

Subject: Amendments to the Tender Documents No. 3 in accordance with the Article 63, paragraph 1 of the Public Procurement Law ("Official Gazette of the Republic of Serbia", No. 124/12 and No. 14/15) in an open public procurement procedure for the consulting services "Improving financial management and control in EPS group (internal controls and processes, reorganization, cost center/profit center, budgeting and reporting)" - Definition and implementation of EPS CFO organization model, PP No. 85/14/DEFP for which the Invitation to Tender is published on the Public Procurement Portal on 14.04.2015.

Tender Documents in open procedure of public procurement No. 85/14/DEFP shall be changed as follows:

1. In the Section 3 of Tender Documents, the following item 3.31 is added:

"3.31 AMENDMENT TO THE PUBLIC PROCUREMENT CONTRACT

Amendment to the Public Procurement Contract shall be possible in accordance with the Article 115 of the Public Procurement Law in the part of Terms of Reference, due to the objective reasons which may refer to changed circumstances from the moment of publishing of the Invitation to Tender for the subject Public Procurement resulted from the reorganization and corporatisation process of the Employer carried out in accordance with the adopted decisions of competent state authorities, new organization of the Employer of 1st July 2015, preparation of the Strategy and long-term Business Plan, etc."

2. In the Form 6 of Tender Documents - Model Contract, the following Article 23 is added:

Article 23.

"Amendment to this Contract shall be possible in accordance with the Article 115 of the Public Procurement Law in the part of Terms of Reference which makes Annex 9 of this Contract, due to the objective reasons which may refer to changed circumstances from the moment of publishing of the Invitation to Tender for the subject Public Procurement, resulted from the reorganization and corporatisation process of the Employer carried out in accordance with the adopted decisions of competent state authorities, new organization of the Employer of 1st July 2015, preparation of the Strategy and long-term Business Plan, etc."

The former Articles 23-28 become Articles 24-29.

3. In the Form 6 of Tender Documents - Model Contract, the following Annex 9 is added:

"Annex 9 – Terms of Reference"

The former Annex 9 becomes the Annex 10.

4. In the Form 6 of Tender Documents - Model Contract Article 3 paragraph 1 is being modified as follows:

„This Contract and its Annexes 1-10 are made out in Serbian and English, while in the case of interpretation disputes the Serbian text shall prevail.“

5. In the Form 6 of Tender Documents in Serbian – Model Contract, the word "Pružalac usluge" is replaced by the word "Izvršilac" in the appropriate case.

Attached to this notice there is amended Form 6 – Model Contract from Tender Documents.

COMMISSION FOR PUBLIC PROCUREMENT No. 85/14/DEFP



Attachment:

- *Amendment to the Tender Documentation No. 3 in English/Serbian*

Cc:

- *Archives*
- *Public Procurement Commission*

MODEL CONTRACT

In accordance with the given Model Contract and elements of the most favorable tender Contract on Public Procurement shall be concluded. Tenderer is obliged to in submit in the tender the given Model Contract signed and stamped.

CONTRACTING PARTIES:

1. Javno preduzeće "Elektroprivreda Srbije" - EPS, 11000 Beograd, Carice Milice 2, Identification number 20053658, Tax Identification Number 103920327, Current account 160-700-13 Bank Intesa represented by legal representative Aleksandar Obradović, Director (hereinafter referred to as: the **Employer**)

and

2. _____ from _____, St. _____, Identification number: _____, Tax Identification Number _____, Current account _____, represented by legal representative _____, _____, (as a Leader for and on behalf of the group of Tenderers *[note: this will be stated in the text of the Contract in the event of joint Tender]*) (hereinafter referred to as '**The Service Provider**')

(hereinafter jointly referred to as: contracting parties)

signed in Belgrade on _____.

CONSULTING SERVICES CONTRACT

WHEREAS:

- The Employer has executed an open public procurement procedure for the consulting services " Improving financial management and control in EPS group (internal controls and processes, reorganization, cost center/profit center, budgeting and reporting)" - Definition and implementation of EPS CFO organization model -, pursuant to Article 32 of the Public Procurement Act, to procure the services under a public procurement No. 85/14/DEFP;
- Procurement Notice concerning subject public procurement was published on 14.04.2015. on the Public Procurement Portal and legislation database and the website of the Employer;
- The Service Provider's tender under an open procedure that is filed in PE EPS under No. _____ dated _____, fully corresponds to the Employer's requirements stated under the Invitation and the Tender documents;
- The Employer has on the basis of the Service Provider's tender and the Decision on contract awarding, selected the Service Provider to implement the following consulting services: " Improving financial management and control in EPS group (internal controls and processes, reorganization, cost center/profit center, budgeting and reporting)" - Definition and implementation of EPS CFO organization model-.

ARTICLE 1

The Service Provider shall for the needs of the Employer perform the consulting service "Improving financial management and control in EPS group (internal controls and processes, reorganization, cost center/profit center, budgeting and reporting)" - Definition and implementation of EPS CFO organization model -, according to the Tender Documentation indicated under Annex 1, according to the type, description and specification of activities indicated in detail under Annex 2 (hereinafter referred to as: deliverables), Service Execution Time Schedule indicated under Annex 3, constituting an integral part of this Contract, and Service Provider's Tender, while the Employer shall pay the agreed price for the services executed to the Service Provider.

ARTICLE 2

The consulting services value stipulated under Article 1 hereof is fixed and it amounts to _____ (in _____ letters: _____) _____ (RSD/EUR) without VAT.

Corresponding amount of the tax in accordance with relevant regulations shall be calculated to the value under paragraph 1 of this Article.

Price includes all costs related to implementation of contracted consulting services.

The price is fixed, i.e. it may not be changed throughout the service execution period

ARTICLE 3

This Contract and its Annexes 1-10 are made out in Serbian and English, while in the case of interpretation disputes the Serbian text shall prevail.

This Contract shall be governed by the laws of the Republic of Serbia. In the case of dispute, laws of the Republic of Serbia will be applied.

ARTICLE 4

Addresses of Contracting Parties are as follows:

The Employer: **Public Enterprise 'Electric Power Industry of Serbia'**
Address: Carice Milice St. № 2
11000 Belgrade

The Service Provider: _____

[note: in the event of joint Tender, leader and members will be listed here]

Subcontractor: _____

[note in the event of the Tender with subcontractor, subcontractor/s will be listed here]

Representatives authorized to monitor the consulting service implementation stipulated under Article 1 hereof are:

- For the Employer: _____
- For the Service Provider: _____

Project Secretary: _____ e-mail: _____.

Contracting Parties shall have correspondence through Project Secretary, otherwise, the correspondence shall be deemed invalid.

ARTICLE 5

Service Provider shall submit to the Employer:

- Periodical reports and corresponding invoices,
- Final Report on realization of all activities and corresponding invoice.

Service Provider shall provide dynamics of activities execution during service provision as follows:

- up to **90%** of total value of consulting services shall be included in periodical reports, accepted by the Employer.
- no less than **10%** of total value of consulting services shall be included in Final Report on realization of all activities, accepted by the Employer.

ARTICLE 6

Service Provider shall periodically issue reports on executed services i.e. within the period of two days after expiry of the period for which periodical report is being prepared.

Periodical report is being prepared for the period starting from the beginning of service provision pursuant to Article 11 of this Contract and expiring on the day which by its number corresponds to the day in the next month. If such day does not exist in the following month, period for which the periodical report is being issued ends on the last day of that month.

Periodical report under paragraph 1 hereof shall include: overview of activities executed in the given period; status of deliverables – submitted/accepted; general overview of the remaining activities until the end of Contract execution according to Annex 2; detailed overview of staff engagement through man-day and price for man-day.

Employer is entitled to submit comments in writing to the periodical report to Service Provider within three days from the date of receipt of periodical report or to accept and approve submitted report with no comments.

In the event when the Employer submits comments to Service Provider regarding the received periodical report it shall simultaneously determine the deadline for Service Provider within which the Service Provider shall act upon given comments.

ARTICLE 7

After realization of all activities Service Provider shall submit Final Report on realization of all activities to the Employer.

Final Report on realization of all activities shall include: project name, Service Provider name, contract conclusion date, project duration, reporting period, date of report, management summary, service execution time schedule, status of deliverables – submitted/accepted, time of engagement of team members during reporting period, amount that will be invoiced for the reporting period, conclusion, list of realized meetings, approved deliverables from terms of reference as well as the overview of all submitted and approved periodical reports with the reporting structure given in the previous Article of this Contract.

Employer is entitled to submit comments in writing to the Final Report on realization of all activities to Service Provider within seven days from the date of receipt of Final Report on realization of all activities or to accept and approve submitted Final Report in writing, with no comments.

In the event when the Employer submits comments to Service Provider regarding the received Final Report it shall simultaneously determine the deadline for Service Provider within which the Service Provider shall act upon given comments.

ARTICLE 8

Service Provider shall submit to the Employer invoices upon accepted periodical report under Article 6 hereof and Final Report under Article 7 hereof within three days from the date of receipt of the approval of Employer in writing.

ARTICLE 9

Employer shall pay Service Provider for the executed consulting services in RSD/by foreign transfer, *[note: final text in the Contract depends on whether Service Provider is domestic or foreign, on status of members of the group of tenderers, as well as on the manner of payment determined by Joint Service Execution Contract]* within up to 45 days from the date of receipt of correct invoice for accepted and approved periodical/Final Report.

Payment of contracted value i.e. executed consulting services for the price expressed in EUR to domestic Service Provider (as well as domestic member of the group of tenderers, *[note: unless defined by Joint Service Execution Contract that the payment shall be made through the Leader]*) shall be in RSD at middle exchange rate of EUR of the National Bank of Serbia on the day of payment. *[note: final text in the Contract depends on whether Service Provider is domestic or foreign, on status of members of the group of tenderers, as well as on the manner of payment determined by Joint Service Execution Contract]*

The total of all payments under this Contract can not exceed the amount of _____ RSD which corresponds to the estimated value of public procurement of the consulting service.

ARTICLE 10

Employer shall pay the Service Provider the price of consulting services in accordance with executed activities under Annex 2 and 3 hereof, within the deadline determined in Article 9 hereof.

All payments related to this contract shall be made to the following account: _____
[note: final text in the Contract depends on whether Service Provider is domestic or foreign, on status of members of the group of tenderers, as well as on the manner of payment determined by Joint Service Execution Contract]

ARTICLE 11

Service Provider shall start with realization of the activities related to provision of consulting services upon the invitation of the Employer, no earlier than three days and no later than 21 day from the date of conclusion of this contract, otherwise, this contract shall be deemed terminated by the fault of Service Provider.

ARTICLE 12

Deadline for execution of consulting services is ___ consecutive calendar months starting from the date of beginning of realization of activities in accordance with Article 11 hereof. Dynamics and deadlines for realization of activities defined for certain modules under Annex 2 are defined in Annex 3 hereof.

ARTICLE 13

The Service Provider shall appoint the staff to execute the consulting services. The staff list containing staff qualifications and staff's precisely defined activities related to consulting services approved by the Employer is provided under Annex 4 hereof.

If need for replacement of one or more staff members arises during the period of providing the consulting services, the Service Provider is obliged to replace the abovementioned staff member with another, who at the least has equivalent professional qualification and qualities, with prior approval in writing of the Employer.

The staff list changes from paragraph 1 hereof, as well as any other changes related to staff providing the consulting services shall be previously approved in writing by the Employer.

The Employer retains the right to request from the Service Provider to replace any of the staff members not meeting the conditions and/or not executing conscientiously services assigned, as well as for any other reason, without specific justification, a and which Service Provider shall do in the appropriate deadline, otherwise this Contract shall be deemed terminated for the reasons caused by Service Provider.

In the case that the Service Provider needs to withdraw or replace any of the service providers for the duration of the Contract, all costs incurred by such a replacement shall be borne by the Service Provider.

Written approval by Employer, for the replacement of executors, from paragraph 2 of this Article is integral part of Annex 4 hereof, therefore the Parties shall not conclude separate annex to this Contract in order to change individual executors.

ARTICLE 14

Service Provider shall at the moment of Contract conclusion and no later than three days from the date of Contract conclusion, as suspensive condition under Article 74 paragraph 2 of Law on Contracts and Torts submit to the Employer irrevocable, unconditional (without protest) and payable on first demand performance bond (for consulting services) in the amount of _____ (RSD/EUR), which is 10% of contracted value under Article 2 paragraph 1 hereof, with validity period 30 days longer than the date of approval of Final Report, entirely in compliance with the conditions defined in Annex 1 of this Contract..

The Employer may submit a guarantee for collection in any of the cases of non-performance and/or untimely performance and/or partial non-performance and/or poor quality performance of any of the contracted obligations of the Service provider.

If deadlines for execution of contracted consulting services are changed during the validity period of the Contract in accordance with Article 20 hereof the validity of bank guarantee shall be extended.

ARTICLE 15

The Service Provider and its staff engaged on the execution of activities being the subject of this Contract shall preserve the confidentiality of all information contained in documents, reports, financial data, technical data and notices, obtained in the course of implementation of services stipulated under Annex 2 hereof, and they shall use them exclusively for the performance of such services, in accordance with the Confidentiality agreement, which as Annex 7 constituting an integral part of this Contract.

Information, data and documents that the Employer 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 Employer.

ARTICLE 16

The Service Provider shall in all expert activities offer services to the Employer in accordance with its entire knowledge and experience and notify the Employer on advancements and improvements, innovations and technical achievements concerning the subject of this Contract.

The Service Provider shall invest all its expert, technical and technological knowledge and experience, as well as reasonable efforts and diligence in the performance of tasks under this Contract.

The Service Provider shall offer services in accordance with the best professional practice and current scientific and universally accepted standards for this type of activities, observing legal regulations (laws, standards and technical norms) related to this type of services in the Republic of Serbia.

ARTICLE 17

During the overall period of implementation of the subject of this Contract, the Employer shall provide to the Service Provider all relevant data, documents, and information that it has at its disposal and that are related to execution of this Contract.

Patent use fee, as well as potential responsibility for infringement of protected intellectual property rights of third parties shall be fully borne by the Service provider.

The Employer has the right of permanent and unlimited use of all delivered deliverables that are the subject of this contract, with no specific fee except for the price foreseen by the contract and it can exercise the same in subsidiaries whose founder it is and companies where it is a member.

ARTICLE 18

Invalidity of any of the provisions of this Contract shall not have an impact on the validity of other provisions, if it does not significantly affect the execution of this Contract.

ARTICLE 19

Service Provider that uses intellectual property of third persons (regardless of the type of intellectual property), shall guarantee to the Employer that it is the holder of the right or that it has legal right to use such intellectual property.

ARTICLE 20

In the event of Force Majeure – unforeseen events outside the control of the Contracting Parties, preventing any of the Contracting Parties to perform its obligations under this Contract – contractual obligations shall be suspended to the extent that Contracting Parties are affected by this event and for the duration of the impossibility of performance of contractual obligations caused by this situation, provided that the other Contracting Party has been informed about the cessation of Force Majeure within 3 (three) working.

In the event of Force Majeure, contracting parties may agree on extension of deadline for consulting services execution by the time for which delay in execution of contractual obligations occurred as the result of Force Majeure.

In the event under previous paragraph of this Article hereof, the Employer shall act in accordance with Article 115 of the Public Procurement Law.

Each of the Contracting Parties shall bear its expenses incurred during the period of Force Majeure, i.e. for the period of contract dormancy caused by Force Majeure, for which the Contract is extended.

If Force Majeure event continues over a period longer than 90 days, any of the Contracting Parties may terminate this Contract within 30 days, by submitting a written notice on termination, provided that in the case of termination of Contract on this ground none of the Parties is entitled to reimbursement for any damage.

ARTICLE 21

In the event that the Service Provider by its own fault does not execute contractual obligations within the deadline, Service Provider shall pay the Employer contractual penalties, in the amount of 0.2% of contracted value under Article 2 paragraph 1 hereof for each day of delay that started, in the maximum amount of 10% of the contracted value under Article 2 paragraph 1 hereof.

Payment of penalties according to the previous paragraph shall be due within 10 (ten) business days from the date of invoice issuance by the Employer for the contracted penalties.

ARTICLE 22

All deliverables defined under the Terms of Reference subitems 1.1.c, 1.2.c, 1.3.c, 2.1.c, 2.2.c, 3.1.c and 3.2.c, provided in Annex 2 hereof, shall be delivered by the Service Provider to the Employer in 3 (three) copies each, in both Serbian and English, and both in hardcopy and softcopy in Microsoft Excel, Microsoft Word or Microsoft PowerPoint format depending on the requirements of the Employer.

ARTICLE 23

Amendment to this Contract shall be possible in accordance with the Article 115 of the Public Procurement Law in the part of Terms of Reference which makes Annex 9 of this Contract, due to the objective reasons which may refer to changed circumstances from the moment of publishing of the Invitation to Tender for the subject Public Procurement, resulted from the reorganization and corporatisation process of the Employer carried out in accordance with the adopted decisions of competent state authorities, new organization of the Employer of 1st July 2015, preparation of the Strategy and long-term Business Plan, etc.

ARTICLE 24

Within the period of 2 (two) years after the termination of this Contract, the Service provider and its staff engaged in the execution of the Contract, shall neither be engaged (directly and indirectly) in activities to acquire the ownership or managerial rights over the assets of the Employer or its subsidiaries nor engaged as advisors (directly or indirectly) of the potential acquirer of these rights.

ARTICLE 25

All misunderstandings arising from or related to this Contract shall be settled amicably by the Contracting Parties and in the event of failure, Contracting Parties agree that each dispute arising from this Contract shall be resolved by the competent court in Belgrade (Foreign Trade Arbitration at the Chamber of Commerce of Serbia, arbitration place in Belgrade, by applying its Rulebook *[note: final text of the Contract depends on whether the local or foreign Service Provider is selected]*).

In the case of dispute, the governing law shall be the material and procedural law of the Republic of Serbia and dispute shall be conducted in the Serbian language.

ARTICLE 26

The Parties agree that to all relations and issues that are not regulated by this Contract, and relating to the execution of this Contract or related to it, apply the relevant provisions of the Law on Obligations and other regulations of the Republic of Serbia, applicable with respect to the subject matter of this Contract.

Corresponding provisions of the Law on Contracts and Torts and other regulations of the Republic of Serbia shall be applied to the relations between Contracting Parties that are not regulated by this Contract.

ARTICLE 27

This Contract shall be deemed concluded under suspensive condition, when signed by legal representatives of the Contracting Parties, and shall become effective when the Service Provider fulfills suspensive condition within the agreed deadline and submits bank guarantee from Article 14 of this Contract.

ARTICLE 28

Integral parts of this Contract:

Annex 1	Tender Documentation;
Annex 2	Description and type of service;
Annex 3	Service Execution Time Schedule;
Annex 4	List of Consultant's Staff with Staff's Statements on Availability;
Annex 5	Price Structure;
Annex 6	Tender Form
Annex 7	Confidentiality Agreement
Annex 8	Performance bond
Annex 9	Terms of Reference
and	
Annex 10	(Joint Service Execution Contract, <i>(note: it shall be stated in the text of the Contract in the event of joint Tender)</i>).

ARTICLE 29

This Contract is made out in 6 (six) counterparts, in Serbian and English, each being the original of the Contract. Each Contracting Party shall retain 3 (three) counterparts in Serbian and 3 (three) counterparts in English. In the case of inconsistencies, Serbian version shall prevail.

SERVICE PROVIDER
Name

name and surname
position

EMPLOYER
JP "Elektroprivreda Srbije"

Aleksandar Obradović
Director