

DOCUMENTATION FOR

PARTICIPATION IN AN OPEN PROCEDURE ON AWARD OF PUBLIC PROCUREMENT WITH THE FOLLOWING
SUBJECT:

**“SELECTION OF A CONSULTANT ENVIRONMENTAL AND SOCIAL MONITORING OF THE IGB PROJECT FOR
COMPLIANCE WITH STANDARDS OF THE EUROPEAN INVESTMENT BANK**

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ABBREVIATIONS AND DEFINITIONS

Contracting entity	„ICGB“ AD
IGB	The gas pipeline connecting the Trans-Adriatic gas pipeline and the Greek national gas transmission network with the Bulgarian national gas network
Public procurement contract	A contract on award of a public procurement with the following subject: "Selection of a consultant for Environmental and social monitoring of the IGB project for compliance with standards of the European investment bank"
Documentation/ Documentation for a public procurement	The present documentation for the public procurement
The law of the country, in which the Participant/selected for Contractor is established	Applicable law as follows: (i) As regards the natural person – the national law within the meaning of art.48 ¹ Private International Law Code; (ii) As regards the legal entity – the law of the country determined in accordance with art. 56 ² of the Private International Law Code; (iii) As regards the alliances which are not legal entities – the law of the country where they are registered or established.
European single procurement document (ESPD)	A document, in which is provided the respective information, required by the Contracting entity and in which are specified the national data bases, which contain the declared circumstances or competent bodies
PPA	Public procurement act (prom. in SG issue 13 of 16.02.2016)
Contractor	Participant in the Procedure selected for a Contractor with a decision of the Contracting entity and with which the Contracting entity shall

¹ Art. 48. (1) Within the meaning given by this Code, the national law of a person (lex patriae) shall be the law of the State of the nationality of the said person.

(2) The national law of a person holding dual or multiple nationality, of which one is Bulgarian nationality, shall be Bulgarian law.

(3) The national law of a person who is a national of two or more foreign States shall be the law of the State of habitual residence of the said person. Where the person does not have a habitual residence in any State whereof the said person is a national, the law of the State with which the said person has the closest connection shall apply.

(4) Within the meaning given by this Code, the national law of a stateless person shall be the law of the State of habitual residence of the said person.

(5) Within the meaning given by this Code, the national law of a person with a recognized refugee status and of an asylee shall be the law of the State of habitual residence of the said person.

(6) Where in the cases referred to in Paragraphs (3), (4) and (5) the person does not have a habitual residence or such cannot be established, the law of the State with which the said person has the closest connection shall apply.

(7) Within the meaning given by this Code, "habitual residence of a natural person" shall denote the place where the said person has settled predominantly to live without this being related to a need of registration or authorization of residence or settlement. For determination of this place, special regard must be had to circumstances of personal or professional nature arising from sustained connections of the person with the said place or from the intention of the said person to establish such connections.

² Art. 56. (1) The legal entities shall be governed by the law of the country where they are registered.

(2) When, there is no need for registration in order to incorporate a legal entity or it is registered in several countries, the law of the country where its seat is located according to its incorporation act shall apply.

(3) If, where under para. 2 the location of the seat according to the incorporation act does not coincide with the location of the actual management of the legal entity, the law of the country where its actual management is located shall apply.

(4) The branch of the legal entity shall be governed by the law of the country where it is registered.

	execute Public procurement contract
Announcement on a public procurement	A document with which the Contracting entity announces the opening of the Procedure in accordance with the requirements of the PPA and which is approved together with the Documentation regarding the Public procurement in the Decision for the opening
(the) Public procurement	Public procurement with the following subject: "Selection of a consultant for Environmental and social monitoring of the IGB project for compliance with standards of the European investment bank"
Tender	Offer submitted by a Participant to implement the Public procurement which contains the Technical offer and the Price offer
Subcontractor	Person which has given its consent to implement a specific part of the Public procurement, designated by the Participant in the Offer (ESPD) and in the event that it is selected for a Contractor, it will conclude a subcontract
RIPPA	Rules on the implementation of the Public Procurement Act (promulgated in SG, issue 28 of 08 April 2016)
Project/IGB project	„Intersystem gas connector Greece – Bulgaria“ project
Procedure	The present open procedure with subject: "Selection of a consultant for Environmental and social monitoring of the IGB project for compliance with standards of the European investment bank", opened by Decision № P-18 of 09.12.2019 of the CONTRACTING ENTITY
Buyer's profile	Internet address of the Contracting entity http://www.icgb.bg/profil-na-kupuvacha/proceduri-za-vuzlagane-na-op where electronic documents regarding the Procedure are published
Working day	A day, which is not a public holiday or a national holiday in Republic of Bulgaria
Decision for opening	Act issued under the PPA by the Contracting entity for the opening of the procedure, approving the Announcement on the Public procurement and the Documentation regarding the Public procurement
PPR	Register of the public procurements constituting a single electronic data base with information for the circumstances which are subject to registration as regards the procedures for the award of public procurements
Technical offer	Part of the Tender containing Offer for implementation of the Public procurement according to the template in Appendix, attached to the present Documentation for a public procurement
Participant	Natural person or legal entity, or their alliance (where the alliance is not a legal entity)- an economic entity, which has submitted a Tender in the present procedure
Price offer	Part of the Tender containing the price offer of a Participant for the

price for performance of the Public procurement as per the template, attached to the present Documentation for a public procurement

I. GENERAL INFORMATION

The present documentation contains information, which gives an opportunity for the potential participants to get acquainted with the subject of the procurement, the general rules and conditions on preparation of the tender and the requirements to the participants in the procedure as well as the order for conduction and award of the public procurement.

1. INFORMATION ABOUT THE CONTRACTING ENTITY

The realization of the IGB project is made by the investment company "ICGB" AD where shareholders with equal share are the Bulgarian company "Bulgarian energy holding" EAD (50%) and the Greek company Intersystem connector Greece-Italy Poseidon SA (50%). "ICGB" AD was established as a project company with main purpose- construction, commissioning and operation of the gas pipeline.

Upon award of the present public procurement according to PPA and RIPPA, the executive directors who represent the Company, shall act as contracting authorities and shall apply the rules, valid for the sector contracting authorities.

II. DESCRIPTION AND SUBJECT OF THE PUBLIC PROCUREMENT

1. SUBJECT OF THE PUBLIC PROCUREMENT

The subject matter of the public procurement shall be **Selection of a consultant for Environmental and social monitoring of the IGB project for compliance with standards of the European investment bank**"Description:

The subject matter of the procurement comprises the implementation of an environmental and social monitoring of the project „Intersystem gas connector Greece – Bulgaria“ (IGB) for compliance with the environmental and social impact assessment and compliance with other management plans.

Detailed description of the conditions related to the implementation of the public procurement is presented in the Terms of reference, attached to the documentation.

Subject of the procurement

Subject of the present public procurement is „a service“ by virtue of art. 3, para 1, i. 3 of PPA, Code under the General glossary of terms, related to the public procurements (CPV): 71541000 – Services on management of projects, related to the construction.

2. LOTS

The public procurement is not divided to lots.

Arguments regarding the impossibility the procurement to be divided to lots: the activities, included within the scope of the procurement refer to one (and the same) project and are interrelated. The division of the public procurement to lots would be unsuitable for the contracting entity, because it shall cause real risk excessive technical difficulties to occur upon its realization and from raising the cost of the different types of activities. The subject of the procurement appears a complex of interrelated and inter-dependent activities, which are non-dividable from technological and time point of view. Exactly for that reason the award of the procurement to one contractor shall be the optimum variant from a technical and organizational point of view and shall significantly minimize the risk the inadequate organization of different contractors to cause incorrect, delayed performance or performance of poor quality. On the other side, the participation in the public procurement may be realized in all statutory ways including from consortium or with one or more subcontractors, which gives enough opportunities for ensuring competitive environment.

3. PLACE FOR IMPLEMENTATION OF THE PUBLIC PROCUREMENT

The place for implementation of the public procurement shall be on the territory of Republic of Bulgaria and the territory of Republic of Greece, including the seat of the Contracting entity – Sofia, No13 Vesletc str., fl. 2.

Some of the types of work can be performed at the office of the CONTRACTOR or at another place, if this is expedient or is required from the nature of implementation of the respective activity.

4. TERM FOR IMPLEMENTATION OF THE PUBLIC PROCUREMENT

The term of the contract on award of the public procurement shall be 5 (five) years on the grounds of art. 113, para 2 of PPA.

The term for implementation of the public procurement, as well as the phases and the tentative schedule are specified in the technical specification, attached to the present documentation.

5. ESTIMATE VALUE. PAYMENTS.

Estimate value:

The total estimate (maximum admissible) value of the public procurement is EUR **500 000 (five hundred thousand) exclusive VAT**

IMPORTANT!

The participants should develop their offers taking into consideration the maximum value of the budget, provided by the contracting entity. A participant, who has offered a price, higher than the estimate value of the present public procurement, shall be excluded from participation in the procedure.

The price, offered by the participant, has to be in whole positive numbers, with rounding till the second number after the decimal point and has to include all costs, related to the qualitative implementation of the procurement in the described type and scope, according to Technical specification.

The agreed price is final and it is not subject of actualization for the term of the contract for public procurement, except under the conditions and in the order, determined in the contract and in accordance with art. 116 of PPA.

The estimated value includes both the value of Phase 1 monitoring services and the value of annual site visits Phase 2 for the entire duration of the contract.

The value above also include additional visits if and to the extent such necessity occurs.

Payments:

The order and conditions for payment are specified in the draft-contract, attached to the present documentation.

The contracting entity shall pay the price via bank, on account of the contractor.

For the fact that the public procurement is of such a nature that part of it may not be delivered as a separate performance of the Contractor or of the Contracting entity, the conditions of payment do not envisage direct payment to the subcontractor.

6. TERM OF VALIDITY OF THE TENDERS

The term of validity of the tenders shall be pursuant to the terms as indicated in the Contract Notice.

The term of validity of the tenders shall be the time, during which the participants shall be bound by the conditions of the tenders, submitted by them.

The contracting entity shall invite the participants to extend the term of validity of the tenders, when it is not expired. When the term has expired, the contracting entity shall invite the participants to confirm the validity of their tenders for a new term, specified by it. A participant, who does not extend or confirm the term of validity of the tenders, shall be excluded from participation.

By submission of a tender it shall be considered that the participant agrees with the term of validity of the tenders, specified in the present documentation.

II. DOCUMENTATION FOR THE PUBLIC PROCUREMENT

1. ACCESS TO THE DOCUMENTATION

All interested persons shall be given unlimited, full, free and direct access to the documentation for participation, which shall be published in the buyer's profile on the internet site of the Contracting entity:

<https://www.icgb.eu/profil-na-kupuvacha/proceduri-za-vuzlagane-na-op>.

2. CLARIFICATIONS ON THE PROCEDURE

Any interested person or participant may ask in written, within 10 days before the expiration of the deadline for submission of the tenders, from the Contracting entity clarifications on conditions, which are contained in the decision, announcement and/or the documentation for public procurement. The contracting entity shall publish the clarifications in the buyer's profile on the following address: <https://www.icgb.eu/profil-na-kupuvacha/proceduri-za-vuzlagane-na-op> within 4-day term following the

receipt of the request, but not later than 6 days before the deadline for receipt of the tenders. In the provided clarifications shall not be specified the name of the person, who has made the request. The contracting entity shall not provide clarification under request, received after the statutory determined term.

III. CONDITIONS FOR PARTICIPATION. REQUIREMENTS TO THE PARTICIPANTS

1. GENERAL CONDITIONS

1.1. In the procedure on award of the public procurement can participate any Bulgarian or foreign physical and/or legal persons or their consortiums as well as any other formation, which meets the conditions, specified in the Public procurement act (PPA) of Republic of Bulgaria and the preliminarily announced conditions by the Contracting entity.

1.2. The participants have to study all instructions and conditions for participation, envisaged in the documentation for the public procurement;

1.3. Upon preparation of the tenders each participant has to strictly observe the announced conditions by the contracting entity.

1.4. The tenders should be made in Bulgarian and in English. In case of discrepancy between the two versions, the English version shall prevail.

1.5. Until expiration of the deadline for submission of tenders, each participant may change, supplement or withdraw his tender.

1.6. Each participant in the procedure shall have the right to submit only one tender.

1.7. A person, participating in a consortium or which has given consent to be a subcontractor of another participant may not submit an independent tender.

1.8. In the procedure on award of a public procurement, one (single) natural or legal person may participate only in one consortium.

1.9. Related parties by virtue of § 2, p. 45 of the Additional provisions of PPA may not be independent participants in one and the same procedure.

1.10. A branch of a foreign entity can be an independent participant in the procedure, if it can independently submit tenders and execute contracts according to the legislation of the state, in which it is established. In case that for proving correspondence to the requirements for technical and professional capabilities the branch refers to the resources of the trader, the branch has to submit evidence that upon implementation of the procurement it shall have these resources available.

1.11. The contracting entity shall not envisage and there is no requirement for establishment of a legal entity, if the participant, selected for a contractor, is consortium, which is not an independent legal entity.

1.12. The tender may not be offered in variants.

1.13. Upon submission of tenders it shall be considered that the participants agree with all conditions of the contracting entity, determined by it, incl. with the term of validity of the tenders and with the draft contract under the public procurement.

1.14. In the cases under art. 112, para 1, i. 2-4 of PPA the contracting entity shall observe the provision of art. 112, para 9 of PPA.

2. CONDITIONS FOR ELIGIBILITY OF THE PARTICIPANTS

2.1. The contracting entity shall exclude from participation in a procedure on award of a public procurement a participant, when:

2.1.1. Has been sentenced effectively, except if rehabilitated, for an offence pursuant to art. 108a. art.159a-159d, art.172, art.192a, art.194-217, art.219-252, art.253-260, art.301-307, art.321, 321a and art.352 -353f of the Criminal Code;

2.1.2. Has been sentenced effectively for a crime, analogical to those under i. 2.1.1, in another member-state or third country;

2.1.3. has liabilities for taxes and mandatory social security contributions by virtue of art. 162, par. 2, i. 1 of the Tax-Insurance Procedure Code and interests on them to the state or to the municipality under the seat of the contracting entity and the participant or analogical liabilities according to the legislation of the state, in which the participant is established, proven by an effective act of a competent entity

The requirement shall not apply in the cases under art. 54, para 5 of PPA.

2.1.4. there is inequality in the cases under art. 44, para 5 PPA;

2.1.5. it has been established that:

- a) a document has been submitted with false content related to certifying the non-existence of grounds for exclusion or compliance with the selection criteria;
- b) it has not been submitted required information, related to certifying the non-existence of grounds for exclusion or compliance with the selection criteria;

2.1.6. It has been established via an effective penal ruling or a court judgment a violation of Art. 61, para. 1, Art. 62, para. 1 or 3, Art. 63, para. 1 or 2, Art. 118, Art. 128, Art. 228, para. 3, Art. 245 and Art. 301-305 of the Labor Code or Art. 13 para. 1 of the Labor Migration and Labor Mobility Act or similar obligations established by an act of a competent entity under the legislation of the state in which the participant is established

2.1.7. There is a conflict of interest which may not be excluded.

Certification: *information regarding the lack or presence of the above-mentioned circumstances (i. 2.1.1. ÷ i. 2.1.6.) has to be filled in Part III, Section A-D of ESPD, as follows:*

In Part III, Section A the participant has to submit information regarding sentences about the following crimes:

1. *Participation in a criminal organization – under art. 321 and 321a of the Criminal code;*
2. *Corruption - under art. 301 - 307 of the Criminal code;*
3. *Fraud - under art. 209 - 213 of the Criminal code;*
4. *Terroristic crimes or crimes, which are related to terroristic activities - under art. 108a of the Criminal code;*
5. *Money laundering or financing terrorism - under art. 253 – 253b of the Criminal code and under art. 108a, para 2 of the Criminal code;*
6. *Child labor and other forms of traffic of people - under art. 192a or 159a – 159f of the Criminal code.*

In Part III, Section B the participant has to submit information regarding circumstances under i. 2.1.3.

In Part III, Section C the participant has to submit information regarding:

1. *Infringements of obligations in the field of the ecological law – under art. 352 – 352f of the Criminal code;*
2. *Infringements of obligations in the field of the social law – under art. 255b of the Criminal code;*
3. *Infringements of obligations in the field of the labor law – an effective penal ruling, violation of art. 118, art. 128, art. 245 and art. 301-305 of the Labor code, a crime under art. 172 of the Criminal code.*
4. *The circumstances under i. 2.1.7. and i. 2.1.5., letter „a” and „b”.*

In Part III, Section D the participant has to submit information regarding:

1. *Violations under art. 13, para 1 of the Labor Migration and Labor Mobility Act;*
2. *Violations under art. 61, para 1, art. 62, para 1 or 3, art. 63, para 1 or 2 and art. 228, para 3 of the Labor code;*
3. *Crimes under art. 194 - 208, art. 213 a - 217, art. 219 – 252, art. 254a – 255a and art. 256 - 260 of the Criminal code;*

The participants have to declare information about rimes, analogical to the ones, mentioned in i. 2.1.1 upon a sentence in another member-state or third country.

2.2. The grounds under i. 2.1.1, 2.1.2 and 2.1.7 shall refer to the persons, who represent the participant and for the members of his managing and supervision bodies according to the register, in which the participant is entered, if any, or the documents, certifying its legal personality. When in these bodies participates legal entity, the grounds shall refer to the natural persons, who represent it according t the register, in which is entered the legal entity, if any, or the documents, certifying its legal personality.

2.3. In the cases under i. 2.2., when the participant or a legal entity within its controlling or managing body is represented by natural person by proxy, the grounds under i. 2.1.1, 2.1.2. and 2.1.7 shall refer also to that natural person.

2.4. The contracting entity shall exclude from participation in a procedure on award of public procurement a participant, for which exist any of the following circumstances:

2.4.1. It is declared in insolvency or is under procedure of insolvency or is under winding-up procedure, or has entered into out-of-court agreement with its creditors by virtue of art. 740 of the Law on commerce, or has suspended its activity, and in case the participant is a foreign person – (it) is in a similar situation, resulting from a similar procedure according to the legislation of the state in which it is established.

2.4.2. it has entered into agreement with other persons, intending to distort the competition, when the violation is established by an act of a competent body.

Certification: *Information regarding the lack or presence of circumstances under i. 2.4.1. and 2.4.2. has to be filled in Part III, Section C of ESPD.*

2.5. Other grounds for exclusion

There shall be excluded from participation in the participation:

2.5.1. Participants who are related persons (art. 107, i. 4 of PPA).

Certification: *Information regarding the non-existence or existence of circumstances under i. 2.5.1 has to be filled in Part III, Section D of ESPD.*

2.5.2. A participant, for which exist some of the circumstances under art. 3, p. 8 of the Act on the economic and financial relation with the companies, registered in preferential tax regime jurisdictions, the persons related to them and their beneficial owners (AEFRCRPTRJ), save in the exceptions, specified in art. 4 of the same act

Certification: *the information regarding the existence or lack of the circumstances under art. 3, i. 8 of AEFRCRPTRJ has to be declared by the participants in Part III, Section D of ESPD. In case the company – participant is registered in a preferential tax regime jurisdiction, but the exceptions under art.4 of AEFRCRPTRJ apply, it has to be stated the particular exception.*

2.5.3. A participant, for which exist circumstances under art. 69 of the Act on counteracting corruption and on seizure of illegally acquired property.

Certification: *Information regarding the existence or lack of the circumstances under i. 2.5.3. has to be filled in Part III, Section D of ESPD.*

2.5.4. A participant, which does not meet the established selection criteria or does not meet another condition, stated in the announcement for a public procurement or in this documentation.

2.5.5. A participant, which has submitted a tender, which does not meet the preliminarily announced conditions for implementation of the public procurement and (of) rules and requirements related to the environment protection, the social and labor law, applicable collective agreements and/or provisions of the international ecological, social and labor law, which are listed in appendix № 10 of PPA.

2.5.6. A participant, which has not submitted in due course the justification under art. 72, para 1 of PPA or whose tender is not accepted according to art. 72, para 3 - 5 of PPA.

2.5.7. A participant which has submitted a tender, not meeting the conditions for submission, including those conditions, concerning the form, way and term.

2.5.8. A participant, which after a request or an invitation from the contracting entity does not extend or confirm the term of validity of his tender.

2.5.9. The tenders of the participants have to be prepared in observing the obligations, related to taxes and social security contributions, environment protection, employment and labor conditions protection, which are in force in the state or in the country, where has to be realized the construction or to be provided the services and which are applicable to the construction. Non-observance of the above-stated condition shall lead to exclusion.

2.6. When the participant envisages the participation of subcontractors upon implementation of the public procurement or shall use the resources of third parties, the above-stated requirements shall apply also towards the subcontractors and the third parties.

2.7. The grounds for exclusion shall apply also when a participant in the procedure is a consortium of natural and legal persons and for a member of the consortium exists any of these.

Note: In Part III, Section D of ESPD, the participants have to declare the non-existence of the listed in the present documentation national grounds for exclusion by marking of answer „NO“. If a participant decides to list the above-specified grounds for exclusion, the listing has to be exhaustive.

2.8. Reliability measures

According to art. 56, para 1 of PPA, if for a participant exist any of the above-mentioned grounds for exclusion under art. 54, para 1 of PPA and art. 55, para 1, i. 1 and i. 3 of PPA, the same shall have the right to furnish proofs that he has undertaken measures, which to guarantee his reliability despite the existence of the respective ground for exclusion. For that purpose the participant may prove, that:

- he has cleared its payables under art. 54, para 1 τ. 3 of PPA (respectively under item 2.1.3, of the documentation) including interest and/or fines accrued or that they have been rescheduled, deferred or secured

- he has paid or is in the process of paying a compensation due for all damages arising as a result of a crime or breach committed by him;
- he has exhaustively clarified the facts and circumstances by actively having assisted the competent authorities and having performed specific instructions, taken technical, organizational and personnel measures for preventing new crimes or breaches;
- has completely paid the due receivable under art. 128, art. 228, para 3 or art. 245 of the Labor code.

When the participant has undertaken reliability measures before submission of the tender for participation in the present public procurement, the same have to be described in the European Single procurement Document /ESPD/ in the field, related to the respective circumstance.

The Contracting entity shall assess the measures undertaken by the participant, taking into account the weight and specific circumstances related to the crime or infringement.

If the measures undertaken by the participant are enough in order to be guaranteed his reliability, the Contracting entity shall not exclude him from participation in the public procurement.

A participant, who by effective sentence or another act according to the legislation of the state, in which has been announced the sentence or has been issued the act, has no right to participate in procedures for public procurements or concessions, shall have no right to use the opportunity under art. 56, para 1 of PPA for the time, determined by the sentence or the act.

As an evidence for the reliability of the participant have to be submitted the documents under art. 45, para 2 of RIPPA.

The grounds for exclusion shall apply till expiration of the terms, specified in art. 57, para 3 of PPA.

2.9. According to art. 46 of RIPPA, in case during conduction of the procedure occurs any circumstance related to the grounds for exclusion under art. 54, para 1, art. 55, para 1, i. 1 and i. 3 and art. 101, apara 11 of PPA, the participant shall be obliged to notify in written the contracting entity within 3-day term following its occurrence.

2.10. Upon request on behalf of the contracting entity, the participants shall be obliged to submit the required information regarding the legal form, under which they run their activity as well as a list of all obliged persons by virtue of art. 54, para 2 and 3 of PPA, regardless of the name of the bodies, in which (they) participate, or the posts they hold.

3. SELECTION CRITERIA

3.1. GENERAL CONDITIONS

The Contracting entity shall specify selection criteria, which do not appear indicators for assessment of the tenders, but specify the minimum requirements for eligibility of a participant in the procedure.

According to art. 59, para 6 of PPA in case of participation of consortiums, which are not legal entities, the compliance with the selection criteria has to be proven by the consortium-participant, not by each of the persons, included in it, except with respective registration, submission of certificate or another condition, necessary for implementation of the public procurement, according to the requirements of a legal or administrative act and according to the allocation of the participation of the persons in implementation of the activities, envisaged in the contract for establishment of the consortium.

3.2. REQUIREMENTS REGARDING SUTABILITY OF THE PARTICPANTS

The Contracting entity has not envisaged requirements regarding the suitability (qualification) for exercising professional activity.

3.3. REQUIREMENTS TO ECONOMIC AND FINANCIAL STANDING OF THE PARTICIPANTS

The participant should have realized a turnover in the field, falling within the scope of the public procurement, at the total amount of not less than EUR 900 000 (nine hundred thousand) for the last three finished financial years, or depending on the date, on which the participant is established or has started his activity.

As a turnover in the field, falling within the scope of the public procurement, should be considered a turnover from implementation of consultancy services for preparation or monitoring of the implementation of reports and/or plans and/or environmental impact assessments.

Note: For local person, the turnover shall be calculated in euro as per the official exchange rate of Bulgarian national bank in BGN at the date of submission of the tender.

Clarification: the required turnover shall be calculated on the basis of the annual turnovers by virtue of § 2, i. 67 of the additional provisions of PPA.

CERTIFICATION:

Upon submission of the tender, the participant shall declare compliance with the established requirement as he has to fill in data about the respective financial years in Part IV: Selection criteria, section B. Economic and financial standing, field 2a of ESPD.

PROVING:

Pursuant to Art. 62, para. 1, item 1 or item 3 of the Public Procurement Act and Art. 112, para 1, item 2 of the Public Procurement Act, the Contracting Entity requires bank certificates or a copy of financial statements, which the Participant, designated as a Contractor, presents before the conclusion of the public procurement contract.

Note: when by due cause a participant is not able to submit the documents, required by the contracting entity, he may prove his economic and financial standing by the help of any other document, which the Contracting entity considers as being appropriate.

3.4. REQUIREMENTS FOR THE TECHNICAL AND PROFESSIONAL ABILITIES OF THE PARTICIPANTS

3.4.1. The participant should have performed at least one activity with a subject, identical or similar to the subject of the public procurement within the last three years as considered from the date of submission of the tender.

„Activity with a subject, identical or similar to the subject of the public procurement” shall mean activity on providing of Environmental and/or social consultancy services, related to environmental and social impact assessment or monitoring of the implementation of plans on reducing the environmental and social impact as these services should have been implemented for infrastructure projects for construction of onshore gas pipelines and in observing the implementation of the Environmental standards of the World bank or the European Bank for Reconstruction and Development or the European investment Bank.

The Contracting entity shall not set a requirement regarding the volume of the implemented service.

CERTIFICATION:

Upon submission of the tender, the participant has to declare compliance with the established requirement by filling in Part IV, section C, i. 16) of ESPD, as he has to provide information about the values, dates and recipients of the services, identical or similar to the subject of the public procurement.

PROVING:

Under the conditions of art. 67, para 5 and art. 112, para 1, τ. 2 of PPA, the Contracting entity shall require documents under art. 64, para 1 i. 2 of PPA, by which is proven the information, declared in ESPD: a list of the services, which are identical or similar to those of the public procurement, by stating the values, dates and recipients, together with a proof for the rendered service. The documents for proving the compliance with the set requirements shall be submitted by the participant, determined for contractor or upon request in the course of the procedure – in the cases of art. 67, para 5 and 6 of PPA. Evidence for the implemented service upon execution of the contract shall be provided only by the participant, determined for contractor.

In case of participation of consortium, which is not a legal entity, the respective information has to be filled in ESPD of the members of the consortium, by which the participant shall prove the established requirements and the documents have to be submitted by these members.

When the participant envisages participation of subcontractors, ESPD and the documents have to be submitted for each of the stated subcontractors.

3.4.2. The participant should have a personnel and/or managing staff with a certain professional competence for implementation of the public procurement, as follows:

Table №1 – requirements to the team

	Position	General requirements	Specific requirements
1.	Team leader	He/she should have educational-qualification degree minimum „Bachelor” or equivalent, specialty „Ecology” or „ Natural/Technical Studies” or equivalent (when the education is obtained abroad).	<ul style="list-style-type: none"> ✓ He/she should have managed at least one project for implementation of activities on environmental and social impact assessment or monitoring on the implementation of plans for environmental and social management and ✓ To have at least one activity related to projects for construction of gas pipelines and ✓ At least one activity to have been realized in observing the implementation of Environmental and social standards of the International financial institutions
2.	Expert– ecologist	He/she should have educational-qualification degree minimum „Bachelor” or equivalent, specialty „Ecology” or equivalent (when the education is obtained abroad).	<ul style="list-style-type: none"> ✓ He/she should have implemented at least two activities on a) environmental and social impact assessment or b) monitoring on the implementation of plans for environmental or social management for construction of a gas infrastructure as at least one of these activities should have been realized in observing the Environmental and social standards of the International financial institutions
3.	Expert „Social assessment“	He/she should have educational-qualification degree minimum „Bachelor” or equivalent, specialty „Ecology” or „Social studies” or equivalent (when the education is obtained abroad).	<ul style="list-style-type: none"> ✓ He/she should have implemented at least two activities on a) environmental and social impact assessment or b) monitoring of plans for implementation of measures related to reducing the social impact in implementation of infrastructure projects as at least one of these activities should have been realized in observing the Environmental and social standards of the International financial institutions.
4.	Expert „Interaction with local authorities and communities“	He/she should have educational-qualification degree minimum „Bachelor” or equivalent, specialty in the field of „Public communications and information studies” or equivalent (when the education is obtained abroad).	<ul style="list-style-type: none"> ✓ He/she shall have a specific experience in coordination and communication, including conduction of meetings, consultations, public discussions with municipalities, local authorities and the population in building infrastructure projects, which projects have been realized in observing the Environmental and social standards of the International financial institutions.
5.	Expert „Waste management “	He/she should have educational-qualification degree minimum „Bachelor” or equivalent, specialty „Ecology” or „Waste management“	<ul style="list-style-type: none"> ✓ He/she should have implemented at least one activity on a) development of Waste management plans or b) monitoring and control on implementation of Plans for waste management in

		or equivalent (when the education is obtained abroad).	realization of projects for construction of a gas infrastructure, which projects have been realized in observing the Environmental and social standards of the International financial institutions.
6.	Expert biologist/biodiversity	He/she should have educational-qualification degree minimum „Bachelor“ or equivalent in the field of the Biological studies“ or equivalent (when the education is obtained abroad).	✓ He/she should have implemented at least one activity on a) development of compatibility assessments of plans, programs, projects and investment proposals with territories, determines by protected areas or b) monitoring and control on implementation of conformity assessment in realization of projects for building a gas infrastructure, which projects have been realized in observing the Environmental and social standards of the International financial institutions.
7.	Expert “Cultural heritage protection”	He/she should have educational-qualification degree minimum „Bachelor“ or equivalent in the field of „History and archeology“ or equivalent (when the education is obtained abroad).	✓ He/she should have implemented at least one activity on a) development of plans, programs, projects for protection of the cultural-historical heritage or b) monitoring or control on implementation of plans, programs, projects for protection of the cultural-historical heritage or c) participation in conduction of archeological studies in implementation of projects for building a gas infrastructure, which projects have been realized in observing the Environmental and social standards of the International financial institutions.
8.	Expert „Health and safety labor conditions“	He/she should have educational-qualification degree minimum „Bachelor“ or equivalent in the field of the Technical studies or equivalent (when the education is obtained abroad).	✓ He/she should have implemented at least one activity on a) development of plans or programs for ensuring health and safety conditions of labor or b) monitoring or control on implementation of plans or programs on implementation of plans or programs on ensuring health and safety conditions of labor in building gas infrastructure, which projects have been realized in observing the Environmental and social standards of the International financial institutions.

Note: As “Environmental and social standards of the International financial institutions” are considered EIB ENVIRONMENTAL AND SOCIAL STANDARDS (Version 10.0 of 08/10/2018); The IFC Performance Standards (2012); The Equator Principles (2013); The WBG/IFC EHS Guidelines; HSSE Standards and Policies (i.e. ISO14001, OHSAS18001)

Note: The participant should have to offer different persons for each particular position of the team for implementation.

Clarification: *Upon use of experts – foreign persons, the proving of compliance with the set requirements for educational-qualification degree have to be certified also by stating equivalent specialties to the above-mentioned. There shall apply the provisions of Directive 2005/26/EC as well as the conditions and order for acknowledgment of professional qualifications, acquired in other member-states and in third countries with a purpose of access and exercising of regulated professions in Republic of Bulgaria. The burden of proving the equivalency shall be for the participant.*

CERTIFICATION:

Upon submission of a tender the participant shall declare compliance with the set requirement as he has to declare the persons of the managing team, which shall implement the public procurement, including:

- Specialist/expert (*full name and position (post), which shall hold the individual in implementation of the public procurement*);
- Professional qualification (*field/specialty, year of obtaining, № of the issued document, (institution)-issuer*);
- Specific experience - (*participation as respective expert in activities, pursuant to what is required in Table No1 with identification of the position, description of the activity and information which is evidencing compliance of the respective expert with the Contracting Entity requirements.*)

The information about the persons has to be filled in Part IV, section C, i. 6) of ESPD.

PROVING:

Under the conditions of art. 67, para 5 and art. 112, ал.1, т. 2 of PPA, the Contracting entity shall require documents under art. 64, para 1 i. 6 of PPA, by which to be proven the declared information in ESPD: a list of the personnel, which shall implement the public procurement, and/or of the members of the managing body, which shall be responsible for the implementation as well as documents, which prove the professional competence of the persons.

3.4.3. The participant should implement a quality management system according to the BDS EN ISO 9001:2015 standard or equivalent, with a scope, similar to the subject of the public procurement (activities on exercising Environmental and/or social consultancy services and/or conformity assessment of projects).

Clarification: *The Contracting entity shall accept equivalent certificates, issued from bodies, established in other member states as well as other proofs for equivalent measures for ensuring the quality, when the participant has not had an access to such certificates or he has not been able to receive them within the respective time-limits for reasons beyond his control. In such case the participant should be able to prove that the proposed measures are equivalent to the required ones.*

The certificates have to be issued by independent persons, who are accredited under the respective series of European standards from Executive agency „Bulgarian accreditation service” or from another national entity on accreditation, which is a party under unu the Multilateral agreement on the mutual recognition of the European accreditation organization about the respective field or to meet the requirements for acknowledgment according to art. 5a, para. 2 of the Act on the national accreditation of authorities for conformity assessment.

CERTIFICATION:

Upon submission of the tender the participant shall declare compliance with the requirement by filling in Part IV, Section D of ESPD as he has to state minimum the following data: type and number of the certificate, scope of certification, term of validity, incl. if applicable- web address in case the respective document is available in electronic form, the issuing body and the exact reference to the document.

PROVING:

Under the conditions of art. 67, para 5 and art. 112, para 1, i. 2 of PPA the participant has to submit certified copy of Certificate BDS EN ISO 9001:2015 or equivalent for an implemented quality management system or equivalent, with a scope of certification, similar to the subject of the public procurement, issued by independent persons, who are accredited under the respective series of European standards from Executive agency „Bulgarian accreditation service” or from another national entity on accreditation, which is a party under or the Multilateral agreement on the mutual recognition of the European accreditation organization about the respective field or to meet the requirements for acknowledgment according to art. 5a, para. 2 of the Act on the national accreditation of authorities for conformity assessment.

The Contracting entity shall accept equivalent certificates, issued by bodies, established in another member states.

NOTE:

In accordance with the provision of art.112, para 1 i. 2 of PPA, upon execution of a contract on award of the public procurement, the (entity), determined for a contractor should submit documents, certifying the non-existence of the grounds for exclusion from the procedure as well as the compliance with the established selection criteria, including for the third parties and the subcontractors, if any.

In case that in connection with art. 67, para 5 of PPA, after opening of the tenders and upon need for the lawful conduction of the procedure the Contracting entity has required submission of all or part of the documents, by which is proven the information, stated in ESPD, upon execution of a contract on award of the public procurement, the participant determined for a contractor shall have no obligation to submit them again.

4. DECLARATION AND PROVING THE COMPLIANCE WITH THE SELECTION CRITERIA

In accordance with art. 67 para 1 of PPA, upon submission of a tender the participant has to declare the non-existence of the grounds for exclusion and compliance with the selection criteria by submission of an European single procurement document (ESPD) under a form, approved by Implementing Regulation (EU) 2016/7 of the Commission dated 05.01.2016 (Form № 2). The form has to provide the respective information, required from the contracting entity and has to state the national data bases, which contain the declared circumstances or the competent bodies, which according to the legislation of the state, in which the participant is established, are obliged to provide information.

IMPORTANT!!! The European single procurement document /ESPD/ should be submitted in electronic format.

When the participant has stated that it shall use the capacity of third parties for proving the compliance with the selection criteria or that it shall use subcontractors, for each of these persons has to be submitted an individual ESPD, which contains the information under art.67, para 1 of PPA.

The participants may use ESPD, which has already been used in a precedent procedure for a public procurement, under condition that they shall confirm that the information, contained in it is still actual.

When the participant is a consortium, which is not a legal entity, ESPD has to be submitted by each of the participants in the consortium. If there is a need to be declared circumstances concerning the consortium, ESPD has to be submitted also for the consortium.

5. USE OF THIRD PARTIES'CAPACITY. SUBCONTRACTORS. CONSORTIUMS.

USE OF THIRD PARTIES'CAPACITY

1. According to art. 65, para 1 of PPA the participants may rely on the capacity of third parties, regardless of the legal relation between them, with respect to the criteria related to economic and financial standing, technical capabilities and professional competence. In these cases the participant has to fill in Part II, section „C” of ESPD and for each of the stated third parties has to be filled in and signed an individual ESPD by the third party.

2. With respect to the criteria related to professional competence and experience for implementation of the public procurement, the participants may rely on the capacity of third parties only if these persons will participate in performing that part of the procurement for which this capacity is required

3. When the participant relies on the capacity of third parties, he has to be able to prove that it will use their resources by providing documents for the commitments undertaken by the third parties.

4. Third parties have to meet the respective selection criteria, for proving of which the participant refers to their capacity and no grounds for exclusion from the procedure should apply for them.

5. The Contracting entity shall require from the participant to replace the third party, nominated by it, if this third party does not meet any of the conditions under i. 4 for a reason of change in circumstances before execution of the contract for a public procurement.

6. When a participant in the procedure is a consortium of natural and/or legal persons, he may prove the implementation of the selection criteria with the capacity of third parties in observing the conditions under i. 2-4.

SUBCONTRACTORS

1. In accordance with art. 66, para 1 of PPA the participants have to state in the tender the subcontractors and the share of the public procurement, which they shall award on them, if they intend to use subcontractors. In this case the participants have to furnish proofs about the commitments, undertaken by the subcontractors. The respective information has to be declared in Part II, Section C of ESPD and in Part IV, Section C, i. 10 of ESPD.

2. The subcontractors should meet the respective selection criteria in accordance with the type and share of the public procurement, which they shall implement and for them should not exist the grounds for exclusion from the procedure. For certifying these circumstances, about each of the subcontractors has to be drawn up and signed by the same an individual ESPD.

3. The Contracting entity shall require replacement of a subcontractor, which does not meet any of the conditions under art. 66, para 2 of PPA for a change in the circumstances before execution of the contract on award of the public procurement.

4. In the course of implementation of the contract for the public procurement a replacement or inclusion of a subcontractor shall be allowed if needed, under the conditions of art. 66, para 14 and 15 of PPA.

CONSORTIUMS

1. If the participant shall participate as an alliance (or consortium), which is not registered as an independent legal entity, he has to submit a copy of a document (Memorandum of association/agreement/contract for alliance/consortium) for establishment of the consortium as well as the following information in relation to the particular public procurement:

- The rights and obligations of the participants in the consortium;
- The distribution of the responsibility between the members of the consortium;
- The activities to be implemented by each member of the consortium.

2. The term of the consortium has to be at least for the time, for which the public procurement shall be implemented. The participants in the alliance/consortium have to determine one person, who shall represent them before third parties.

3. The document has to be signed by the persons in the consortium as this document should indicate the representative of the consortium. When the contract does not indicate the person, who shall represent the participants in the consortium, there has to be submitted also a document, signed by the persons in the consortium, in which should be indicated the representative.

4. There shall not be allowed changes in the members of the consortium after submission of the tender.

5. When in the agreement for establishment of alliance/consortium there are no clauses, guaranteeing the above-mentioned conditions or the members of the consortium have changed after submission of the tender, the participant shall be excluded from participation in the procedure on award of the present public procurement.

6. When the tender does not contain agreement for establishment of alliance / consortium, the Commission appointed by the contracting entity for examination and assessment of the submitted tenders shall ask for its submission on the grounds of art. 54, para 8 and 9 of RIPPA.

7. The decision for opening of the procedure shall not envisage an establishment of a legal entity, when the participant, determined for a contractor in the procedure, is alliance of natural and/or legal persons. Upon award of the implementation of the activities, the contract for the public procurement shall be executed after the participant, determined for a contractor, submits before the contracting entity a certified copy from certificate for tax registration and BULSTAT registration or equivalent documents according to the legislation of the state, in which the consortium is established.

IV. CRITERION FOR AWARD OF THE PUBLIC PROCUREMENT

The assessment and classification of the tender shall be made based on „the most economically advantageous tender”. The most economically advantageous tender shall be determined on the grounds of award criterion „*the lowest price*” under art. 70, para 2, p. 1 of PPA.

The participant with lowest total price for all the services included in the scope ranked first. .

V. CONTENTS OF THE TENDER

1. REQUIREMENTS TO THE CONTENTS OF THE TENDER

1.1. The tender has to be submitted in Bulgarian and English in a sealed, non-transparent envelope, it has to be submitted by the participant or by a representative, authorized by the participant, personally or by postal or other courier service by registered letter with acknowledgment of receipt, at the place and within the time-limit for submission of tenders, specified in the announcement for public procurement. All documents have to be copied in an electronic storage medium, in a scanned electronic copy, in two different folders – Bulgarian and English version. The name of the file should state the type of the document.

1.2. On the envelope the participant has to state:

1.2.1. the name of the participant, including the participants in the consortium, when applicable;

Note: *If on the envelope is stated that the participant is consortium, it should be also specified the participants in the consortium.*

1.2.2. correspondence address, phone and if possible – fax and electronic address;

1.2.3. the name of the public procurement.

1.3. All documents should be:

a) signed or certified (when they are copies) by marking „True to the original” and signature, except for the documents, for which are stated specific requirements for their type and certification;

b) the documents and the data in the tender have to be signed only by persons with representative entity according to the commercial registration or by persons, authorized for that. In the second case when documents, related to participation in public procurements, are submitted by a person, who represents the participant by proxy, ESPD has to state Information regarding the scope of his representative entity. If the participant is alliance, which is not a legal entity, the documents in the tender have to be signed by the representative of the alliance.

c) the tender should not have any inscriptions between the lines, deletions or corrections.

2. CONTENTS OF THE ENVELOPE

Contents of the envelope according to art. 47, para 3 of RIPPA:

2.1. List of the submitted documents, contained in the tender, signed by the participant – it has to be filled in **Form № 1**.

2.2. European single procurement document (ESPD), which has to be submitted in accordance with the requirements of art. 67 of PPA and the conditions of the contracting entity and has to be signed according to art. 40 and art. 41 of RIPPA – **ESPD should be in electronic form!** – it has to be filled in **Form № 2**.

2.2.1. Instruction on preparation of ESPD:

Upon submission of a tender, the participant has to declare the non-existence of the grounds for exclusion and compliance with the selection criteria by submission of European single procurement document (ESPD).

Important:

The Contracting entity may at any time after the opening of the tenders ask for submission of all or part of the documents, by which is proven the information, specified in ESPD, when this is necessary for the lawful conduction of the procedure. The documents have to be submitted also for the subcontractors and the third parties, if any.

When a participant in a public procurement is alliance, which is not a legal entity, ESPD shall be submitted by each of the participants in the alliance. If there is need for declaration of circumstances related to the alliance, ESPD shall be submitted for the alliance too.

It shall not be allowed deletion of parts of ESPD, the documents has to be submitted under a (particular) Form, as there have to be filled in only the parts, concerning the public procurement and the requirements of the contracting entity.

One of the possible ways for submission of ESPD in an electronic form is the ESPD to be digitally signed and enclosed in appropriate optic storage medium to the pack of documents for participation in the procedure. The form, in which the document shall be submitted, should not allow editing of its contents.

Another opportunity for submission is through provided electronic access to the developed and electronically signed ESPD. In this case the document should have the so called time stamp, which to certify that ESPD is signed and uploaded on the internet address, to which is made redirection, before the deadline for submission of the tenders.

- Preparation of ESPD by use of the Form (sample) in *.docx form:

The present documentation is accompanied by a Form of ESPD in a *.doc form, which may be filled in and signed by electronic signature.

After filling in the Form, it has to be converted in a form, which does not allow editing of its contents and has to be signed by a qualified electronic signature (QES) by the obliged persons and has to be submitted in an electronic form on appropriate storage medium (CD, DVD, Flash drive, etc.) to the documents for participation in the procedure.

The particular persons, from which is required to declare data in ESPD are according to art. 40 and art. 41 of RIPPA.

- Preparation of eESPD by usage of the information system of the Public procurement agency (PPA):

eESPD is a personal declaration, in electronic form. The obligation for submission of this document electronically lies with the provision of art. 67, para 4 of PPA.

eESPD (espd-request) might be prepared also by use of the free service, provided from the Public procurement agency through the information system for eESPD. The system provides an opportunity for filling in a Form online, after which the same may be downloaded, signed electronically and attached to the tender. The system is directly accessible on the following address <https://espd.eop.bg/espd-web/filter?lang=bg>.

The present documentation is accompanied by an electronic Form of ESPD (eESPD) – a file, which is intended for use in the electronic system for eESPD.

Detailed instructions on the preparation and submission of an electronic eESPD are given on the internet site of the Public procurement agency:

Methodological instructions

<https://www2.aop.bg/metodologiya/metodicheski-ukazaniya/?cpage=2>

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Instructions in section „Questions and answers” - <https://www2.aop.bg/metodologiya/vyprosi-i-otgovori> The system is used by contracting authorities and participants, it does not require registration and it allows retention of the files in two formats:

- PDF – appropriate for review and;
- XML – appropriate for computer processing.

Important! The eESPD system is an online application and it can't store data, therefore eESPD in XML or PDF form should always be saved and stored locally on the user's computer.

In the cases when ESPD is filled in through the eESPD system, upon its submission by electronic signature it has to be signed the version in PDF form.

The participants in the procedure have to load in the system the XML file of eESPD, to fill in the data to store it after which to sign it by electronic signature.

It is recommendable to be downloaded eESPD in both forms. Downloading in .pdf form is necessary in order to be digitally signed and to be submitted to the contracting entity. Signing of .xml form is not needed, but its storage makes possible the re-use of the filled in information.

The participants may use ESPD, which has already been used in a precedent procedure for a public procurement, if they confirm that the information contained in it is still current (actual). The participants may use the opportunity when there is provided direct and unlimited access in electronic way to already developed and signed electronically ESPD.

In these cases, to the documents for selection instead of ESPD has to be submitted a declaration, by which is confirmed the actuality of the data and the authentication of the signatures in the published ESPD and has to be stated the address, on which is provided access to the document.

2.2.2. Filling of ESPD:

In part I: „Information about the procedure on award of public procurement and about the awarding entity or the contracting entity” contains identifying information for the procedure on award of public procurement.

In part II, Section A of ESPD the participants have to declare a unified identification code under art. 23 from the Commercial register act, BULSTAT and/or other identifying information in accordance with the legislation of the state, in which the participant is established, as well as an address, including electronic address, for correspondence during conduction of the procedure. When participant in a public procurement is alliance, which is not a legal entity, in part II, Section A of ESPD has to be stated the legal form of the participant (alliance/consortium/other).

In part II, Section B of ESPD has to be stated the name/s and address/addresses of the person/s, authorized to represent the participant for the purposes of the procedure on award of public procurement, as well as all persons, who represent the participant, the members of its managing and supervisory bodies (the persons, described in art . 40 of RIPPA).

A participant (economic operator), who participates individually, but has stated that it shall use the capacity of third parties for proving the compliance with the selection criteria has to submit an individual ESPD for each of these persons. The third parties should meet the respective selection criteria, for proving of which the participant refers to their capacity and for them should not exist the grounds for exclusion from the procedure. The participant (economic operator) has to fill in Section C „Information regarding use of capacity of other entities” of part II of ESPD. If the field is filled in with „Yes” it has to be submitted a duly filled in ESPD, signed by the persons under art. 40, para 1 of RIPPA, for the third parties. In ESPD has to be stated the information, required under section A and B of part II, it has to be filed in Part III „Grounds for exclusion” and part IV „Selection criteria” only about the resource, which shall be made available for use.

Participant (economic operator), who participates individually, but has stated that it shall use one or more subcontractors, has to submit a separate ESPD about each of the subcontractors. The subcontractors should meet the respective selection criteria depending on the type and share of the public procurement, which they shall implement and for them should not exist grounds for exclusion from the procedure. The participant (economic operator) has to fill in Section C of part II of ESPD. If the field is filled in with „Yes”, it has to be submitted ESPD for each subcontractor – duly filled in and signed by the persons under art. 40, para 1 of RIPPA. In ESPD the subcontractor/s should state the information, required under section A and B of part II and has to fill in Part III „Grounds for exclusion” and part IV „Selection criteria” depending on the type and share of the public procurement, which they shall implement.

The information concerning the declaration of the conditions for eligibility of the participants and the selection criteria is described in details in i. 2. „Conditions for eligibility of the participants” and i. 3. „Selection criteria” of section III. „Conditions for participation. Requirements to the participants” of the present documentation for participation.

When the requirements under art. 54, para 1 i. 1, 2 and 7 of PPA refer to more than one of the persons under art. 54, para 2 and para 3 of PPA and there is no difference for them, ESPD may be signed only by one of these persons if the signatory has information about the authenticity (reliability) of the declared circumstances with regard to the other obliged persons. **In order to be considered the above-stated as being implemented, all obliged persons (the persons, described in art. 40 of RIPPA) should be specified in Part II, section B of ESPD or the person, signing the ESPD has to submit a declaration according to a Form of the contracting entity (Form № 3).**

When there is need for protection of the personal data in case of difference in the circumstances, related to the personal situation of the persons under art. 54, para 2 and 3 of PPA, the information concerning the requirements under art. 54, para 1 т. 1, 2 и 7 of PPA, has to be filled in a separate ESPD, signed by the respective person.

When documents, related to participation in public procurements, are submitted by a person, who represents the participant by proxy, in ESPD has to be declared information regarding the scope of his representative power.

2.2.2. Declaration concerning the authenticity of the declared circumstances under art. 54, para 1 i. 1, 2 and 7 of PPA as regards the other obliged persons. The declaration has to be filled in by the person, who shall sign ESPD, according to **Form № 3** (in case it is applicable).

2.2.3. Documents for proving the undertaken measures for reliability in accordance with art.45, para 2 of RIPPA, in connection with art. 56, para 1 of PPA, when applicable.

2.2.4. Document for establishment of the alliance in accordance with art.37, para 4 of RIPPA if the participant is alliance, which is not a legal entity, signed by the persons, included in the alliance – **a copy certified by the participant.**

2.2.5. Declaration* under art. 102 of PPA, filled in and signed by the participant according to Form **№ 4** (if applicable).

** In case of non-submission of a Declaration for confidentiality under art. 102 of PPA, the Contracting entity shall consider no information as confidential. **The participants may not refer to confidentiality regarding the offers from their tenders, which are subject of assessment.***

2.3. A tender, including the documents under art.39, para 3 of RIPPA, as follows:

2.3.1. TECHNICAL OFFER – under art. 39, para 3, i. 1 of RIPPA – under **Form № 5**, in original.

A participant, which technical offer does not meet the requirements of the contracting entity shall be excluded from participation in the procedure on award of the public procurement, as respectively it shall not be subject of assessment according to the criterion on award of the public procurement.

2.3.2. Price offer – it has to be filled in **Form № 6** – original, signed by the representative of the participant or an authorized person.

In their price offers the participants should include all costs, related to the qualitative implementation of the public procurement in the specified type and scope according to the technical specification.

CONTENTS OF THE ENVELOPE „OFFERED PRICE PARAMETERS” – separate, sealed, non-transparent envelope labeled „Offered price parameters” – in it has to be put the price offer under art. 39, para 3 i. 2 of RIPPA and for the performance of the services, the participants shall offer price parameters as follows:

- ✓ For the execution of the services in Phase 1 of the Terms of Reference - a total lump price for the implementation of all activities included in Phase 1, covering all costs of the contractor;
- ✓ For the implementation of Phase 2 services – unit price per site visit.
- ✓ Total price – for implementation of the full scope of services.

Outside the envelope labeled „Offered price parameters” should not be stated any information regarding the price;

Participants, which have included in any way anywhere in their tender outside the envelope „Offered price parameters” elements, related to the offered price (or parts of it), shall be excluded from participation in the procedure.

IMPORTANT!

The price offered by the participant should be in whole positive numbers, rounded till the second number after the decimal point and should include all costs, related to the qualitative implementation of the public procurement in the described type and scope according to Technical specification.

Participant, which has offered a price, higher than the estimated value of the present public procurement, shall be excluded from participation in the procedure.

In preparing the above-stated documents each participant has to strictly observe the conditions, announced by the contracting entity.

VI. PREPARATION AND SUBMISSION OF THE TENDER

1. The presented forms (samples) in the documentation for public procurement and the conditions, described in them, are mandatory for the participants. The tenders of the participants have to be in accordance with these forms.

2. The tenders for participation have to be prepared in Bulgarian and English. When a participant in the procedure is a foreign natural or legal person or their alliances the documents, which are in a foreign language should be submitted translated.

All documents have to be submitted on a hard copy as identical copy has to be submitted on an electronic storage medium (usb, CD), in a scanned electronic copy, in two counterparts – in Bulgarian and English.

Upon discrepancy between the Bulgarian and English version the English version shall prevail.

Upon discrepancy between the contents on a hard copy and on an electronic storage medium, the (contents of) the hard copy shall prevail.

3. The documents submitted in the tender have to be signed or certified (when they are copies) by marking „True to the original”, except the documents, about which are stated the specific requirements for their type and certification.

4. The tender has to be signed by the person, representing the participant or by duly authorized persons or persons.

5. Upon submission of the tender the participant may specify information, which it considers confidential in connection with the existence of commercial secret, therefore the contracting entity should not disclose it. The participants may not refer to confidentiality as regards offers in their tenders, which are subject of assessment.

6. The tender has to be submitted in a sealed non-transparent envelope by the participant or by a representative, authorized from it – in person or by postal or courier service, with registered letter with acknowledgment of receipt to the following address: Sofia, No13 Veslelc str., fl. 2.

7. The deadline for submission of the tender shall be according to the Announcement for the public procurement.

8. Each participant has to ensure the timely receipt of the tender by the contracting entity.

9. Till expiration of the deadline for submission of tenders each participant may change, supplement or withdraw its tender. Withdrawal of the tender shall terminate the further participation of the participant in the procedure.

10. Upon submission of the envelope, containing the documents for participation and its acceptance, on the envelope shall be marked the sequence number, date and time of submission and these data shall be entered into an entry register. A document shall be issued to the participant, certifying the submission of the tender.

11. Tenders, which are submitted after expiration of the deadline for receipt or which are in unsealed envelope or in a damaged envelope shall not be accepted for participation in the procedure and shall be immediately returned to the participants. These circumstances shall be registered into the entry register.

12. When at the moment of expiration of the deadline for receipt of tenders in front of the place for their submission there are persons still waiting, they shall be included in a list, which shall be signed by a representative of the contracting entity and by the presenting persons and the documents for participation of the persons shall be registered into the entry register.

13. It shall not be allowed receipt of documents for participation from persons, who are not included in the list under the previous item.

VII. EXAMINATION, ASSESSMENT AND CLASSIFICATION OF THE TENDERS

1. The received tenders shall be opened on a public session by the appointed commission under art. 103, para 1 of PPA, at which may present the participants or their authorized representatives as well as representatives of the mass media. The public session shall take place on the date, location and time, stated in the Announcement for the opening of the public procurement. In case of change of the date, time or location for opening of tenders, the participant shall be notified through the Buyer's profile at least 48 hours prior to the newly-determined time.

2. The actions of the commission shall be made in accordance with the provision of art. 54, art. 56, art. 57, art. 58 and art. 60 of RPPA.

VIII. TERMINATION OF THE PROCEDURE

1. The procedure shall end by issuance of decision on determination of contractor or on termination of the procedure.

2. The Contracting entity shall determine for a contractor of the public procurement a participant, for which are met the following conditions:

- There are no the grounds for exclusion, except in the cases under art. 54, para 5 of PPA and the participant meets the selection criteria;

- The tender of the participant has received the highest ranking upon implementation of the preliminary announced conditions and the chosen award criterion by the contracting entity.

3. The decisions shall be sent on one and the same day to the participants and shall be published in the Buyer's profile.

IX. PERFORMANCE GUARANTEE FOR THE CONTRACT

1. PERFORMANCE GUARANTEE FOR THE CONTRACT

The Contracting entity does not require a Performance guarantee in the implementation if this public procurement.

1.1.

X. EXECUTION OF A CONTRACT FOR A PUBLIC PROCUREMENT

1. Prior to the execution of a contract for public procurement, the contracting entity shall ask the participant determined for contractor, to submit:

1.1. According to art. 112, para 1 i. 2 of PPA – current documents, certifying the non-existence of the grounds for exclusion from the procedure, as well as the compliance with the established selection criteria. There have to be submitted also the documents regarding the subcontractors and the third parties, if any.

For proving the non-existence of grounds for exclusion of the participant, selected for a contractor, shall be obliged to submit:

- a) About the circumstances under art. 54, para 1 i. 1, PPA – certificate showing no previous conviction;
- b) About the circumstance under art. 54, para 1 i. 3, PPA – certificate from the revenue authorities and certificate from the municipality under the seat of THE CONTRACTING ENTITY and the Participant unless it might be received by the Contracting Entity *ex officio*;
- c) About the circumstance under art. 54, para 1 i. 6, PPA – certificate from the bodies of Executive agency „General labor inspectorate“. If the certificate contains information about an effective penal ruling or court judgment for a breach under art. 54, para 1 i. 6 of PPA, the participant shall submit a declaration, that the breach has not been made upon implementation of a contract for public procurement;

1.2. The determined guarantee for implementation of the contract

1.3. Certified copy of certificate for tax registration and for BULSTAT registration or equivalent documents according to the legislation of the state, in which the alliance is established, when the determined contractor is unincorporated alliance of natural and/or legal persons - according to art. 70 of RIPPA (when the Contracting entity has not envisaged in the announcement a requirement for establishment of a legal entity)

or

1.4. Declaration under art. 59, para 1 i. 3 from the Measures against money laundering act, according to Appendix № 2 to art. 37, para 1 of the Rules on implementation of the Measures against money laundering act in a template issued by the Contracting Entity.

1.5. Declaration under art. 42, para 2, i. 2 of the Measures against money laundering act, according to Appendix № 1 to art. 26, para 1 of the Rules on implementation of the Measures against money laundering act issued by the Contracting Entity.

1.6. Declaration under art. 66, para 2 of the Measures against money laundering act, according to Appendix № 4 to art. 47, para 1 of the Rules on implementation of the Measures against money laundering act issued by the Contracting Entity. This declaration shall be applicable when in the declaration under item 2.5. pursuant to art. 26, para 1 of RIMAMLA is stated that the person falls within the categories under art. 36, para 2 and para 5 of MAMLA.

1.7. The documents shall be submitted in original or in a copy, certified by the participant. The documents shall be submitted for each member of the consortium as well as for each of the subcontractors and the third parties, if such shall be used.

When the participant, selected for contractor is a foreign entity, it has to submit the respective document, issued by a competent authority according to the legislation of the state in which the participant is established. When the respective state does not issue such document or when this document does not contain all circumstances, the participant should submit declaration, if such declaration has legal meaning according to the legislation of the respective country. If such declaration has no legal meaning the

participant shall submit an official request, made to a competent body in the respective country.

In the cases when the selected for a contractor is a foreign entity and in the respective country no such documents are issued about the (above)stated circumstances or when the documents do not comprise all circumstances, the participant shall submit a declaration, if such declaration has legal meaning according to the legislation of the respective country.

2. Execution of a contract with a subcontractor

2.1. The contractors shall execute a contract for subcontracting with the subcontractors, specified in the tender, after execution of the contract and to the latest before starting its implementation.

2.2. Within 3 days following the execution of a contract for subcontracting or additional agreement for replacement of a subcontractor, specified in the tender, the contractor shall send a copy of the contract or the additional agreement to the contracting entity together with proofs that the conditions under art. 66, para 2 and 14 of PPA are met.

2.3. The subcontractors shall have no right to re-award one or more of the activities, which are included in the subject of the contract for subcontracting. It shall not be considered as a breach the delivery of goods, materials or equipment, required for the implementation of the public procurement, when such delivery does not include installation, as well as the execution of contracts for services, which do not appear part of the contract for the public procurement, respectively from the contract for subcontracting.

XI. APPEAL

The appeal shall be made under the order of chapter twenty seventh „Procedure on appeal” of the Public procurement act.

Every decision of the contracting entity on the procedure for award of the public procurement shall be subject of appeal regarding its conformity with the law, including for existence of discriminative, economic, financial, technical or qualification requirements in the announcement, documentation or in any other document related to the procedure.

Any interested person may file an appeal under the conditions and within the terms under art. 197 of PPA.

XII. CALCULATION OF PERIODS

1. The periods, specified in this documentation, shall be calculated as follows:

- when the term is specified in days, it shall expire at the end of the last day of the specified period;
- when the term is specified in days after particular action or event, the date of occurrence of the action or event shall not be taken into account;
- when the last day of a certain term coincides with a public holiday or a non-working day, on which has to be made particular action it shall be considered that the term expires at the end of the first working day, following the non-working day;
- when the term is specified in years, it shall expire on the respective day of the last year and if the month of the last year has no respective date, the term shall expire on its last day;
- when the term is specified in months, it shall expire on the respective date of the last month and if the last month has no respective date, the term shall expire on its last day;
- when the term is specified in weeks, it shall expire on the respective day of the last week.

2. The terms in the documentation shall be in calendar days. When the term is in working days, this shall be explicitly indicated upon stating the respective term.

XIII. EXCHANGE OF INFORMATION

1. The exchange of information between the contracting entity and the participant may be realized in one of the following admissible ways:

- In person– against signature;
- By post – by a registered letter with acknowledgment of receipt, sent to the address, stated by the participant;
- By courier service;
- By fax;
- Electronically – by electronic mail. In case of notification by electronic mail (incl. e-mail, indicated on official website of the participant), the moment of receipt by the

participant/interested person/contractor shall be considered as from the date the contracting entity has received confirmation from a participant/interested person/contractor about received electronic notice/notification from the contracting entity;

- Through a combination of these means.

2. In the Buyer's profile shall be ensured publicity of the documents and information, listed in art. 36a, para 1 of PPA, concerning the present public procurement.

3. By publishing the documents in the Buyer's profile it shall be considered that the interested persons and/or the participants are notified about the circumstances, stated in them, except if otherwise is envisaged in PPA.

4. All communications and actions between the contracting entity and the participants, connected with the present procedure, shall be in written.

5. The participants may submit their letters and notifications at the office of the contracting entity on the following address: Sofia, No 13 Veslets str., fl. 2, each working day, by post or by courier service, or electronically under the conditions and the order of the Electronic document and electronic signature act.

6. The exchange of information by serving it personally against signature shall be made on behalf of the contracting entity through the contact persons, specified in the Announcement.

7. The exchange and storage of the information in the course of conduction of the procedure on award of public procurement shall be made in a way, guaranteeing the integrity, authenticity and confidentiality of the information.

8. Till finalization of the procedure and award of the public procurement it shall not be allowed exchange of information on issues, related to its conduction, except under the order, envisaged in PPA and in the documentation, between an interested person, a participant or their representatives and:

a) the bodies and employees of the contracting entity, connected with the conduction of the procedure;

b) The bodies, officials, consultants and experts, who have participated in the development and submission of the documentation for participation.

9. The bodies, officials, consultants and experts, who are connected with the conduction of the procedure, shall have no right to disclose information regarding the actions, made by them, concerning or related the procedure except in the cases and under the order, determined by the documentation.

The participants may receive the needed information for the obligations, related to taxes and social security contributions, environment protection, employment protection and the conditions of labor, which are in force in Republic of Bulgaria and which concern the subject of the public procurement, as follows:

Regarding the obligations, related to taxes and social security contributions:

National revenue agency:

Information phone of NRA - 0700 18 700;

Internet address: www.nap.bg

Regarding the obligations (related to) environment protection:

Ministry of environment and water

Information center of MEW:

1000 Sofia, No67 Gladston str., Phone: 02/ 940 6331 each working day from 14:00 p.m. till 17:00

p.m.

Internet address: <http://www3.moew.government.bg/>

Regarding the obligations (related to) employment protection and the conditions of labor:

Ministry of labor and social policy:

Internet address: <http://www.mlsp.government.bg>

Sofia 1051, No2 Triaditsa str.

Phone: 02/8119 443

Important: In connection with the provision of art. 48 para 2 of PPA it should be considered as supplemented „or equivalent” everywhere in the decision, the announcement, the documentation for participation and the appendices to it, where is contained reference to a register, a document for a right

for implementation of particular activity or legal grounds for execution of particular activity, depending on the legislation of the state, in which the foreign participant is established“.

XIV. PRIORITY OF THE DOCUMENTS

Upon discrepancy or ambiguity in the various texts of the documents, included in the present documentation, there shall apply the documents of higher priority in the following succession:

- Announcement for a public procurement;
- Decision on opening of the procedure;
- Documentation;
- Technical specification;
- Draft contract;
- Forms (samples) of documents.

The document of highest priority is specified on a first place.

For all issues unsettled in the present documentation shall apply the provisions of the Public procurement act, the Rules on its implementation and the civil legislation of Republic of Bulgaria.

XV. APPENDICES

- Form № 1 – List of the submitted documents;
- Form № 2 – ESPD;
- Form № 3 - Declaration under art. 41, para 1 of RIPPA about the authenticity of the declared circumstances under art. 54, para 1 i. 1, 2 and 7 of PPA as regards the other obliged persons
- Form № 4 - Declaration under art. 102 of PPA;
- Form № 5 – Technical offer;
- Form № 6 – Price offer;
- Draft contract;
- Terms of reference;