Številka JN: 0034/2024/0034/JNB/6 *Zanesljivo z vami!*
Nabavna številka: 1100002491
Številka dokumenta: N/ /1-2024/NP
Datum: 29. 11. 2024

Pošta Slovenije d.o.o.
Nabava
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Na podlagi 90. člena ZJN-3 (Ur. l. RS 91/15 s sprem. in dop.) in poročila komisije o oddaji javnega naročila za »Nakup novih oziroma obnovljenih lahkih električnih trikolesnikov« z dne 29. 11. 2024, sprejme naročnik naslednjo:

ODLOČITEV ŠT. 0034/2024/0034/JNB/6

Naročnik je, na podlagi javnega razpisa po postopku s pogajanji z objavo, za predmet naročila »Nakup novih oziroma obnovljenih lahkih električnih trikolesnikov«, na predlog komisije za izvedbo postopkov oddaje javnih naročil, odločil:

Usposobljenost za izvajanje naročila za »Nakup novih oziroma obnovljenih lahkih električnih trikolesnikov« se podeli naslednjemu ponudniku:

1. **Kyburz Switzerland AG, Shedweg 2-8, 8427 Freienstein, Switzerland, vozilo znamke Kyburz, model: DXP 4.2**

Izbranega ponudnika bo naročnik povabil k oddaji ponudbe.

Usposobljenost za izvajanje naročila za »Nakup novih oziroma obnovljenih lahkih električnih trikolesnikov« se ne podeli naslednjim ponudnikom:

2. Scoobic Urban Mobility, S.L., Av. de la Libertad nº7, 41703 Dos Hermanas Sevilla, vozilo znamke Scoobic, model: Mini L2

3. Agroremont d.o.o., Radgonska cesta 5, 2235 Sveta Trojica, vozilo znamke vRbikes, model: vR3.2 M.

Obrazložitev:

Naročnik je v razpisni dokumentaciji določil rok, v katerem je treba predložiti prijave za sodelovanje, in sicer do 6. 11. 2024, do 12:00 ure preko informacijskega sistema e-JN. Do roka za oddajo prijav je naročnik pravočasno prejel 3 prijave za sodelovanje, in sicer od:

Zap. št.	Naziv in naslov ponudnika
1	2
1.	Agroremont d.o.o., Radgonska cesta 5, 2235 Sveta Trojica
2.	Scoobic Urban Mobility, S.L., Av. de la Libertad nº7, 41703 Dos Hermanas Sevilla
3.	Kyburz Switzerland AG, Shedweg 2-8, 8427 Freienstein, Switzerland

Po pregledu in tehnični analizi prijav je naročnik ugotovil naslednje:

Prijava ponudnika Kyburz Switzerland AG je dopustna in ponudnik izpolnjuje pogoje, zahtevane v razpisni dokumentaciji, zato se mu v skladu z določbami razpisne dokumentacije prizna usposobljenost za izvajanje naročila.

Ponudnik Agroremont d.o.o. ne izpolnjuje pogojev: P9, P14 in P20 iz razpisne dokumentacije in sicer:

1. Naročnik je v pogoju P 9 Servisna mreža zapisal: Ponudnik predloži seznam, iz katerega je razvidna servisna mreža serviserjev in njihove lokacije na območju Republike Slovenije, ki je kadrovsko in tehnično usposobljena in razpolaga z vso potrebno opremo in orodjem za servisiranje in vzdrževanje tako mehanskega kot baterijskega sklopa vozila. Serviserji navedeni v servisni mreži morajo razpolagati tudi z mobilnimi enotami. Iz priloženega seznama mora biti razvidno število vozil, delegiranih za mobilno enoto, ki mora posredovati najkasneje v 2 urah po prejetem pozivu. Mobilna enota mora biti dosegljiva na telefonski številki od ponedeljka do petka med 6. in 16. uro. Servisna in mobilna enota morata razpolagati z nadomestnimi vozili. Ponudnik mora v vsaki PE (Celje, Koper, Ljubljana, Maribor) imeti serviserja, ki je tehnično usposobljen izvajati servis vozil v skladu s tem pogojem.

   Ponudnik je v dopolnitvi svoje ponudbe sicer navedel dve lokaciji serviserjev, ki sta obe na območju PE Maribor, vendar je pripisal, da s stacionarnim servisom ni prisoten na lokacijah PE Celje, PE Koper in PE Ljubljana ter, da celotno območje Slovenije pokriva s terenskimi vozili.

Glede na navedeno naročnik ugotavlja, da ponudnik v PE Celje, PE Koper in PE Ljubljana nima serviserja, kot je zahteva v pogoju P9.

2. Ponudnik je za izpolnjevanje pogoja P 14 -garancija za celotno prevozno sredstvo (brez baterije) v prijavi zapisal, da daje garancijo 24 mesecev, čeprav je naročnik v razpisni dokumentaciji v pogoju P14 izrecno zahteval garancijo v trajanju 36 mesecev. Z dopolnitvijo ponudbe je ponudnik sicer ponudil garancijo 36 mesecev, vendar naročnik takšne spremembe prijave/ponudbe ne more upoštevati, saj bi v tem primeru naročnik omogočil ponudniku, da prvotno nedopustno ponudbo spremeni v dopustno. Ponudnik skladno s šestim odstavkom 89. člena ne sme dopolnjevati ali popravljati tistega dela ponudbe, ki se veže na tehnične specifikacije predmeta.

3. Naročnik je v pogoju P 20: Izpolnjevanje tehničnih karakteristik zapisal, da morajo ponudniki izpolniti prilogo Tehnične karakteristike, iz katere so razvidni podatki o izpolnjevanju tehničnih karakteristik.

Ena od tehničnih zahtev naročnika v pogoju P 20 je bila »Tehnologija baterije: LiFePO4«, ponudnik je v prijavi zapisal, da ponuja baterijo vrste Li-NMC, iz česar izhaja, da ponudnik ne izpolnjuje tehnične zahteve naročnika glede tehnologije baterije. Po pojasnilu je ponudnik sicer spremenil vrsto baterije v LiFePO4. Naročnik takšne spremembe prijave/ponudbe ne more upoštevati, saj bi v tem primeru naročnik omogočil ponudniku, da prvotno nedopustno ponudbo spremeni v dopustno. Ponudnik skladno s šestim odstavkom 89. člena ne sme dopolnjevati ali popravljati tistega dela ponudbe, ki se veže na tehnične specifikacije predmeta.

Glede na navedeno naročnik ugotavlja, da ponudnik ne izpolnjuje pogojev P9, P14 in P20 iz razpisne dokumentacije zato je njegova prijava nedopustna ter se ponudniku ne prizna usposobljenost za izvedbo naročila.

Ponudnik SCOOBIC URBAN MOBILITY, S.L. ne izpolnjuje pogojev: P9 in P20 iz razpisne dokumentacije in sicer:

1. Za izpolnjevanje pogoja P9 (Servisna mreža) je ponudnik po pozivu naročnika, da naj se natančno opredeli ali ima servis v obratovanju na PE Celje in PE Koper, ki je tehnično usposobljen izvajati servis vozil v skladu s pogojem P9, navedel dve delavnici, ki sta usposobljeni za vzdrževanje njihovih modelov vozil in sicer:

- PE Celje: Renault Avtotehnika Celje d.o.o.,
- PE Koper: Trgo ABC Koper.

Naročnik je izjavo ponudnika dodatno preveril pri serviserju Renault Avtotehnika Celje, pri čemer je pridobil pisno izjavo vodje servisa, da niso usposobljeni za servisiranje električnih trikolesnikov **SCOOBIC MINI L2** ponudnika SCOOBIC URBAN MOBILITY.

2. Ena od tehničnih zahtev naročnika v pogoju P 20 je bila »pokrita košara za blago spredaj, ki zagotavlja prevoz in varno pritrditev **vsaj dveh pismarnic** (zunanje dimenzije ene pismarnice: 470x267x210 mm)«. Ponudnik je ponudil pokrito košaro, katere velikost – dimenzije ustrezajo velikosti ene pismarnice in ne dveh pismarnic, iz česar izhaja, da ne izpolnjuje tehnične zahteve naročnika.

Glede na navedeno naročnik ugotavlja, da ponudnik BIC URBAN MOBILITY, S.L. ne izpolnjuje pogojev P9 in P20 iz razpisne dokumentacije zato je njegova prijava nedopustna ter se ponudniku ne prizna usposobljenost za izvedbo naročila.

S tem je odločitev utemeljena.

PRAVNI POUK:

Ponudnik lahko v roku 8 delovnih dni od prejema te odločitve v skladu s 25. členom Zakona o pravnem varstvu v postopkih javnega naročanja (Ur. list RS, št. 43/2011 s spremembami) vloži zahtevek za revizijo.

Zahtevek za revizijo mora biti obrazložen in se vloži preko portala e-revizija.

Vlagatelj mora kopijo zahtevka za revizijo hkrati posredovati ministrstvu, pristojnemu za finance.

V skladu s 4. odstavkom 71. člena, ob upoštevanju 1., 2. in 3. odstavka 71. člena Zakona o pravnem varstvu v postopkih javnega naročanja, naročnik določi višino takse, ki jo mora vlagatelj ob vložitvi zahtevka za revizijo plačati. Vlagatelj zahtevka za revizijo mora ob vložitvi zahtevka za revizijo plačati takso, ki znaša: 1.000 EUR.

Številka transakcijskega računa Ministrstva za finance je: št. 01100-1000358802.
Pri vplačilu takse mora biti vedno naveden sklic na številko odobritve po modelu 11.
1. model 11
2. P1: šifra proračunskega porabnika (16110 - Ministrstvo za finance)
3. P2: številka podkonta s kontrolno številko (7111290)
4. P3: zaporedna številka objave na enotnem informacijskem portalu oz. referenčna številka računa ali drugega dokumenta iz dokumentacije javnega naročila (6 mest + 2 mesti za leto)
Med P1 in P2 ter med P2 in P3 se obvezno piše vezaj.

Marko Cegnar
generalni direktor
MARKO CEGNAR Digitalno podpisal MARKO CEGNAR Datum: 2024.12.03 12:06:28 +01'00'

Marko Rems
član poslovodstva
MARKO REMS Digitally signed by MARKO REMS Date: 2024.12.04 08:52:41 +01'00'

Ivana Vrviščar
članica poslovodstva
IVANA VRVIŠCAR Digitalno podpisal IVANA VRVIŠCAR Datum: 2024.12.03 15:03:14 +01'00'

Vlasta Vidrih
članica poslovodstva
Napaka! Zaznamek ni definiran. VLASTA VIDRIH Digitalno podpisal VLASTA VIDRIH Datum: 2024.12.03 19:38:35 +01'00'

Podpisnika/ki s podpisom te odločitve, po predhodni presoji morebitnega obstoja okoliščin nasprotja interesov v zvezi s predlaganim ponudnikom, hkrati podajamo izjavo:

Izjavljam, da sem seznanjen z določili 91. člena Zakona o javnem naročanju in da s ponudniki nisem povezan na način:

- *da sem z njimi (če je ponudnik fizična oseba, s.p. ali opravlja drugo samostojno dejavnost) v zakonski zvezi, zunajzakonski skupnosti, registrirani istospolni partnerski skupnosti, skupnem gospodinjstvu, krvnem sorodstvu v ravni vrsti, krvnem sorodstvu v stranski vrsti do vštetega tretjega kolena, sorodstvu po svaštvu do vštetega drugega kolena, posvojitelj, posvojenec, rejnik, rejenec, ali v zasebnem poslovnem ali delovnopravnem razmerju*
- *oziroma, da se z družbenikom ponudnika z več kot pet odstotnim lastniškim deležem, njegovim zakonitim zastopnikom ali prokuristom povezan/a na način iz prejšnjega odstavka.*

Public contract no: 0034/2024/0034/JNB/6
Procurement no: 1100002491
Document no: N/ /1-2024/NP
Date: 29 November 2024

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Pursuant to Article 90 of the ZJN-3 (Uradni list RS, 91/15, with corrigenda) and the report of the commission on the awarding of the public contract for the "Purchase of new or reconditioned lightweight electric tricycles" of 29 November 2024, the contracting authority hereby adopts the following:

DECISION No 0034/2024/0034/JNB/6

On the basis of the public tender under negotiated procedure with prior publication of contract notice for the public service contract for the "Purchase of new or reconditioned lightweight electric tricycles", at the proposal of the commission for the awarding of public contracts, the contracting authority has decided as follows:

The following tenderer is recognised as having the capacity to perform the public contract for the "Purchase of new or reconditioned lightweight electric tricycles":

1. **Kyburz Switzerland AG, Shedweg 2-8, 8427 Freienstein, Switzerland, vehicle make: Kyburz, vehicle model: DXP 4.2**

The contracting authority will invite the selected tenderer to submit its tender.

The following tenderers are not recognised as having the capacity to perform the public contract for the "Purchase of new or reconditioned lightweight electric tricycles":

2. Scoobic Urban Mobility, S.L., Av. de la Libertad nº7, 41703 Dos Hermanas Sevilla, vehicle make: Scoobic, vehicle model: Mini L2

3. Agroremont d.o.o., Radgonska cesta 5, 2235 Sveta Trojica, vehicle make: vRbikes, vehicle model: vR3.2 M.

Statement of grounds:

The contracting authority set a deadline in the tender dossier for the submission of applications for participation. This deadline was midday on 6 November 2024, with applications to be submitted via the e-JN (electronic public procurement) information system. The contracting authority received three applications for participation before the application submission deadline, from the following tenderers:

No	Name and address of tenderer
1	*2*
1.	Agroremont d.o.o., Radgonska cesta 5, 2235 Sveta Trojica
2.	Scoobic Urban Mobility, S.L., Av. de la Libertad nº7, 41703 Dos Hermanas Sevilla
3.	Kyburz Switzerland AG, Shedweg 2-8, 8427 Freienstein, Switzerland

Following a review and technical analysis of the applications, the contracting authority established the following:

The application submitted by the tenderer Kyburz Switzerland AG is admissible. The tenderer meets the conditions set out in the tender dossier and is therefore recognised, in accordance with the provisions of the tender dossier, as having the capacity to perform the public contract.

The tenderer Agroremont d.o.o. does not meet Conditions 9, 14 and 20 as set out in the tender dossier, as follows:

1. Under Condition 9 (Service network), the contracting authority stipulated the following: The tenderer shall submit a list showing the service network of service workshops that have the requisite human resource and technical capacities and all the necessary equipment and tools to service and maintain the mechanical parts and vehicle battery packs, and their locations in Slovenia. The service workshops designated as part of the service network must also have mobile units. The list must show the number of vehicles delegated to the mobile unit, which must respond no later than two (2) hours after receiving the call to act. A mobile unit must be available by telephone from 6 am to 4 pm, Monday to Friday. Service and mobile units must have replacement vehicles. The tenderer shall have a service workshop for every business unit (Celje, Koper, Ljubljana, Maribor) technically competent to service vehicles in accordance with this condition.

   In a supplement to its tender, the tenderer made reference to two service workshops, both for the area covering the Maribor business unit. However, it indicated that it had no stationary service workshops for the areas covering the Celje, Koper and Ljubljana business units, and that it would cover the whole of Slovenia with all-terrain vehicles.

In light of this, the contracting authority established that the tenderer did not have any service workshops for the areas covering the Celje, Koper and Ljubljana business units as required under Condition 9.

2. Regarding fulfilment of Condition 14 (Warranty for the entire vehicle (excluding battery)), the tenderer stated that it would offer a warranty of 24 months, even though the contracting authority's tender explicitly required a warranty of 36 months under Condition

14. Although the tenderer did subsequently amend its tender and offer a warranty of 36 months, the contracting authority was unable to accept the amendment because this would have enabled the tenderer to amend a previously unacceptable tender into an acceptable tender. This would have been inadmissible conduct on the contracting authority's part. In accordance with the sixth paragraph of Article 89 of the ZJN-3, a tenderer is not permitted to supplement or amend that part of its tender related to technical specifications.

3. Under Condition 20 (Fulfilment of technical characteristics), the contracting authority stated that the tenderers should complete the "Technical characteristics" annex showing details of the fulfilment of the technical characteristics.

   One of the contracting authority's technical requirements under Condition 20 was "Battery technology: LiFePO4". However, the tenderer stated in its application that it would offer an Li-NMC-type battery. This meant that it would not be meeting the contracting authority's technical requirement regarding battery technology. After clarification was provided, the tenderer amended the battery type to LiFePO4. The contracting authority was unable to accept the amendment because this would have enabled the tenderer to amend a previously unacceptable tender into an acceptable tender. This would have been inadmissible conduct on the contracting authority's part. In accordance with the sixth paragraph of Article 89 of the ZJN-3, a tenderer is not permitted to supplement or amend that part of its tender related to technical specifications.

In light of this, the contracting authority finds that the tenderer failed to meet Conditions 9, 14 and 20 set out in the tender dossier and, consequently, that its tender was inadmissible and it could not be recognised as having the capacity to perform the contract.

The tenderer SCOOBIC URBAN MOBILITY, S.L. does not meet Conditions 9 and 20 as set out in the tender dossier, as follows:

1. In order to meet Condition 9 (Service network), the tenderer, after being invited to state precisely whether it had a service workshop operational for the areas covering the Celje and Koper business units technically competent to service vehicles in accordance with Condition 9, made reference to two service workshops competent to maintain its models of vehicle:

- Celje business unit: Renault Avtotehnika Celje d.o.o.
- Koper business unit: Trgo ABC Koper

The contracting authority made further enquiries regarding the tenderer's statement with the service workshop Renault Avtotehnika Celje. It obtained a written statement from the head of that workshop that they were not competent to service the **SCOOBIC MINI L2** electric tricycles offered by the tenderer SCOOBIC URBAN MOBILITY.

2. One of the contracting authority's technical requirements under Condition 20 was for a "covered basket for cargo at the front that ensures the transport and safe attachment **of at least two letter trays** (outer dimensions of letter tray: 470 x 267 x 210 mm)". The tenderer offered a covered basket whose dimensions were sufficient for one letter tray, but not two. It therefore follows that it failed to meet the contracting authority's technical requirements.

In light of this, the contracting authority finds that the tenderer SCOOBIC URBAN MOBILITY, S.L. failed to meet Conditions 9 and 20 set out in the tender dossier and, consequently, that its tender was inadmissible and that it could not be recognised as having the capacity to perform the contract.

The grounds for this decision are thereby provided.

NOTICE OF LEGAL REMEDY:

In accordance with Article 25 of the Legal Protection in Public Procurement Procedures Act (Uradni list RS, 43/2011, with corrigenda), a tenderer may file a request for review within eight business days of receipt of this decision.

The request for review must be explained and filed via the e-revizija portal.

The applicant should simultaneously send a copy of the request for review to the ministry responsible for finance.

Pursuant to the fourth paragraph of Article 71 and with due regard to the first, second and third paragraphs of Article 71 of the Legal Protection in Public Procurement Procedures Act, the contracting authority sets the amount of the fee that the applicant is to pay when filing a request for review. When filing the request for review, the applicant is obliged to pay an administrative fee amounting to: EUR 1,000.

The current account number of the Ministry of Finance is 01100-1000358802.
When paying the fee, the approval reference number as per template 11 should always be cited.
1. Template 11
2. P1: budget spending unit code (16110 – Ministry of Finance)
3. P2: sub-account number with control number (7111290)
4. P3: publication serial number from the standard information portal or reference number of the account or other document from the public contract dossier (6 digits + 2 digits for the year)
A hyphen should be inserted between P1 and P2 and between P2 and P3.

Marko Cegnar
General Manager

Marko Rems
Member of Executive Management

Ivana Vrviščar
Member of Executive Management

Vlasta Vidrih
Member of Executive Management

We, the undersigned, by signing this decision and after conducting a prior assessment of the existence of any conflicts of interest in relation to the proposed tenderer, hereby provide the following statement:

I hereby declare that I am familiar with the provisions of Article 91 of the Public Procurement Act and that I am not associated with the tenderers in any of the following ways:

- *I am related to them (if the tenderer is a natural person, sole trader or performs some other independent business activity) by marriage, a non-marital partnership, a registered same-sex partnership, a common household, direct blood relation, collateral line relation up to the third degree, relation through marriage up to the second degree, being an adoptive parent, an adopted child, foster parent, foster child or by a private business or labour relationship;*
- *or related to a partner of the tenderer with more than a five percent ownership interest, their statutory representative or procurator in the manner referred to in the preceding paragraph.*