

Subject: additional clarifications no. 5 in accordance with Article 63 paragraph 3 of Public Procurement Law ("Official Gazette of the Republic of Serbia" number 124/12) in a negotiation procedure without publishing the invitation to tender by the several Employers for the public procurement of the services: Pumping out the silted water and silt in the Open Pit Mine MB Kolubara – Tamnava - West Field, CPP number 08/14/DUKN, for which notification on initiation of negotiation procedure without publishing the invitation to tender was published on Public Procurement Portal on 23.07.2014.

Five and more days prior to expiry date foreseen for submission of tenders in subject public procurement procedure, interested parties have 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:

Question 1: Will the Employer 2 provide uninterrupted route for all pipes, which are necessary to the Bidder for the transport of silted water, from the plateau through conveyer system and over/under traffic route which goes along the dike of Kolubara river?

Answer 1: Employer shall provide uninterrupted route for all pipes necessary for the transport of silted water.

Question 2: Are there environmental or any other limitations (permits, consents, property issues, etc.) connected to the route of pipeline which can affect the dynamics of works?

Answer 2: There are no environmental or any other limitations regarding the route of pipeline laying.

Question 3: Will the access roads to the plateau necessary to the Bidder, which will be constructed by the Employer 2 enable uninterrupted access and turning of heavy machinery (mobile crane of 100t capacity, trucks, lowbed trailer of 100t minimum, etc.)?

Answer 3: All access roads shall be timely constructed for the access and turning of heavy machinery.

Question 4: Does the term construction of access roads imply their maintenance during works (repairs, additional filling, necessary extensions and similar)?

Answer 4: It is implied that the maintenance of access roads shall be performed during works.

Question 5: What is the designed tonnage of the bridge constructed with the steel constructions which at the moment serves as the crossing for vehicles to the plateau on the lake?

Answer 5: Bridge tonnage which serves for the crossing of vehicles to the plateau is 70 T.

Question 6: At the final phase of the works (demobilization) all equipment should be removed from the basin. Is Employer 2 responsible for the construction of additional access roads for uninterrupted access to mechanization (auto crane, trucks, excavators etc.) and transport of the equipment from the location for demobilization needs (equipment will be at the bottom of the mine very far from the plateau)?

Answer 6: All necessary demobilization routes are prepared by the Employer.

Question 7: Who is responsible to form new plateau and access roads to it if necessary?

Answer 7: If new access roads are needed the Employer 2 shall construct additional access roads.

Question 8: Could any property and legal issues or any other issues affect the change or cancelling planned concept of pumping out in the event of forming new plateau with access roads and transmission lines?

Answer 8: There are no unsolved property and legal issues or any other issues that could affect the planned pumping out concept.

Question 9: If metering devices could be installed in the cabinets of the Bidders is it enough to leave appropriate free space in the cabinets or should anything else be provided?

Answer 9: Space as well as adequate metering transformers, clamps and connections for the connection of the group are needed!

Question10: It is necessary to set the output voltage in supply tariff stations so that the Bidder can get guaranteed 6000V, 50Hz at the plateau. Please confirm.

Answer 10: Voltage on connection point is 6kV, 50Hz. All our TS have the option to regulate and control the voltage.

Question11: During site visit, we got oral information that additional 16 MW (total cca 28MW) will be provided along with the three transmission lines connected to the plateau. Please confirm.

Answer 11: Minimum 24 MVA over 6 transmission line fields shall be provided on the plateau and if needed, it is possible to increase capacity.

Question12: If the answer to the previous question is positive, please submit data on the source of supply (the number of tariff stations and the number of their feeders and their capacity, short circuit power, guaranteed voltage on the plateau, the manner of electricity metering, characteristics of switching and protecting equipment, possibility of parallelization etc.) and transmission network (transmission line or cable – with the data on length, type, the manner of laying etc.).

Answer 12: The answer is given in previous questions.

Question13: Will the Employer 2 if needed install protective optical wire (OPGW) on the constructed transmission line for the purpose of provision of safe and reliable communication between plateaus (monitoring and control of entire pumping out system)?

Answer 13:No

Question14:Please submit data on the price of active kWh which includes all items of electricity calculation from tender documents and according to which the fee shall be paid to Employer 1 for the consumed electricity.

Answer 14: Given in previous answer.

Question 15: Will the Employer bring the end of the transmission line to the plateau which is foreseen for the installation of necessary equipment or will the end of transmission line stay at existing location which is far from the plateau (as is state during site visit on 29.07.2014) ?

Answer 15: You will have end tower of transmission line without connection equipment. It is your obligation to connect with the transmission line in accordance with the needs of your devices!

Question 16: Who is Bid Bond made out to? Employer 1?

Answer 16: Bid Bond should be made out to Employer 1.

Question 17: In accordance with the provisions of Article 63 paragraph 2 of Public Procurement Law (hereinafter referred to as: PPL) we address you for clarification of Tender Documents, especially item 3.20 of Tender Documents which defines security instruments regarding Procurement of services: Pumping out the silted water and silt in the Open Pit Mine MB Kolubara – Tamnava - West Field, CPP number 08/14/DUKN, for which notification on initiation of negotiation procedure without publishing the invitation to tender was published on Public Procurement Portal on 23.07.2014.

Tender documents as additional conditions for security instruments define bid bond, advance payment guarantee and performance bond and that the bank guarantee has to be unconditional and payable at first demand with defined validity period, and if submitting the guarantee from the domestic bank, that bank has to be one of the top ten largest banks according to the criteria of balance sheet assets published on the website of NBS-Banking Sector in Serbia – Report for IV quarter.

Having in mind credit rating defined in Tender Documents for domestic banks we believe that this additional requirement regarding bank ranking is discriminating and it is not in accordance with provisions of Article 12 of PPL, having in mind the bidders equality principle and provisions of Article 76 of PPL.

Pursuant to Article 76 of PPL the Employer shall define additional requirements for participation in the procedure but in such a manner as not to discriminate bidders and that those are logically related to the public procurement subject.

Also we would like to refer to Article 7 of the Law on Banks which is attached to this letter and which precisely defines the prohibition on violation of bank competition, which is clearly seen in Article 3.20.1 of the Tender Documents.

We believe that this requirement in Tender Documents is not in accordance with Article 7 of the Law on Banks and that rights of the bidders were violated, thus we have grounds to submit the Request for the Protection of Rights of the Bidders.

As the renowned bidder from Serbia who builds its financial power on cooperation with domestic banks we believe that all domestic banks would be acceptable for the Employer, all in accordance with the above stated provisions of quoted laws.

Having in mind the above stated we propose to amend the Tender Documents and approve additional condition so that the Bidders may submit financial security instruments of all domestic

banks which operate in accordance with the Law on Banks of the Republic of Serbia by which none bank would be put into more favorable position.

Answer 17: The Employer accepts suggestion of the potential bidder and it shall accept bank guarantee of every domestic bank.

PUBLIC PROCUREMENT COMMITTEE CPP 08/14/DUKN

