



TENDER DOCUMENTATION

Contracting authority:

UNIVERSITY OF LJUBLJANA

Subject of public contract:

**Multimedia Services Solution for the
University of Ljubljana**

Type of public procurement procedure:

**Open procedure in accordance with Article
40 of the Public Procurement Act (Uradni
list RS, Nos 91/15, 14/18, 121/21, 10/22,
74/22 [Constitutional Court Decision],
100/22 [ZNUZSZS], 28/23 and 88/23
[ZOPNN-F])**

Public contract reference number:

401-24/2024



I. INVITATION TO SUBMIT TENDER

The **University of Ljubljana, Kongresni trg 12, 1000 Ljubljana**, which is the contracting authority, hereby publishes a notice of the awarding of a public contract by open procedure in accordance with Article 40 of the Public Procurement Act (Uradni list RS, Nos 92/15, 14/18, 121/21, 10/22, 74/22 [Constitutional Court Decision], 100/22 [ZNUZSZS], 28/23 and 88/23 [ZOPNN-F], hereinafter: ZJN-3) for the public contract **Multimedia Services Solution for the University of Ljubljana**.

The contracting authority invites all interested tenderers to submit their tenders in accordance with the requirements set out in this dossier.

The deadline for the receipt of tenderers' questions is **9 am on 31 July 2024 via the Public Procurement Portal**.

The deadline for the receipt of tenders is **9 am on 12 August 2024 via the e-JN system**.

The public opening of tenders will take place via the e-JN system at **11 am on 12 August 2024**.

Head of the
contracting authority
Professor Gregor Majdič, Rector



II. INSTRUCTIONS TO TENDERERS ON COMPILING A TENDER

1. REFERENCE NUMBER AND SUBJECT OF THE PUBLIC CONTRACT

1.1. **Reference number:** 401-24/2024

1.2. **Subject:** Multimedia Services Solution for the University of Ljubljana

The contracting authority determines the requirements that the tenderer is required to meet in its tender in the form of technical characteristics; these are defined in detail in Annex 1 (Technical specifications). Based on the technical characteristics, the contracting authority will determine whether the tender meets the relevant technical requirements.

Supporting document:

Completed ESPD, completed Pro-forma invoice (Form 1/OBR-1) and completed Tender form (Form 2/OBR-2). The contracting authority reserves the right to use the internet to verify technical compliance.

2. METHOD OF AWARDING THE PUBLIC CONTRACT

An open procedure shall be conducted for the awarding of this contract, in accordance with Article 40 of the ZJN-3.

The public contract shall not be divided into lots.

The contract shall be awarded for the period between 1 September 2024 and 30 August 2026.

In accordance with the fifth paragraph of Article 46 of the ZJN-3, the contracting authority reserves the right to award additional services (i.e. a multimedia services solution for the University of Ljubljana) to the selected tenderer (the contractor) with which it is to conclude a contract on performance of the public contract in this procedure (i.e. after expiry of that contract) should it require them.

The additional services that the contracting authority may award in accordance with the preceding paragraph shall be services that constitute a repeat of the services under the present public contract or similar services already included in the present public contract.

The service that the contracting authority may include in a potential additional order shall be services for the multimedia services solution for the University of Ljubljana that have been provided as part of the present public contract.

The contracting authority has taken the estimated value of any potential additional order into account in the calculation of the estimated value of this public contract.

The application of this point and the awarding of the additional services referred to above to the selected contractor in a negotiated procedure without prior publication of a contract notice shall be a discretionary right of the contracting authority, i.e. the contracting authority shall decide itself whether it needs the services in accordance with and to what extent, under what procedure and to



whom they will be awarded. Should the contracting authority exercise the option of awarding additional services as defined in this point, it may only do so 3 (three) years after the awarding of the original public contract.

The contracting authority and the selected tenderer shall, in the event of the awarding of additional services in accordance with Article 46 of the ZJN-3, negotiate and agree on the precise conditions of provision of these additional services in a negotiated procedure without prior publication, as the final scope of services cannot be objectively ascertained at this point.

The **legal bases** for the public contract are provided by:

- the Public Procurement Act (Uradni list RS, Nos 91/15, 14/18, 121/21, 10/22, 74/22 [Constitutional Court decision], 100/22 [ZNUZSZS], 28/23 and 88/23 [ZOPNN-F]), hereinafter: ZJN-3);
- the Legal Protection in Public Procurement Procedures Act (Uradni list RS, Nos 43/11, 60/11 [ZTP-D], 63/13, 90/14 [ZDU-1I], 60/17 and 72/19, hereinafter: ZPVPJN);
- the Code of Obligations (Uradni list RS, Nos 97/07 [official consolidated text], 64/16 [Constitutional Court decision] and 20/18 [OROZ631], hereinafter: OZ);
- the Companies Act (Uradni list RS, 65/09 [official consolidated text], 33/11, 91/11, 32/12, 57/12, 44/13 [Constitutional Court decision], 82/13, 55/15, 15/17, 22/19 [ZPosS], 158/20 [ZIntPK-C], 18/21, 18/23 [ZDU-1O] and 75/23, hereinafter: ZGD-1);
- the Integrity and Prevention of Corruption Act (Uradni list RS, Nos 69/11 [official consolidated text], 158/20, 3/22 [ZDeb] and 16/23 [ZZPri], hereinafter: ZIntPK);
- the Implementation of the Budget of the Republic of Slovenia for 2024 and 2025 Act (Uradni list RS, Nos 123/23 and 12/24, hereinafter: ZIPRS2425);
- the Rules on the Procedures for Implementing the Budget of the Republic of Slovenia (Uradni list RS, Nos 50/07, 61/08, 99/09 [ZIPRS1011], 3/13, 81/16, 11/22, 96/22, 105/22 [ZZNŠPP], 149/22 and 106/23);
- the Public Finance Act (Uradni list RS, Nos 11/11 [official consolidated text], 14/13 [corrigenda], 101/13, 55/15 [ZFisP], 96/15 [ZIPRS1617], 13/18, 195/20 [Constitutional Court decision], 18/23 [ZDU-1O] and 76/23);
- regulations and standards concerning the subject-matter and performance of the public contract.

3. DETERMINING CAPACITY TO PARTICIPATE IN THE PUBLIC PROCUREMENT PROCEDURE AND SUPPORTING DOCUMENTS (EVIDENCE)

Tenderers shall satisfy all of the conditions specified under this point. The type of evidence by which tenderers demonstrate that they meet a required condition shall be stated for each condition. The same shall also apply to any other entity in cases where the tenderer makes use of the capacity of other economic operators. In such cases, the other economic operators shall meet the selection criteria and demonstrate the absence of grounds for exclusion in accordance with the second paragraph of Article 81 of the ZJN-3.

In accordance with Article 79 of the ZJN-3, a tenderer shall submit a European Single Procurement Document (ESPD), to include the economic operator's self-declaration, as evidence that it meets the conditions. The contracting authority may call upon tenderers at any time during the procedure to submit all or some of the supporting documents with respect to the statements provided in the ESPD. The contracting authority reserves the right to call upon a tenderer to supplement or clarify any certificates or documents submitted.



Before the public contract is awarded, the contracting authority may require the tenderer to whom it has elected to award the public contract to submit the latest supporting documents (certificates, declarations) as evidence of the absence of grounds for exclusion and of fulfilment of the selection criteria.

The statements in the ESPD and/or the supporting documents submitted by the tenderer shall be valid at the time the tender is submitted. **If a tenderer is unable to obtain and submit the required documents because a Member State or a third country does not issue the documents and certificates referred to in the third paragraph of Article 77 of the ZJN-3, or if they do not cover all the cases (or all elements of the provisions) referred to in the first and second paragraphs, point b) of the fourth paragraph and point f) of the sixth paragraph of Article 75 of the ZJN-3, these documents or certificates may be replaced by a sworn statement or, if this is not provided for in the Member State or third country, by a statement from the relevant person given before a competent judicial or administrative authority, notary-public or professional or trade organisation in that person's home country or in the country in which the economic operator is established, or if this not provided for, a self-declaration by the economic operator. The declaration form is the DECLARATION OF THE ABSENCE OF GROUNDS FOR EXCLUSION OF TENDERER (Form 2b/OBR-2b).**

3.1. Exclusion grounds

3.1.1. *Grounds relating to criminal convictions*

No final judgment for a criminal offence containing the elements set out in the first paragraph of Article 75 of the ZJN-3 has been imposed, or imposed for a comparable criminal offence by a foreign court, on the economic operator, or on a person who is a member of a management, executive or supervisory body of that economic operator, or who has powers of representation, decision-making or control therein.

Where the economic operator is in the position referred to in the above paragraph, it may submit to the contracting authority, in accordance with the ninth paragraph of Article 75 of the ZJN-3 and no later than by the deadline for the submission of tenders, evidence that it has taken sufficient steps to demonstrate its reliability despite the existence of grounds for exclusion.

Supporting document:

Completed ESPD (Part III: Exclusion grounds, Section A: Grounds relating to criminal convictions) for all economic operators in the tender. If your response in this case is YES, enter the details required by the ESPD in the corresponding fields. If you are making use of the corrective mechanism by answering the question "Have you taken steps to demonstrate your reliability?" with "YES", please state the breaches and the measures demonstrating reliability despite the existence of exclusion grounds in the field "Please describe them".

Completed ESPD (Part III: Exclusion grounds, Section D: Purely national exclusion grounds) for the exclusion ground referred to in the first paragraph of Article 75 of the ZJN-3



(violation of the fundamental rights of employees, Article 196 of the Criminal Code (KZ-1)). If your response in this case is YES and you are making use of the corrective mechanism, please provide a statement indicating the breaches and the measures that demonstrate your reliability despite the existence of grounds for exclusion, and enclose it with the ESPD. The supporting document referred to under this point shall be submitted by the tenderer, a partner in a joint tender, a subcontractor and an operator on whose capacities the tenderer is relying in the tender.

The tenderer may also submit a criminal record certificate. Certificates enclosed in this manner may not be more than 4 (four) months old from the deadline for the submission of tenders.

Foreign tenderers undergoing checks to ensure that they are not subject to an exclusion ground relating to criminal convictions¹ shall submit:

- a completed authorisation to obtain a criminal record certificate for the natural persons referred to in Article 75 of the ZJN-3 (Form 2a/OBR-2a), for the acquisition of a certificate from criminal records in Slovenia; and
- a certificate from the criminal records of the country in which the economic operator is established, for the tenderer and a natural person; and
- a certificate from the criminal records of the country of birth of the natural person (if it differs from the country in which the economic operator is established); and
- a certificate from the criminal records of the country of residence of the natural person (if it differs from the country in which the economic operator is established).

If the certificates referred to in the second, third and fourth indents of this paragraph do not cover all the elements of the exclusion ground relating to criminal convictions (first paragraph of Article 75 of the ZJN-3), the natural person shall complete the Declaration of the absence of grounds for the exclusion of a natural person (Form 2c/OBR-2c).

3.1.2. Grounds relating to the payment of taxes or social security contributions

The contracting authority shall also exclude an economic operator from participation in a procurement procedure if during its verification in accordance with Articles 77, 79 and 80 of the ZJN-3 it establishes that the economic operator has failed to perform its obligations in connection with the payment of mandatory levies and other monetary non-tax liabilities in accordance with the

¹ Checks are made to ensure that the **economic operator and natural persons** who serve as members of a management, executive or supervisory body of that economic operator or who have powers of representation, decision-making or control therein have no criminal record.

Pursuant to the third paragraph of Article 67 of the Public Procurement Act, the Contracting Authority may carry out checks of the tenderer by obtaining data from official records as evidence that there are no grounds for exclusion as referred to in Article 75 of that act.



law governing financial administration that are collected by the tax authority in accordance with the regulations of the country in which it is established or with the regulations of the country of the contracting authority. An economic operator shall also be deemed not to have performed the obligations referred to in the previous sentence if it has failed to submit all its withholding tax returns for employment income for the 5 (five) years preceding the deadline for submission of tenders or requests. An economic operator shall not be excluded if by the deadline for submission of tenders or requests it has settled its outstanding past-due liabilities in the amount of EUR 50 or more and has submitted all its withholding tax returns for employment income for the five years preceding the deadline for submission of tenders or requests.

Supporting document:

Completed ESPD (Part III: B: Grounds relating to the payment of taxes or social security contributions, Payment of taxes, Payment of social security). The supporting document referred to under this point shall be submitted by the tenderer, a partner in a joint tender, a subcontractor and an operator on whose capacities the tenderer is relying in the tender.

3.1.3. *Purely national exclusion ground – Register of economic operators with negative references*

As at the day the deadline for the submission of tenders expires, the economic operator must not be listed in the register of economic operators on whom secondary sanctions of exclusion from procurement procedures have been imposed as arising from point (a) of the fourth paragraph of Article 75 of the ZJN-3.

Supporting document:

Completed ESPD (Part III: Exclusion grounds, Section D: Purely national exclusion grounds). The supporting document referred to under this point shall be submitted by the tenderer, a partner in a joint tender, a subcontractor and an operator on whose capacities the tenderer is relying in the tender.

The contracting authority shall review the register of economic operators with negative references.

3.1.4. *Purely national exclusion ground – Misdemeanours in the area of employment relationships and undeclared employment*

A fine has not been imposed on the economic operator on two or more occasions in the 3 (three) years prior to the application or the deadline for the submission of tenders by virtue of a final decision or multiple final decisions rendered by a competent authority of Slovenia, another Member State or a third country for a breach in connection with remuneration for work, working time, rest periods or the performance of contract-based work despite the existence of elements of an employment relationship, or in connection with undeclared work.

Where the economic operator is in the position referred to in the above paragraph, it may submit to the contracting authority, in accordance with the ninth paragraph of Article 75 of the ZJN-3 and no later than by the deadline for the submission of tenders, evidence that it has



taken sufficient steps to demonstrate its reliability despite the existence of grounds for exclusion.

Supporting document:

Completed ESPD (Part III: Exclusion grounds, Section D: Purely national exclusion grounds). If your response in this case is YES and you are making use of the corrective mechanism, please provide a statement indicating the breaches and the measures that demonstrate your reliability despite the existence of grounds for exclusion, and enclose it with the ESPD. The supporting document referred to under this point shall be submitted by the tenderer, a partner in a joint tender, a subcontractor and an operator on whose capacities the tenderer is relying in the tender.

3.1.5. *Early termination, damages or other comparable sanctions*

In a previous public contract concluded with the tenderer, no significant or constant deficiencies in the performance of key obligations were demonstrated (as a result of which the contracting authority would have prematurely withdrawn from the previous contract or agreement, claimed damages or imposed other comparable sanctions), nor was it demonstrated that the tenderer committed grave professional misconduct (which the contracting authority would have demonstrated using appropriate evidence) that would have compromised its integrity.

Supporting document:

Completed ESPD (Part III: Grounds relating to insolvency, conflicts of interests or professional misconduct, Section C: Grave professional misconduct, Early termination, damages or other comparable sanctions) The supporting document referred to under this point shall be submitted by the tenderer, a partner in a joint tender, a subcontractor and an operator on whose capacities the tenderer is relying in the tender. The contracting authority shall review its records of negative experiences with economic operators in the implementation of public contracts.

In accordance with the eighth paragraph of Article 75 of the ZJN-3, the contracting authority shall exclude a tenderer from the public procurement procedure at any time in the procedure if it is proven to be in one of the situations referred to under this point of the instructions to tenderers with regard to actions committed or omitted, either before or during the public procurement procedure. In accordance with the second paragraph of Article 81 of the ZJN-3, the contracting authority shall request that the economic operator whose capacities are referred to in the tender be replaced if it does not meet the conditions for participation or there are mandatory grounds for its exclusion.



3.2. Selection criteria (entities shall meet the criteria in their tenders cumulatively, unless a specific criterion provides otherwise).

3.2.1. Tenderer's references

The economic operator shall demonstrate three reference projects that cumulatively meet the requirements set out below.

- Successful completion: The reference project was carried out in accordance with the contractual provisions and the rules of the profession, on time and to a high standard of quality.
- Reference period: 2023, 2022, 2021
- Subject of the reference project: Multimedia Services Solution for a University
- Amount attached to the reference project: at least EUR 130,000 excluding VAT

Supporting document:

Completed ESPD (Part IV: Selection criteria, C: Technical and professional ability, For service contracts: performance of deliveries of the specified type), List of references (Form 4/OBR-4) and Reference certificate (Form 4a/Form 4a). The contracting authority reserves the right to check a reference directly with the reference contracting authority. The supporting document referred to under this point shall be submitted by the tenderer, a partner in a joint tender, a subcontractor and an operator on whose capacities the tenderer is relying in the tender.

4. TENDERER SELECTION CRITERIA

The tenderer with the most economically advantageous tender (M), i.e. the tender with the highest number of points, will be selected. The total number of points shall be rounded to two decimal places. The maximum number of points that can be achieved under the criteria is 100 (one hundred). If several tenderers receive the same number of points in the evaluation under the criteria, the contracting authority shall select the tenderer that offers the lower total tender price (in EUR excluding VAT). If this is not possible, the tenderer that first submitted its tender to the e-JN system will be selected from among those with the same number of points. The criterion for the awarding of the public contract is the most economically advantageous tender, as determined under the following criteria:

- Tender price (TP), 90 points
- ISO 9001 quality standard (SO), 5 points
- ISO/IEC 27001 standard (CE), 5 points

The tenderer with the highest total number of points (P), as calculated below, will be selected:

$$M = TP + SO + CE$$



4.1 Tender price (TP), 90 points:

The criterion used is the total tender price (in EUR excluding VAT) as stated in the pro forma invoice. The tender that offers the lowest tender price in comparison with the other tenders, receives the highest number of points (90 points), with the other tenders receiving a correspondingly lower number of points, depending on the percentage by which they differ from the tender with the lowest tender price. Points are calculated according to the following formula:

$$TP = (T_{min}/T_x) \times 90$$

TP = number of points for the "tender price" criterion

T_{min} = lowest price for the "tender price" criterion

T_x = price offered in the tender being evaluated

The highest number of points that can be awarded under this criterion is 90. Tenders cannot be awarded fewer than 0 points.

Supporting document:

Pro forma invoice (Form 1/OBR-1)

4.2 ISO 9001 quality standard (SO), 5 points:

A tenderer that can demonstrate that, as at the day the deadline for the submission of tenders for the public contract in question expires, they have a valid ISO 9001 certificate, or at least an equivalent certificate, shall receive 5 points. The quality assurance system shall be confirmed by an independent institution that has an established certification process and is accredited by an internationally recognised organisation. If the tenderer submits a copy of the valid certificate, it shall regularly maintain the validity of the certificate for as long as the contract is in force.

Supporting document:

A certificate showing that it refers to the tenderer and covers the quality of the field that is relevant in terms of the subject of the contract, and demonstrates the validity of the certificate.

4.3 ISO/IEC 27001 standard (CE), 5 points:

A tenderer that can demonstrate that, as at the day the deadline for the submission of tenders for the public contract in question expires, they have a valid ISO/IEC 27001 certificate or at least an equivalent certificate shall receive 5 points. The information security system shall be confirmed by an independent institution that has an established certification process and is accredited by an internationally recognised organisation.



Supporting document:

A certificate showing that it refers to the tenderer and covers the information security of the field and services that are relevant in terms of the subject of the contract, and demonstrates the validity of the certificate.

5. TENDER

5.1. Submission and method of submission of tenders

Tenderers shall enter their tenders in the e-JN information system at <https://ejn.gov.si> in accordance with point 3 of the document titled "Instructions for the use of the information system to utilise the functionalities of the system for the electronic submission of e-JN tenders: TENDERERS" (hereinafter: Instructions for the use of e-JN), which are part of this tender documentation and are available at <https://ejn.gov.si>.

Prior to submitting a tender, tenderers shall register at <https://ejn.gov.si>, in accordance with the Instructions for the Use of e-JN. Tenderers that are already registered in the e-JN information system should log into the application using the same address.

The tenderer's user authorised to submit tenders in the e-JN information system shall submit the tender by clicking on the "Submit" button. Upon submission of a tender, the e-JN information system logs the user's identity and the time the tender was submitted. By submitting a tender, the user demonstrates and declares their intention of submitting a binding tender on behalf of the tenderer (Article 18 of the Code of Obligations). Upon submission of a tender, that tender is binding for the time stated in the tender, unless the tenderer's user withdraws or amends the tender before the deadline for submission.

A tender is deemed to have been submitted on time if the contracting authority receives it via the e-JN system (<https://ejn.gov.si>) no later than by the deadline for the submission of tenders. A tender is deemed to have been submitted if it is designated as "SUBMITTED" in the e-JN information system.

A tenderer may withdraw or revise its tender up until the deadline for the submission of tenders. If the tenderer withdraws its tender from the e-JN information system, the tender shall be regarded as having not been submitted and the contracting authority shall not be able to see it in the e-JN system. If the tenderer revises its tender in the e-JN information system, the last submitted tender shall be available to the contracting authority in the system.

Tenders may no longer be submitted after the deadline for submission has expired.

5.2. Basic rules for access, notifications, clarifications and changes related to the tender documentation

Tenderers shall receive the tender documentation via the e-JN system.



Communication with tenderers concerning questions related to the content of the public contract and to the preparation of tenders shall take place exclusively via the e-JN system. The contracting authority will consider requests for clarifications of the tender documentation or any other questions related to the public procurement procedure as having been made in due time if they are submitted to the public procurement portal up to the deadline for the submission of questions set out in the contract notice. The contracting authority will not respond to requests for clarifications or other questions concerning the contract submitted after that deadline.

The contracting authority reserves the right to amend the public procurement documents. If the contracting authority amends the tender documents before the deadline for the submission of tenders has expired, it shall announce this in the e-JN system. The information provided by the contracting authority to tenderers shall be regarded as amending, supplementing or clarifying the public procurement documents if it appears from the content of the information that it amends or supplements these documents or clarifies ambiguities contained therein.

5.3. Participation

Any natural person or legal entity registered to perform the activity that is the subject of this public contract and holding all the required authorisations to perform this public contract may take part as a tenderer in this public procurement procedure.

5.3.1. Foreign tenderers

Tenderers established abroad shall be required to meet the same conditions as tenderers established in Slovenia.

5.3.2. Subcontractors

A tenderer may perform the public contract entirely on its own or in collaboration with subcontractors. In the public contract is to be performed using subcontractors, the tender (Form 2/OBR-2) must give the contact details and details of the legal representatives of every subcontractor, along with every part of the public contract that each subcontractor is to perform (subject, quantity, value, place and deadline for the completion of the work).

A tenderer shall declare in the tender that its subcontractors have completed a statement regarding fulfilment of the conditions (ESPD), and enclose any request by a subcontractor for direct payment, if that subcontractor is requesting direct payment.

If a subcontractor requires direct payment, direct payment to the subcontractor shall be considered compulsory, with the obligation binding on the contracting authority and the lead contractor. When the tenderer intends to perform the public contract with a subcontractor requiring direct payment:

- the lead contractor shall, in the contract, authorise the contracting authority to pay the subcontractor directly on the basis of an invoice approved by the lead contractor;



- the subcontractor shall provide a letter of consent, on the basis of which the contracting authority settles the subcontractor's claims against the tenderer;
- the lead contractor shall enclose with its invoice an invoice issued by the subcontractor that it has previously approved.

If direct payment to the subcontractor is not compulsory, the contracting authority shall request that the lead contractor send, within 60 (sixty) days of the final invoice payment, its written declaration and a written declaration from the subcontractor indicating that the subcontractor has received payment for the public contract services it has provided.

During the performance of the public contract, the contractor shall notify the contracting authority of any changes to information, and send that information with the accompanying evidence regarding new subcontractors that it intends to include subsequently in the implementation of the public contract within 5 (five) days of any change.

5.3.3. Joint tender

Groups of economic operators may submit a joint tender. In the case of a joint tender, the contracting authority shall ask the selected group to submit a legal document concerning joint performance of the public contract. That document shall contain at least a specification of all the partners in the group; the authorisation of the lead partner in the group; the unlimited joint and several liability of all partners in the group towards the contracting authority; the area of work to be assumed and performed by each partner in the group; the share of each partner in the group (in %) and the value of works assumed by each individual partner in the group; the method of payment via the lead partner or to each partner in the group; the provisions to be applied in the event of a withdrawal of any partner from the group; the resolution of disputes among partners in the group; other possible rights and obligations among the partners in the group; and the period of validity of the legal document.

All entities that are to perform the joint tender shall be indicated in Form 2 (OBR-2). All joint tenderers shall complete an ESPD.

If the public contract is awarded to tenderers that have submitted a joint tender, any changes to the members of the consortium over the course of this contract may be made if the consortium continues to meet the participation criteria and the quality assurance and environmental standards despite the changes made to its membership, and if there are no originally defined grounds for its exclusion, provided that this does not involve other essential changes to the public contract and is not intended to circumvent the provisions of the ZJN-3.

5.3.4. Utilisation of the capacities of other entities

With regard to the conditions relating to their economic and financial situation and their technical and professional capacity, economic operators may use, if necessary, the capacities of other operators for the public contract in question regardless of the legal relations between the economic operators and these entities.



With regard to the conditions relating to education and the professional qualifications of the service or construction provider and the company's management staff, and the conditions relating to the relevant professional experience, economic operators may use the capacities of other operators only if the latter will be providing the services or carrying out construction for which those capacities are required. In such cases, these entities shall, in accordance with the practice of the National Review Commission, be included in the tender as tenderers, as partners in a joint tender or as subcontractors.

The ESPD shall be completed by all entities whose capacities are utilised by tenderers.

5.4. Tender form and content

Tenders shall be valid for 3 (three) months after the deadline for the submission of tenders has expired, and may be extended at the contracting authority's request. Alternative tenders shall not be considered.

The procurement procedure shall be conducted in the Slovenian language. If during the review of tenders the contracting authority deems it necessary to translate part of the tender submitted in a foreign language into Slovenian, it may request that the tenderer submit a court certified translation at its own expense and set an appropriate deadline submission.

Tenders shall be submitted on the forms that constitute an integral part of the public procurement documents, in accordance with these instructions. The content of forms produced by the contracting authority may not be modified, except where this is explicitly permitted.

Tenderers shall guarantee, under criminal and material liability, that all information and documents submitted in their tender are true and accurate, and that the documents enclosed correspond to their originals. If they fail to do so, they shall be liable to the contracting authority for any damage.

The age of the documents submitted as part of the tender may not exceed the age stipulated by the individual provisions of these tender documents. In cases where the age of documents is indeterminate, the documents must be capable of proving the legally relevant status of the tenderer on the day stipulated for the submission of tenders.

All costs in connection with the preparation and submission of the tender shall be borne by the tenderer.

The tender documents shall comprise the following:

1. a completed Pro forma invoice form (Form 1/OBR-1)
2. a completed ESPD for all economic operators in the tender (all operators participating in the tender)
3. a completed Tender (Form 2/OBR-2); for foreign tenderers (in accordance with the content of the tender documentation), also an Authorisation to obtain a criminal record certificate for the natural persons referred to in Article 75 of the ZJN-3 (Form



- 2a/OBR-2a), a Declaration of the absence of grounds for the exclusion of a tenderer (Form 2b/OBR-2b) and a Declaration of the absence of grounds for the exclusion of a natural person (Form 2c/OBR-2c)
4. a Sample contract confirmed by a signed ESPD (Form 3/OBR-3)
 5. the List of references (Form 4/OBR-4) and Reference certificate (Form 4a/OBR-4a)

The Declaration on the participation of natural persons and legal entities in the tenderer's ownership structure (Form 4/OBR-4) shall only be submitted by the selected tenderer when the contract is signed.

6. OTHER CONDITIONS AND WARNINGS

6.1. Tenderer's conduct

The contracting authority hereby cautions the tenderer that:

- it may not initiate or perform actions that might predetermine the selection of a specific tender during the contract;
- it may not initiate activities that could result in the contract not entering into force or not being performed in the period from the selection of the tenderer to the entry into force of the contract;
- should the procedure be suspended, neither party may initiate or undertake procedures that could hinder the cancellation or amendment of the decision regarding the selection of the contractor, or that could affect the impartiality of the review commission;
- any interference by the tenderer with the contracting authority or any attempt to exert influence over the latter during the review, clarification, evaluation and comparison of tenders and when decisions are being made regarding the conclusion of the contract could result in the tender being rejected.

6.2. Conclusion of the contract

After the decision regarding the selection of the most advantageous tenderer becomes final, the contracting authority shall call on the selected tenderer, no later than 5 (five) days after the decision becomes final, to sign the contract. If the tenderer fails to respond to the invitation to sign the contract within 5 (five) days, it shall be deemed to have withdrawn its tender.

The contract shall enter into force when it has been signed by both contracting parties.

Pursuant to the sixth paragraph of Article 14 of the Integrity and Prevention of Corruption Act (Uradni list RS, Nos 69/11 [OCV2], 158/20 and 3/22 [ZDeb], and 16/23, hereinafter: ZIntPK), the selected tenderers shall, at the contracting authority's request and prior to signing the contract, submit **a declaration or information on participation of natural persons and legal entities in the candidate's ownership structure**, including the participation of silent partners, and regarding the economic operators that, according to the provisions of the act governing companies, are deemed to be associates of the candidate. If the tenderer submits



a false statement or provides false information with regard to the aforementioned facts, the contract shall be declared null and void.

6.3. Legal recourse

Legal recourse for tenderers in public procurement procedures shall be guaranteed by the provisions of the Legal Protection in Public Procurement Procedures Act (Uradni list RS, Nos 43/11, 60/11 [ZTP-D], 63/13, 90/14 [ZDU-1I], 60/17 and 72/19, hereinafter: ZPVPJN), according to the procedure and in the manner provided by law.

A request for review relating to the content of the notice, invitation to tender or tender documentation shall be submitted within ten working days of the publication of the public procurement notice or receipt of the invitation to tender. Whenever the contracting authority amends or supplements a statement in the notice, invitation to tender or tender documentation, a request for review that relates to the amended, supplemented or clarified content of the notice, invitation to tender or tender documentation or a statement directly connected thereto in the original notice, the invitation to tender or tender documentation may be lodged within 10 (ten) working days of the publication of a notice of additional information, information on an incomplete procedure or corrigendum if this notice has the effect of changing or supplementing the requirements or criteria for the selection of the most advantageous tenderer.

The request for review referred to in the previous paragraph may not be submitted after the deadline for the receipt of tenders has expired.

A request for legal protection may be filed by any person entitled to file it.

A request for review shall contain:

- the name and address of the person submitting the request (hereinafter: applicant) and a contact person;
- the name of the contracting authority;
- the reference number of the public contract or decision on the awarding of the public contract or the qualitative selection criteria;
- the subject of the public contract;
- authorisation to act in the pre-review and review procedure, if a representative is acting on behalf of the applicant;
- confirmation of payment of the relevant fee.

The applicant's request shall state the alleged breaches, and include facts and evidence that show that a breach has occurred.

A fee of EUR 4,000 shall be paid to a subsidiary account open at the Bank of Slovenia for the purpose of the payment of fees for pre-review and review procedures (SWIFT code: BS LJ SI 2X, IBAN: SI56011001000358802 – fee for a public contract award review procedure).

The request for review shall be lodged via the eRevizija portal. A request shall be deemed to have been submitted on the eRevizija website on the day the information system automatically confirms receipt to the person making the submission. Documents enclosed with the request for a review shall be converted to electronic format; should this prove impossible, such a document shall be lodged directly at the contracting authority's address, or by registered mail,



or by registered mail with advice of delivery, and the applicant shall state on the eRevizija portal which documents it is submitting directly to the contracting authority's address.