, Paragraph 4 of this Law, contracting authority may, prior to making decision on awarding contract, request the bidder whose bid was evaluated as most advantageous, to present original or certified copies of all or of only some of proofs substantiating the fulfillment of requirements.



Where bidder fails to present original or certified copies of requested evidence within the given adequate deadline, which may not be less than five days, contracting authority shall refuse its bid as unacceptable.

Contracting authority shall state in tender documents that bidder is not obliged to supply evidence that is publicly available at websites of competent bodies, and to specify such evidence.

Contracting authority cannot refuse a bid as unacceptable just because it does not contain evidence defined by this Law or by tender documents, where bidder in its bid inserted website which contains requested data and which is publicly available.

Where evidence of fulfillment of requirements is electronic document, bidder has to supply a carbon copy of electronic document, in accordance with the law governing electronic documents, unless bidder submits electronic bid, where evidence is delivered in original electronic format.

Where bidder has registered seat in another state, contracting authority may verify whether documents by which bidder proves fulfillment of requested requirements were issued by competent authorities of that state.

Where bidder could not obtain requested documents within the deadline for submission of bids because, according to the regulations of its state of registration, the documents could not have been issued before the moment of bid submission, and if bidder provides appropriate evidence thereon together with the bid, contracting authority shall allow the bidder to deliver the required documents later, within the subsequently set deadline.

Where state of bidder's registration does not issue evidence under Article 77 of this Law, instead of evidence bidder shall submit its written statement, given subject to criminal and material liability and certified by the court, administrative body, public notary, or another competent body of that state."

Hence, could you please provide us with clarification i.e explanation do you consider that we as a Bidder are obligated to submit stated evidence, despite the fact that the Law in the aforementioned articles provides otherwise, or is it sufficient that, when submitting a Bid, we state the webpage of the Register of Bidders as a proof that we are registered in the same, and thus fulfill the requirements provided in Article 3.1.1; 3.1.2; 3.1.3; and 3.1.4 of the subject Tender Documents.

Could you please provide an explanation as soon as possible, so that we, if you consider that we are obliged to fulfill the conditions foreseen in the Tender documents, can make a decision about obtaining the same or a decision for filing a Request for protection rights, if we considered that our rights in the procedure of subject public procurement are violated."

ANSWER of the Employer to QUESTION No. 39.1 is:

„Please look at the question no. 18.1 published 29.10.2014 which is stated: "The Employer shall not refuse the Bid as unacceptable, unless it does not contain evidence specified in the Tender Documents in regards to fulfillment of conditions from Article 75

paragraph 1 item 5) of Public Procurement Law, if the Bidder in his Bid refers to the internet address of the National Bank of Serbia [http://www.nbs.rs/internet/cirilica/50/50\\_2.html](http://www.nbs.rs/internet/cirilica/50/50_2.html), where his name is on the list of banks that have a valid work permit for work in Republic of Serbia, and on which there is publicly available data that are required by the conditions, having in mind that it is how it is defined in the Public Procurement Law." Also, please look at the question no. 2.1 published on 17.10.2014 where it is stated, among other that "domestic potential Tenderer that is registered with the register of Tenderers does not have to submit all required documents under Article 75 paragraph 1 item from 1 to 4. It is sufficient to submit resolution that it is registered in the register of tenderers," i.e. it is sufficient that when submitting a Bid, the Bidder states the webpage of the Register of Bidders.

**These additional clarifications are submitted by email to the applicant and are published on Public Procurement Portal and web site of the Employer.**

Attn:

- Records Management Office
- Procurement Committee

