

Client's internal number: JN 001/2024

Date: 26/02/2024

DOCUMENTATION RELATING TO THE PUBLIC PROCUREMENT INSTRUCTIONS TO TENDERS FOR THE PREPARATION OF THE TENDER

Subject of the public procurement:

Replacement of the gantry crane and the trash-gate cleaning machine at the Zlatoličje HPP

The documentation relating to the public procurement contract comprises the following documents:

- I. Instructions to Tenderers
- II. Forms and Document Samples
- III. Technical Specifications with Annexes:
 - Technical Documentation of the Existing Crane
 - Indicative Time Schedule for the Execution of the Works
- IV. Bill of Quantities
- ESPD Form

The complete documentation is published on the public procurement portal.

All tenders exceeding the tender price of €1,100,000.00 excluding VAT will be deemed inadmissible and disqualified from further procurement proceedings.

1 GENERAL AND INSTRUCTIONS TO TENDERERS

1.1 Information about the Client and legal basis

This public procurement is carried out by Dravske elektrarne Maribor d.o.o., Obrežna ulica 170, 2000 Maribor (hereinafter referred to as the "Client").

The Client will conduct the public procurement procedure in compliance with the relevant laws and regulatory acts governing public procurement, as well as in accordance with the applicable legislation concerning public finance and the specific domain of the procurement.

1.2 Type of public procurement procedure and the award procedure

In accordance with Article 40 of the Public Procurement Act (Official Gazette of the Republic of Slovenia, No. 91/2015; hereinafter: ZJN-3) the Client will conduct an open procedure.

The Client will select the Tenderer based on the conditions and criteria outlined in the tender documents, with whom they will enter into a contract for the execution of the public procurement.

1.3 Subject of the public procurement and basic information on the public procurement

The subject of the public procurement is the "Replacement of the gantry crane and the trash-gate cleaning machine at the Zlatoličje HPP".

A more detailed definition and content of the subject of the public procurement is defined in other parts of the public procurement documents (III. Technical Specifications and IV. Bill of Quantities).

Divided into lots: NO

Client's contact person: Milanja Goričan, e-mail: milanja.gorican@dem.si.

The Tenderer must provide a comprehensive tender to fulfil the entire contract. Partial tenders will not be considered. Variant tenders are not allowed.

1.4 Site visit

The Client will provide interested tenderers with the opportunity to visit the site on a non-mandatory basis.

Tenderers wishing to visit the sites must make prior arrangements with the Client's designated contact person.

The Client's contact person: Simon Urbas, simon.urbas@dem.si, can be reached by phone at: 02 3005 5296 on weekdays from 8 a.m. to 3 p.m.

Tenderers cannot request a price increase based on the argument that they were not adequately informed about the terms and conditions related to the work and services specified in this public procurement. All costs and other expenses incurred by the Tenderer in connection with the site visit shall be borne by the Tenderer.

During the site visit, the Client's representatives will not provide any additional information, advice, or opinions. All costs and expenses associated with the site visit shall be the responsibility of the Tenderer.

After the deadline for submitting questions, it will no longer be possible to visit the sites.

1.5 Foreign tenderers

Tenderers established in a foreign country must meet the same conditions as tenderers established in the Republic of Slovenia.

If the country in which the Tenderer is established does not issue the required supporting documents as requested by the Client, the Tenderer may make a sworn declaration. If this is not provided for in the country in which the Tenderer is established, the Tenderer may, however, make a declaration before a competent judicial or administrative authority, a notary or a competent professional or trade organisation in the their country of origin or in the country in which the Tenderer is established.

1.6 Subcontractors

The Tenderer may carry out the complete public procurement contract by itself or may subcontract it. If subcontracting is involved, the tender must provide comprehensive details of all subcontractors, including their contact information and legal representatives, and specify each subcontractor's responsibilities under the contract. This should include the subject, quantity, value, location, and completion date of the work assigned to each subcontractor.

In the tender, the Tenderer must include the following:

- the completed ESPD forms of these subcontractors in accordance with Article 79 of the ZJN-3,
- a declaration on engagement of subcontractors and subcontractor data (Forms 3 and 3.1.); and
- the subcontractor's direct payment request if the subcontractor requests direct payment (Form 3.2.).

If the subcontractor requests direct payment, the direct payment to the subcontractor shall be deemed mandatory and the obligation shall be binding on both the Client and the main contractor. If a tenderer intends to carry out a public procurement contract with a subcontractor who requires direct payment, the following requirements must be met:

- The main contractor must grant authorisation to the Client, within the contract, for direct payment to the subcontractor upon receipt of an invoice or statement verified by the main contractor.
- The subcontractor must provide consent allowing the Client to settle the subcontractor's claim against the Tenderer on behalf of the subcontractor.
- The main contractor must include the subcontractor's approved invoice or statement along with their own invoice or statement.

If making direct payments to the subcontractor is not obligatory, the Client will request that the main contractor provides them, no later than 60 days after settling the final invoice or statement, with a written declaration. Additionally, the subcontractor should also provide a written declaration confirming that they have received payment for the work, services, or goods directly related to the subject of the public procurement.

During the performance of the public works or services contract, the main contractor shall inform the Client of any changes to the information referred to in the first and second paragraph of this item, and shall send them information on any new subcontractors which they intend to subsequently engage in the performance of such works or services, no later than five days after the change. If new subcontractors are engaged, the main contractor shall provide, together with the notification, the information and documents referred to in the first and second paragraph of this item.

If a Tenderer intends to subcontract the public procurement contract, the conditions set out in Item 5.1 of these documents shall also be fulfilled by the subcontractor participating in the performance of the public procurement contract.

The Client may reject a proposal to replace a subcontractor or to include a new subcontractor if this could affect the smooth execution or completion of the works and if the new subcontractor does not meet the conditions set by the Client in the public procurement documents. If the Client rejects the new subcontractor, they shall inform the main contractor within 10 days of receiving the proposal.

Subcontractors to be engaged in the public procurement after the main contract or consortium contract has been established must provide the ESPD form or proof of their eligibility, showing no exclusion grounds, when they are nominated, prior to commencing the work. Subcontractor subsequently engaged who was not already notified at the time of the submission of the tender shall not be allowed to start work before the Client has approved their engagement. The Client will grant approval for the subcontractor once they have confirmed the absence of any exclusion grounds and satisfied any other relevant conditions that apply to the subcontractor. Considering the time required for verifying exclusion grounds and other relevant conditions, the Client advises that evidence of eligibility for newly engaged subcontractors be provided, which includes including the absence of exclusion grounds and compliance with applicable conditions, in addition to the ESPD form.

The Tenderer shall be fully responsible to the Client for the performance of the public procurement contract, irrespective of the number of subcontractors indicated in the tender.

1.7 Joint tender

Groups of business entities may submit a joint tender. In the event of a joint tender, the Client will request the selected group, following the contract award and before signing the contract, to provide an applicable legal document on joint tendering, which should include, at the very least:

- A list of all partners in the group (name and address of the partner, legal representative, registration number, tax number, bank account number).
- Authorisation to the leading partner in the group.
- Unlimited joint and several liability of all partners in the group towards the Client.
- The scope of the work to be undertaken and carried out by each partner in the group and the percentage share of each partner in the group, and the value of the work to be undertaken by each partner in the group.
- The method of payment, either through the leading partner in the group or to each of the partners in the group.
- Other rights and obligations, if any, between the partners in the group.

If a group of tenderers submits a joint tender, the Tenderer must specify in Forms 2 and 2.1 all individuals or entities participating in the joint tender. Each tenderer within a group of tenderers must meet the conditions outlined in Item 5. of these documents.

If the public procurement contract is awarded to tenderers who have submitted a joint tender, it shall not be possible to change the members of the group during the performance of the contract, except in the cases referred to in Article 95(4)(1) of the ZJN-3.

If any member of the group wishes to terminate the performance of the contract or if any member of the group is the subject of proceedings for winding up its business, the Client will terminate the contract.

1.8 Using the capacities of other entities

The regulations set out in Article 81 of the ZJN-3 shall be applicable to the utilisation of the capabilities of other entities.

1.9 Clarifications regarding public procurement documents

The Tenderer may request further clarifications of the documents only in writing via the public procurement portal. The Client will only provide written clarifications, which will be published on the public procurement portal.

Responses to inquiries will constitute an integral component of the public procurement documents and will be binding on the tenderers.

The Client will respond to submitted questions no later than six (6) days before the tender submission deadline, provided they are received in time.

A question will be considered as submitted on time if it is received by the Client no later than **10 a.m. on 13.3.2024**.

The Client will not respond to requests for clarification or other questions relating to the public procurement received after this deadline.

1.10 Amendments and modifications regarding the public procurement documents

The Client may, in accordance with Article 67 of the ZJN-3, amend or supplement the public procurement documents. If the Client amends or supplements the documents within the deadline for submission of tenders, this will be published on the public procurement portal.

Any amendments and supplements to the tender documents will be issued by the Client no later than six (6) days before the tender submission deadline.

Any such amendment or supplement will become an integral part of the tender documents. The questions and answers published on the public procurement portal are also considered part of the tender documents.

The Client will, if necessary, extend the deadline for the submission of tenders to allow tenderers to take account of any amendments. If the deadline for the submission of tenders is postponed, the rights and obligations of the Client and of the tenderers shall be bound by the new deadlines resulting from the extended deadline for the submission of tenders, unless different instructions are provided by the Client.

1.11 Data confidentiality

The Client will protect all data in accordance with the provisions of ZJN-3. The Client will respect the confidentiality of any information designated as confidential by the Tenderer in accordance with the Companies Act, and such information will be treated as a business secret.

1.12 Tender preparation costs

Tenderers shall bear their own costs relating to the preparation and submission of their tender, including the costs of brochures or catalogues, if requested by the Client. In any event, the Client cannot be held liable for any damage resulting from these costs, irrespective of the public procurement procedures and the final selection of the Tenderer.

1.13 The criterion

The criterion for selecting the most advantageous Tenderer is the lowest total tender price excluding VAT.

In the event that two admissible tenders offer the same total tender price, measured to two decimal places, the tender received first in accordance with these documents will be selected as the most advantageous tender. If the Client is still unable to determine the most advantageous tender using this method, the Tenderer will be selected through a random drawing.

1.14 Bill of Quantities and Quantities Summary (recapitulation)

The Tenderer must offer all the items in the Bill of Quantities while considering the technical requirements and specifications outlined in the public procurement documents.

The Tenderer is required to complete all items in the Bill of Quantities, with a precision of up to two decimal places.

Any item for which the Tenderer does not specify a price, strikes it out, or enters "0.00" will be considered as provided/performed free of charge.

The Tenderer may not modify the content of the Bill of Quantities.

The quoted price, excluding VAT, must encompass all expenses necessary for the complete and satisfactory execution of the contracted works, including but not limited to the supply and installation/assembly of goods, freight forwarding, transportation, customs fees, and any other associated costs, as well as any applicable discounts and rebates.

If the Client identifies obvious calculation errors during the examination and evaluation of tenders, they will act in accordance with Article 89(7) of the ZJN-3.

The Tenderer shall also complete a Quantities Summary (recapitulation) in accordance with the above requirements.

The Tenderer should upload the completed "Quantities Summary (recapitulation)" form in a .pdf file within the 'Bill of Quantities' section of the e-JN information system, which will be accessible during the public tender opening, and the 'Bill of Quantities' form in the 'Other Annexes' section. In the event of discrepancies between the information in the Quantities Summary (recapitulation) - uploaded in the "Bill of Quantities" section, and the full Bill of Quantities - uploaded in the "Other Annexes" section, the information in the full Bill of Quantities, uploaded in the "Other Annexes" section, shall be considered applicable. The Tenderer must submit the complete Bill of Quantities in the "Other Annexes" section as an active EXCEL file.

1.15 Completion dates for the provision of services

The completion dates are defined in the model contract.

2 TENDER

2.1 Language

The public procurement procedure is conducted in Slovenian.

The Tenderer is required to submit the tender in Slovenian and/or English.

If, during the examination and evaluation of tenders, the Client determines that a part of the tender not submitted in Slovenian requires translation, the Tenderer may be requested to translate it at their own expense within a reasonable time frame set by the Client.

In assessing disputed matters, the tender documents and tender in Slovenian are always used; if any documents or parts were provided in English, that English is used.

If the public procurement contract is awarded to a foreign contractor, it will be written in both Slovenian and English. If there are any discrepancies, the Slovenian version will prevail.

2.2 Admissibility of a tender

A tender will be considered admissible if it is submitted by a Tenderer without any grounds for exclusion who meets the specified selection criteria, if it fulfils the Client's needs and requirements as outlined in the technical specifications and procurement documents, is received within the stipulated time frame, and there is no evidence of collusion or corruption. It also should not be deemed abnormally low by the Client and must align with the Client's budget.

The Instructions to Tenderers must be meticulously followed when preparing the tender and completing the forms.

2.3 Documents in the tender

The documents should not exceed the age limit stipulated in the specific provisions within these documents. If the age of the documents is not specified, they must show the legally relevant status of the Tenderer as of the date set for the submission of tenders.

2.4 Validity of tenders

All tenders must remain valid for a minimum of 120 days after the deadline for submission of tenders.

The Client reserves the right to request tenderers to extend the validity period of their tender. The

request and the reply must be made in writing.

2.5 Preparing and submitting a tender in the e-JN system

The Tenderer should submit the tender documents by accessing the e-JN system at <https://ejn.gov.si/eJN2> for the relevant public procurement. Then, they should select the 'Participate in public contract' option, which will direct them to the page for preparing of the tender. After entering the necessary data and documents, the Tenderer should save the information and documentation within the system and proceed to submit it. As per the e-JN system's General Conditions of Use, a document submitted through the system is considered legally binding and holds the same level of validity as a physically signed document.

2.6 Deadline and method of tender submission

Tenders must be submitted to the e-JN information system at the following web address <https://ejn.gov.si/eJN2>, in accordance with Item 4 of the document "Navodila za uporabo informacijskega sistema za uporabo funkcionalnosti elektronske oddaje ponudb e-JN: PONUDNIKI" (Instructions for using the e-JN system for use of the functionalities of electronic submission of tenders in the e-JN system: TENDERERS, hereinafter: Instructions for using e-JN), which is included as part of these tender documents and can be accessed online at: <https://ejn.gov.si/aktualno/vec-informacij-ponudniki.html>

Before submitting a tender, the Tenderer must register online at <https://ejn.gov.si/eJN2>, in accordance with the Instructions for using e-JN. If the Tenderer is already registered in the e-JN information system, they can log in to the application at the same web address.

The Tenderer's authorised user submits a tender in the e-JN information system by clicking on the "Submit" button. When a tender is submitted, the e-JN information system records the identity of the user and the time of submission of the tender. By submitting a tender, the user demonstrates and declares their willingness to present a binding tender on behalf of the provider (Article 18 of the Obligations Code (Official Journal of the RS, No. 97/07 - Official Consolidated Text, 64/16 - Decree of CC and 20/18 - OROZ631)). Once a tender has been submitted, it remains binding for the period specified in the tender, unless the Tenderer withdraws or modifies it before the expiry of the deadline for submission of tenders.

A tender will be considered as submitted on time if it is received by the Client via the e-JN system at <https://ejn.gov.si> **no later than 12 noon on 25.3.2024**. A tender is considered as submitted when it is marked with the status "SUBMITTED" in the e-JN information system.

Tenderers may withdraw or modify their tenders up to the deadline for submission of tenders. If a Tenderer withdraws their tender in the e-JN information system, the tender will be regarded as not submitted and will not be visible to the Client in the e-JN system. If a Tenderer modifies their tender in the e-JN information system, the last tender submitted will be accessible to the Client in that system.

After the deadline for the submission of tenders has expired, it will no longer be possible to submit a tender.

2.7 Information concerning the opening of tenders

The opening of tenders will occur automatically in the e-JN information system on **25.3.2024**, starting at **1 p.m.**, at the following web address: <https://ejn.gov.si/>.

The opening process is carried out as follows: at the scheduled time for the public opening of tenders, the e-JN information system automatically displays the information of the Tenderer and, if applicable, any requested or permitted variants. It also grants access to the .pdf document uploaded by the Tenderer in the e-JN system under the "Bill of Quantities" section. Tenderers who have submitted tenders can access this information in the e-JN information system within the "Record of the opening of tenders" section.

3 EXAMINATION OF TENDERS

3.1 Confidentiality of examination

The tender examination procedure is confidential.

From the completion of opening of tenders until the Client's decision to award the contract, no information relating to the examination, justification, evaluation and comparison of tenders and the recommendation of the most advantageous Tenderer may be disclosed to any person not officially involved in the tender examination procedure.

3.2 Examination of tenders

The assessment of the admissibility of tenders and their evaluation against the criteria will be conducted by an expert committee appointed by the Client, following the guidelines provided in the public procurement documents and in accordance with the relevant legal regulations.

3.3 Permissible changes to the tender

If the information or documents to be supplied by the Tenderer is or appear to be incomplete or incorrect, or if particular documents are missing, the Client may request the Tenderer to supply the missing documents within a reasonable time frame, or to complete, correct or clarify the relevant information or documents. Any such request must adhere to the principles of equal treatment and transparency.

3.4 Misleading information

The Client will submit a proposal to the National Review Commission to initiate an offence procedure:

- If the Client has reasonable grounds to suspect that the Tenderer has made a false declaration or submitted a forged or altered document as a genuine document in the public procurement procedure, in accordance with Article 89(11) of the ZJN-3.
- If the main contractor fails to comply with Article 94 of the ZJN-3.

3.5 Exclusion of a tender

The Client will exclude:

- late tenders,
- tenders which do not comply with all the requirements set out in Item 5 of these instructions,
- tenders exceeding the tender price of €1,100,000.00 excluding VAT,
- tenders that do not comply with all the requirements set out in the technical specifications.

The Client may reject a Tenderer at any time if it appears that, prior to or during the public procurement procedure, the Tenderer is in one of the situations referred to in Article 75(6) of the ZJN-3 with regard to acts committed or omitted.

3.6 Contract award decision

The Client will publish the contract award decision on the public procurement portal in accordance with Article 90 of the ZJN-3.

3.7 Reduction in works

The Client reserves the right to reduce the scope of the work to be carried out at any time during the performance of the public procurement, even following the signing of the contract with the selected Tenderer. In this case, the contract price will be reduced accordingly.

3.8 Additional orders

The Client reserves the right to award additional works not initially covered by the original contract, which may arise due to unforeseen circumstances, as well as additional works that represent a repetition of similar tasks, in compliance with the provisions of the relevant public procurement legislation.

3.9 Signing of the contract

The Tenderer who submits an admissible tender and is selected to conclude the contract will be invited to sign the contract after the award decision has become final. If the Tenderer fails to sign the contract within 5 (five) working days of receiving the invitation to sign, it may be considered as the Tenderer withdrawing from their intention to finalise the contract. In such a case, the Client will, along with the legal remedies provided under ZJN-3, demand compensation from the Tenderer for any additional damage resulting from the actions of the selected Tenderer.

3.10 Legal protection

The legal protection of tenderers in the public procurement procedure is ensured in accordance with the provisions of the Legal Protection in Public Procurement Procedures Act (Official Journal of the Republic of Slovenia, No 43/11 and amendments; hereinafter: the "ZPVPJN"), following the procedure and manner specified by law.

Pursuant to Article 14 of the ZPVPJN, a request for review may be submitted by any individual with a present or past interest in the public contract's award, and who has suffered or could potentially suffer harm due to the claimed infringement, or by a defender of the public interest.

A review request concerning:

1. The tender documents (invitation to tender or content of the notice) must be submitted within **10 working days** of the contract notice publication date or upon receipt of the invitation to tender.

If the Client amends or supplements the information in the publication, invitation to tender or tender documents, a review request concerning the amended, supplemented or clarified content of the publication, invitation to tender or tender documents, or to an indication directly related thereto in the original publication, the invitation to tender or the tender documents, must be submitted within **10 working days** of the publication date of the notice of supplementary information, information on the pending procedure or correction, if that notice amends or supplements the requirements or criteria for selecting the most advantageous tenderer.

A revision request cannot be submitted after the deadline for receiving tenders has passed unless the designated time frame for tender submission is less than 10 working days.

2. After the award decision or notification regarding the fulfilment of qualification requirements, the period for submitting a review request is **eight working days** from the receipt of the award decision.

The applicant must submit the review request via the eRevizija portal. The review request must be accompanied by a valid reason. The mandatory elements of the request are set out in Article 15 of the ZPVPJN.

The applicant is required to include a fee receipt along with the review request.

The public procurement file on the public procurement portal, through the eRevizija portal, promptly and automatically discloses the information about the submission of a review request. If the eRevizija portal experiences technical issues and becomes non-operational prior to the deadline, participants may submit information or documents directly to the designated recipient in writing or via registered mail with return receipt. This submission must occur no later than the close of business on the next working day following the deadline. The period of inactivity of the eRevizija portal shall be published on that portal. After the restoration of operations, the information or documents are subsequently sent by the sender via the eRevizija portal, where the process continues.

Pursuant to Article 71 of the ZPVPJN, the applicant who lodged the review request must, at the time of submission, make a payment of the specified fee to the designated account under the Ministry responsible for finance, the amount of which is:

1. Where the review request relates to tender documents (the Invitation to tender or the content of the notice), the fee is set at **€4,000** if the contract is awarded through an open procedure.
2. If the review request relates to a procurement decision, the fee is calculated at **-2% of the price of the most advantageous complete tender** (including value-added tax) for the

specific lot or public contract. The fee must not fall below €500 and should not exceed €25,000.

-€1,000 if the decision involves suspending the public procurement procedure, confirming qualification, or rejecting or excluding all tenders.

In situations where the fee cannot be accurately assessed, it is fixed at **€1,000**.

The applicant is required to remit the fee to the Ministry of Finance's transaction account SI56 0110 0100 0358 802, held at the Bank of Slovenia, Slovenska 35, 1505 Ljubljana, Slovenia, SWIFT CODE: BS LJ SI 2X; IBAN: SI56011001000358802 - fee for public procurement review procedure. When making the payment, the applicant should include the following information in the pre-field and the authorization number reference field of the payment order: 11 16110-7111290-XXXXXXXXLL (where X represents the publication number of the public contract, and L represents the year. In cases where the contract notice number is less than six characters, the omitted spaces at the front should be filled with 0.

A review request lodged by a defender of the public interest is exempt from the payment of the fee.

4 FINANCIAL GUARANTEES

4.1 Performance security

The selected Tenderer must furnish the Client with a performance security, which entails either a bank guarantee or a surety guarantee from an insurance company, equivalent to ten percent (10%) of the total contract price, inclusive of VAT, within 15 days following the conclusion of the contract. The Performance security shall be identical in substance and meaning to the attached sample that forms an integral part of the public procurement documents (Form 10).

The performance security must be unconditional and payable on first demand. The selected Tenderer may submit a bank guarantee or a surety guarantee from an insurance company.

The duration of the performance security shall be at least 30 days after the date of contractual taking-over of the works.

The currency of the performance security must be the same as the currency of the contract. In the event that the performance security submitted by the selected tenderer does not conform to the sample outlined in the tender documents, it should not significantly deviate in content from the provided sample. Additionally, it must not include additional payment conditions, shorter time limits than those established by the Client, a lower amount than specified by the Client, or a different jurisdiction for dispute resolution between the beneficiary and the issuer of the security.

The Client will forfeit the performance security if:

1. The selected Tenderer fails to commence fulfilling their contractual obligations as per the terms of the contract.
2. The selected Tenderer fails to fulfil their contractual obligations as per the terms of the contract.
3. The selected Tenderer fails to fulfil their contractual obligations as per the terms of the contract within the specified time-frame.

4. The selected Tenderer fails to accurately fulfil their contractual obligations as per the terms of the contract within the specified time-frame.
5. The selected Tenderer ceases to fulfil their contractual obligations as per the terms of the contract.

Should there be alterations to completion dates, type of goods or services, quality, or quantity during the contract period, the contractor is obliged to modify or extend the performance security accordingly.

The performance security may be reduced according to the individual taking-over of contractual works.

4.2 Defects liability security

The selected Tenderer must furnish the Client with a defects liability security, which may consist of either a bank guarantee or a surety guarantee from an insurance company, no later than 15 days after the completion of the contractual takeover:

- For a duration of two years, the security shall be in the amount of five percent (5%) of the total contract price, inclusive of VAT.
- Following the initial two-year period and up to the expiration of ten years, the defects liability security amount will decrease to an equivalent of five percent (5%) of the contract price inclusive of VAT specifically for corrosion protection (as outlined in Item 1.3 of the Bill of Quantities).

The defects liability security must extend for a duration of 30 days beyond the maximum warranty period outlined in the contract. This means that if the warranty period is extended, the duration of the defects liability security must be extended by an equivalent time frame.

The Client will forfeit the defects liability security in the event that the selected tenderer fails to perform their warranty obligations within the time limits and in the manner specified in the contract.

The defects liability security must be identical in substance and meaning to the attached sample that forms an integral part of the public procurement documents (Form 11).

4.3 Insurance of the Contractor's equipment and services

The selected Tenderer shall provide the Client, at the time of the conclusion of the contract, with a copy of an insurance policy or a declaration certified by the insurer, valid for the entire duration of the contractual relationship, showing that the selected Tenderer is insured against liability for damage, both material and non-material, which may arise during the transport or execution of the works to any person or Client's property at all times from the commencement of the contract until all the works are completed or until the completed works are handed-over to the Client. The total sum insured on the policy issued must be at least €100,000.00.

5 CONDITIONS FOR QUALIFICATION ASSESSMENT

The Client will request a fully completed ESPD form, along with other specified forms as outlined in Item 6, as preliminary evidence of the absence of exclusion grounds and compliance with the conditions at the time of tender submission. The Client will independently verify any additional supporting documents mentioned (as per Item 5.5) or request submission by the Tenderer (as per Item 5.6) to confirm the existence and content of the statements in the tender, in accordance with Article 89(2) of the ZJN-3. The Client will verify the Tenderer's qualification provided there are no grounds for exclusion, and the tenderer satisfies the conditions outlined below.

5.1 Grounds for excluding a business entity from participating in a public procurement procedure

1. If, on the day when the deadline for the submission of tenders concludes, the business entity is excluded from public procurement procedures because it has been included in the register of business entities subject to the imposition of secondary sanctions for exclusion from public procurement procedures (Article 75(4)(a) of the ZJN-3).

EVIDENCE:

A completed ESPD form (in "Part III: Exclusion grounds, Section D: National exclusion grounds") for all business entities in the tender.

The ESPD form within the e-JN application is structured to include the three national grounds for exclusion collectively in Part III: Grounds for exclusion, D: National exclusion grounds. The Client cannot select these grounds separately in the ESPD form. Given that the Client only necessitates tenderers to adhere to the condition that the business entity is not, on the date when the deadline for application submission elapses, listed in the register of business entities subject to secondary sanctions for exclusion from public procurement procedures, the Client will solely consider and verify this exclusion ground, irrespective of whether the business entity has indicated all the national grounds for exclusion.

2. If the business entity is undergoing insolvency proceedings or compulsory winding-up proceedings under the law governing insolvency proceedings and compulsory winding-up proceedings, or is subject to winding-up proceedings under the law governing companies, where its assets or business are being administered by an administrator or court, or if its business activities have been suspended, or if proceedings have been initiated against it in accordance with the legislation of another country, or if a situation with the same legal consequences has emerged (Article 75(6)(b) of the ZJN-3).

If the business entity finds itself in the situation described in the preceding paragraph, it has the option to furnish the Client with evidence, in accordance with Article 75(9) of the ZJN-3, demonstrating that it has implemented adequate measures to establish its reliability despite the presence of exclusion grounds. This evidence must be provided no later than the tender submission deadline. Subsequent evidence will not be taken into account.

The Client retains the right, under Article 75(9) of the ZJN-3, to determine that the evidence provided by the business entity through the corrective mechanism is sufficient to ensure that the business entity is not excluded from the procurement procedure. It is crucial to note that this right is discretionary, not obligatory. In the event that the Client deems the measures inadequate, it will communicate a statement detailing the reasons for its decision to the business entity.

EVIDENCE:

A completed ESPD form (in "Part III: Exclusion grounds, Section C: Grounds relating to

insolvency, conflict of interest or professional misconduct") for the business entities in the tender.

The following business entities are obligated to demonstrate the absence of exclusion grounds:
the tenderer,

all partners in a joint tender,

all subcontractors, irrespective of the stage of the public contract performance at which they become involved in the execution of the contract,

if the business entity uses the capacities of other entities in accordance with Article 81 of the ZJN-3, the entities whose capacities are used by the business entity.

All the business entities listed must submit their own ESPD form.

5.2 Conditions for participation

The following conditions for participation are set out by the Client:

Suitability to pursue the professional activity

1. The business entity must be registered in one of the professional or trade registers maintained in the Member State where the business entity is established. The list of professional or business registers in EU Member States is set out in Annex XI of Directive 2014/24/EU.

EVIDENCE:

A completed ESPD form (in "Part IV: Conditions for participation, Section A: Suitability, Entry in the relevant professional register OR Entry in the commercial register") by all business entities in the tender.

The ESPD must contain all the information essential for the Client to verify compliance with this condition in the official records. If such verification is not possible, the Client will request the tenderer to provide a copy of the registration in one of the professional or commercial registers.

The following business entities must fulfil this condition:

- the Tenderer,

- all partners in a joint tender,

- all subcontractors, irrespective of the stage of the public contract performance at which they become involved in the execution of the contract,

- if the business entity uses the capacities of other entities in accordance with Article 81 of the ZJN-3, the entities whose capacities are used by the business entity.

Economic and financial situation

2. The business entity must confirm that none of its business accounts have been blocked for a cumulative period exceeding 10 days within the three months preceding the deadline for tender submission, across all open business accounts.

EVIDENCE:

A completed ESPD form (in "Part IV: Conditions for participation, Section B: Economic and financial situation, Other economic or financial requirements").

The ESPD must contain all the information essential for the Client to verify compliance with this condition in the official records. If such verification is not possible, the Client will require the tenderer to provide confirmation from the banks holding the transaction accounts that they have not had their business accounts blocked.

The following business entities must fulfil this condition:

the tenderer,

all partners in a joint tender,

all subcontractors, irrespective of the stage of the performance of the public contract at which they become involved in the performance of the contract.

Technical and professional ability

3. Relevant experience - references for the performance of the public contract:

- a) Confirmation that the business entity responsible for executing the subject matter of the public procurement has, between 1.1.2016, and the tender submission deadline, effectively undertaken and satisfactorily completed a minimum of two (2) projects/contracts for the fabrication and installation of a gantry or bridge (overhead) crane with the classic lifting mechanism with a capacity of 30 tons or more, along with its commissioning within the agreed-upon time-frames (as evidenced by Form 6 and Form 7a).
- b) Confirmation that the business entity responsible for executing the subject matter of the public procurement, specifically concerning the corrosion protection of the gantry crane and the trash-gate cleaning machine, has successfully completed a minimum of two (2) projects/contracts within the stipulated time-frames for the application of corrosion protection on machinery, involving blast cleaning up to Sa 2.5 or Sa 3, covering areas exceeding 100 square meters classified in accordance with SIST EN ISO 12944-2 as category C4 for exposed areas and Im1 for submerged components (Form 6 and Form 7b).

EVIDENCE:

A completed **ESPD form** (in "Part IV: Conditions for participation, Section C: Technical and professional ability, For public service contracts: Execution of services of a specific type") + List of references (Form 6) + Reference certificate (Form 7a and Form 7b).

EXPLANATION: The Client will verify compliance with this condition by means of the List of references (Form 6) + reference certificates for each individual reference (Form 7a, Form 7b) **which must be submitted along with the tender.**

For this reason, it is sufficient for the Tenderer to simply indicate the reference to Form 6 in the ESPD form or to fill it in accordingly.

The corresponding Form 7a and Form 7b shall be completed for each reference separately. The individual form should be replicated as needed or as dictated by the specified requirements. All Reference certificate forms (Forms 7a, 7b) must be confirmed by the **final client of the reference.**

The reference must also show that the Tenderer has provided the services within the required time limits. The Client reserves the right to request additional supporting evidence for the reference provided (such as investor's contract, invoice...) or to verify the references directly with the final Client.

The references of the Tenderer, the joint-tender partners and subcontractors will be taken into account.

The references of the subcontractor will be taken into account if they relate to the subcontractor's scope of work actually carried out in the performance of the public contract, in accordance with Item 1.6 Subcontractors.

The condition will be considered fulfilled if each Tenderer, lead contractor, and subcontractors individually satisfy the condition, and collectively, all tenderers, lead contractors, and subcontractors together must fully satisfy the condition.

The Client will not take into account the references of the capacities of other entities whose capacities are used by the public entity in accordance with Article 81 of the ZJN-3 and who are not a joint-tender partner or subcontractor.

4. Employees

The business entity must have the suitable employees to carry out the subject of the public procurement contract and who will actually carry out the work, namely:

- a) at least one individual - the head of works responsible for overseeing the works under this invitation to tender, who has, a minimum of two (2) confirmed references in work management related to the fabrication or overhaul of gantry or bridge (overhead) cranes with a lifting capacity of 30 tons or more, acquired between 1.1.2016, and the tender submission deadline. Additionally, the individual must hold at least a secondary education (level V) in a technical field, specifically mechanical or electrical engineering, and be registered in the relevant register of the Engineering Chamber of Slovenia (IZS). In the case of foreign tenderers who do not have an expert registered with the IZS, they must provide a declaration stating their intention to arrange registration in the IZS' Directory of Authorised Engineers (as part of the procedure for the recognition of professional qualifications) no later than three months after signing the contract. (Form 8 and Form 9).

EVIDENCE:

A completed **ESPD form** (in "Part IV: Conditions for participation, Section C: Technical and professional ability, Education and professional qualifications") + Declaration of technical and professional competence (Form 8) + Staff reference certificate (Form 9) + (only if nominating a foreign certified engineer) a copy of the certificate of registration in the professional register of the Member State in which the business entity is registered, accompanied by a self-declaration confirming that the professional qualification of the nominated certified engineer has been recognised in accordance with the rules on the recognition of professional qualifications + a copy of the staff's education certificate.

EXPLANATION:

The Client will verify compliance with this condition by means of a Declaration of technical and professional competence (Form 8) + staff reference certificates for each individual reference (Form 9) + a copy of the staff's education certificate.

For this reason, it is sufficient for the Tenderer to simply indicate the reference to Form 8 in the ESPD form or to fill it in accordingly.

Form 9 shall be completed for each staff reference separately and reproduced as necessary. Staff reference certificate (Form 9) must be confirmed by the **final Client of the reference**.

The relevant staff of the Tenderer, the joint-tender partners and subcontractors will be taken into account.

Staff references of the subcontractor will be taken into account if they relate to the subcontractor's scope of work actually carried out in the performance of the public contract, in accordance with Item 1.6 Subcontractors.

To meet the staffing requirements, the Client will not take into account the references of the capacities of other entities whose capacities are used by the public entity in accordance with Article 81 of the ZJN-3 and who are not a joint-tender partner or subcontractor.

5. The Tenderer must demonstrate the availability of appropriate factory premises, machinery, and work equipment to fulfil the contract requirements, specifically:
 - Either possesses or has access to capacities of other business entities to offer sufficiently enclosed and covered factory premises equipped with appropriate machinery and work equipment for manufacturing or refurbishing the mechanical equipment specified in the contract.
 - Either possesses or has access to capacities of other business entities for work equipment necessary to conduct corrosion protection of the equipment outlined in the contract, and possesses suitable industrial scaffolding for this purpose.

EVIDENCE:

A completed **ESPD form** (in "Part IV: Conditions for participation, Section C: Technical and professional ability, Tools, plant or technical equipment") + Declaration of technical and professional competence (Form 8)

Business entities in a tender may jointly fulfil the condition. A business entity may use the facilities of other entities, irrespective of the legal relationship between them, only if the latter will ensure the performance of the services for which those facilities are required.

The Client reserves the right to verify the suitability of the factory premises, machinery and work equipment for the performance of the contract after tenders have been submitted.

*By submitting this declaration, the Tenderer, who has nominated a foreigner as a certified engineer, commits to furnishing proof demonstrating that the nominated employee has obtained recognition of their professional qualifications in accordance with the relevant regulations.

5.3 Requirements pertaining to applicable integrity and anti-corruption legislation

1. A Tenderer, a group of tenderers within a joint tender or a subcontractor must not be included in the list of business entities with which contracting entities are prohibited from cooperating, pursuant to Article 35 of the Integrity and Prevention of Corruption Act, ZIntPK (Official Gazette of the Republic of Slovenia No 69/11, hereinafter referred to as ZIntPK).

Evidence: Declaration of compliance with the requirements of the integrity and anti-corruption legislation (Form 4)

2. In accordance with Article 14(6) of the ZIntPk, prior to entering into a contract exceeding

€10,000 excluding VAT, the Tenderer is obligated to furnish the Client with a declaration or information concerning the involvement of both natural and legal persons in the ownership structure of the Tenderer. This includes disclosure of participation by silent partners and details about business entities recognised as related companies to the tenderer as per the provisions of the Companies Act. This requirement aims to uphold transaction transparency and mitigate potential corruption risks. For natural persons, the declaration shall include the name, residential address and ownership share. If the Tenderer makes a false declaration or gives false information concerning the facts stated, the contract will be deemed null and void.

If subcontractors are to be engaged, and the Client is to directly remunerate the subcontractor for an amount surpassing €10,000 excluding VAT, the Tenderer is additionally obligated to supply the aforementioned information for each subcontractor.

Evidence: Declaration of compliance with the requirements of the integrity and anti-corruption legislation + model declaration (Form 4 and 4.1).

5.4 "ESPD" form for all business entities

The ESPD form serves as an official declaration by the business entity affirming the absence of exclusion grounds and the fulfilment of participation conditions. Simultaneously, it provides the pertinent information requested by the Client. The ESPD form also contains a formal declaration from the business entity confirming its capability to promptly provide, upon request, supporting evidence demonstrating the absence of exclusion grounds or the fulfilment of participation conditions. Upon submission of the ESPD form, the Tenderer affirms that it complies with all other requirements stipulated in the contract.

Upon submission of the ESPD form, the Tenderer is considered to have declared and certified that they are not affiliated with the official and, to the best of their knowledge, are not related to a family member of the official, as outlined in Article 35(1) of the Integrity and Prevention of Corruption Act (Official Gazette of the RS No. [69/11](#) – Official consolidated text, [158/20](#), [3/22](#) – ZDeb and [16/23](#) – ZZPri; hereinafter referred to as: ZIntPK).

The statements made in the ESPD and/or the supporting documents provided by the business entity must be true. The business entity shall import the Client's ESPD form (XML file) on the Electronic Public Procurement website (e-JN): <https://ejn.gov.si/espd/> and enter the necessary data directly into the form.

A fully completed and signed ESPD must be included with the tender for all participating business entities in any capacity (including the Tenderer, participating tenderers in the case of a joint tender, business entities whose capacities are relied upon by the tenderer, and subcontractors).

A Tenderer submitting a tender through the e-JN system is required to upload its ESPD form in the 'Documents' section under 'ESPD - Tenderer.' Additionally, the ESPD forms of other participants should be uploaded in the 'ESPD - Other participants' section. A Tenderer submitting a tender in the e-JN system is required to upload either an electronically signed ESPD form in xml. format or an unsigned ESPD form in xml. format. As per the General Conditions of Use of the e-JN Information System, an unsigned ESPD form is considered a legally binding document with the same validity as a signed one.

For other participants, the Tenderer shall attach the **manually signed ESPD form in pdf. format, or a signed xml. in electronic format** in the "ESPD - Participants" section, specifically under "ESPD - Other participants".

5.5 Verification of officially available data

Pursuant to Article 79(8) of the ZJN-3, the business entity is not obligated to furnish supporting documents or other documentary evidence if the Client can acquire the requisite certificates or information freely through direct access to a national database of any Member State. Such databases may include the national procurement register, an electronic register of companies, an electronic document storage system, or a prequalification system. The business entity is exempt from the obligation to submit supporting documents if the Client already possesses these documents from a previous procurement procedure, and they remain valid. This exemption also applies if the documents substantiate the indications provided in the ESPD or other required forms.

Pursuant to Article 77(9) ZJN-3, the Client may, in lieu of official records, verify data stored in the uniform information system - a database containing information about tenderers and their tenders, maintained by the ministry responsible for public procurement. This verification can be carried out if the tenderer unequivocally confirms the information in this system to the Client.

If the ESPD form indicates that the Client can access the evidence from official records themselves, the Client will verify, before making a decision on awarding the public contract, the fulfilment of conditions and the absence of any exclusion grounds for the selected Tenderer and any other tenderers the Client deems necessary to verify in official records.

If such verification in official records is not possible, the Client will proceed in accordance with the following Item (5.6 Verification of data not officially available) of these documents.

5.6 Verification of data not officially available

Prior to making a decision regarding the award of a public procurement contract, the Client will request all tenderers to submit any supporting documents, as per Article 77 of the ZJN-3, that are not officially accessible in public records.

The Client reserves the right to require additional supporting evidence for each of the stipulated conditions.

6 CONTENT OF THE TENDER

The tender shall comprise the following documents:

1. Tender (Form 1)
2. Power of attorney for signing the tender proposed by a group of tenderers (Form 2)
- only in the case of a joint tender.
3. Details of the co-tenderer/entity whose capacities are referred to by the Tenderer (Form 2.1) -
only in the case of a joint tender and/or use of the capacities of other entities.
4. Declaration on engagement of subcontractors (Form 3) - only in case of subcontracting.
5. Subcontractor data (Form 3.1) - only in case of subcontracting.
6. Subcontractor's direct payment request (Form 3.2) - only in case of subcontracting.
7. Declaration of compliance with the requirements of the integrity and anti-corruption legislation +
model declaration (Form 4 and 4.1) - Tenderer and, in the case of a joint tender, all entities
acting jointly.
8. List of references (Form 6)

9. Reference certificate (Forms 7a and 7b) - for each reference; preferably attached to the tender.
10. Declaration of technical and professional competence (Form 8)
11. Staff reference certificates (Form 9) - for each staff reference.
12. Schedule of technical data (Form 12) + brochure documents - The tenderer must attach the Schedule of technical data to the tender. It is desirable for the Tenderer to also attach the brochure documents.
13. ESPD form For all business entities!
14. Quantities Summary (recapitulation) (Form 13)
15. Bill of Quantities in electronic form (.xlsx) or an active Excel file

Upon submission of the ESPD form, the Tenderer affirms their acceptance of the contents of the sample contract (Form 5), the contents of the performance security sample (Form 10), the contents of the Defects liability security sample (Form 11) and the contents of the Bill of Quantities. The Tenderer also confirms the accuracy of all declarations made in the other documents attached to the tender.

Upon submission of the ESPD form, business entities (participating tenderers in the event of a joint tender, business entities whose capacities are relied on by the tenderer, and subcontractors) certify the accuracy of all declarations in the other documents attached to the tender pertaining to their respective contributions to the tender.

The Tenderer shall only enclose in the tender the documents referred to in this item. After examining the tenders, the Client will invite tenderers to provide supporting evidence as indicated for each required condition or exclusion ground.

The Tenderer submitting the tender guarantees, under criminal and material liability, the accuracy of all information and documents provided within the tender, ensuring that the attached documentation corresponds faithfully to the original. Otherwise, the Tenderer is liable to the Client for any damages resulting from such discrepancies.