Number: 2020-221

Date: July 2020

**TENDER DOCUMENTATION**

**FOR THE AWARD OF THE PUBLIC CONTRACT**

**FOR THE PROCUREMENT OF PERSONAL PROTECTIVE EQUIPMENT ACCORDING TO THE OPEN PROCEDURE**

**CONTENT:**

The Tender Documentation comprises:

1. Instructions to tenderers for preparation of tenders,
2. Form »Single European Procurement Document in relation with awarding the public contract – ESPD« for all economic operators,
3. Technical specifications,
4. Form »Estimated value of single lots«,
5. Instructions for using the information system for deploying the functionality of the electronic submission of tenders e-JN: PONUDNIKI at the web address [https://ejn.gov.si](http://?),
6. Model public procurement contract,
7. Model financial collateral to guarantee that the contract will be taken up if it is awarded – tender security
8. Model financial collateral to guarantee that the contractual obligations will be fulfilled – performance security,

Form »Tenderer’s authorisation to obtain information«,

Form »Natural person’s authorisation to obtain information«,

Form »Statement on participation of natural and legal persons in the tenderer’s ownership structure«

**INSTRUCTIONS TO TENDERERS FOR THE**

**PREPARATION OF TENDERS**

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# THE CONTRACTING AUTHORITY

This public procurement is performed by Zavod Republike Slovenije za blagovne rezerve (Agency of the Republic of Slovenia for Commodity Reserves), Dunajska cesta 106, 1000 Ljubljana (hereinafter referred to as: the Contracting Authority).

The Contracting Authority invites all interested tenderers to submit their tenders in accordance with the requirements set out in the procurement/tender documentation.

# DOCUMENT REFERENCE NUMBER AND THE SUBJECT MATTER OF THE PUBLIC TENDER

Document Ref. No.: JN 2020-221

The subject matter of the public tender is **the procurement of the personal protective equipment**, by means of which the Contracting Authority will execute the Decision adopted by the Government of the Republic of Slovenia No. 01201-7/2020/5 as of 8 July 2020.

The detailed specification and the quantities of the items of personal protective equipment, which is the subject matter of the public procurement, can be seen in the technical specifications and the estimated value of the lot categories.

# MANNER FOR THE SUBMISSION OF PUBLIC TENDER

In accordance with Article 40 of the Public Procurement Act (*Zakon o javnem naročanju*) (Official Gazette of the Republic of Slovenia, Nos. 91/15 and 14/18; hereinafter referred to as: the Public Procurement Act (ZJN-3)), an open procedure shall be conducted for the award of a public contract.

The procurement is divided in 6 lot categories. The tenderer may submit a tender for one, several or all lot categories. For each lot the conditions shall be fulfilled as they are set out in point 8 of these Instructions to Tenderers, unless a particular requirement for participation refers to a specific lot category only. Other requirements stipulated by the Contracting Authority for a particular lot category are also laid down in other parts of the tender documentation. The tenderers may also offer to provide smaller quantities subject to the condition that the Contracting Authority has determined the minimum allowed quantities for a particular lot, which can be seen in form 4: »Estimated value of single lots«. The Contracting Authority has the right to accept the tenders in part or not to accept them, it may also reduce the quantities to the next most successful tenderers by the quantities to be allocated to the more successful tenderers.

The tenderer does not have to state in the form »European Single Procurement Document (ESPD) relating to the submission of public tender – ESPD« (hereinafter referred to as: the ESPD) which lot category it refers to. The Contracting Authority will assume that the tenderer has applied for the lot, i.e. part of the lot, for which it has stated quantities and prices in the form »Estimated value of single lots«.

The Contracting Authority will select a tenderer or several tenderers on the basis of the conditions and the selection criteria set out in the tender documentation with which to enter into the public procurement contract.

# DEADLINE AND MANNER FOR SUBMISSION OF TENDERS

The tenderers must submit their tenders by uploading them in the e-JN information system on the website [https://ejn.gov.si](https://ejn.gov.si/), in accordance with point 3 set out in the Instructions for the use of the information system for the use of the functionality for the electronic submission of tenders e-JN: PONUDNIKI (hereinafter referred to as: the Instructions for using the e-JN system), which is an integral part of this tender documentation and is published at the web address [https://ejn.gov.si](http://?).

The tenderer must register in the e-JN information system before electronic submission of a tender at the web address [https://ejn.gov.si](http://?), in accordance with the Instructions for using the e-JN system. If the tenderer is already registered to the e-JN information system, it shall sign in the application at the same address.

The user, who is in the e-JN information system authorised to submit tenders for the tenderer submits a tender by clicking the “Submit” button. The e-JN information system records the identity and the time of the submission of tender. By performing the act of the submission of a tender, the system user expresses and declares the intention for the submission of a binding tender on behalf of the tenderer (Article 18 of the Obligations Code (*Obligacijski zakonik*) (Official Gazette of the Republic of Slovenia, Nos. 97/07 – official consolidated text, 64/16 – Decision of the Constitutional Court, and 20/18 – OROZ631)). With its submission, the tender is binding for the time stated in the tender except if the user withdraws or changes it before the time for submitting the tenders has expired.

A tender shall be deemed to have been submitted in a timely manner if the Contracting Authority receives it through the e-JN information system [https://ejn.gov.si](http://?) **by 21 August 2020 at10:00** **CET at the latest**. A tender shall be deemed to have been duly submitted once its status in the e-JN information system is shown as »SUBMITTED«.

The tenderer may withdraw or modify its tender before the deadline for submitting the tenders has expired. If the tenderer withdraws its tender in the e-JN information system, it shall be deemed that the tender has never been submitted and also the Contracting Authority will not see it in the e-JN information system. If the tenderer modifies its tender in the e-JN information system, the Contracting Authority will see the last tender submitted in the e-JN information system.

After the expiry of the deadline for the submission of tenders, it will no longer be possible to submit any tender.

For the access to the link for the submission of an electronic tender in this public tendering procedure go to the e-JN information system site at the web address:

[https://ejn.gov.si/tender/pages/aktualno/aktualno\_javno\_narocilo\_podrobno.xhtml?zadevaId=19517](http://?)

# TIME AND PLACE FOR OPENING OF TENDERS

Opening of tenders will be conducted automatically in the e-JN information system on **21 August 2020**and will start **at 10:01** **CET** on the web address [https://ejn.gov.si](http://?).

Opening of tenders shall take place by the e-JN information system at the hour determined for the public opening of tenders automatically displaying the information relating to a tenderer and providing for access to the electronic document in the pdf. format, which the tenderer uploads in the e-JN information system under »Estimated value of single lots«.

# LEGAL BASIS

The Contracting Authority performs the procurement procedure for the award of the public tender on the basis of the effective primary and secondary legislation governing public procurement, in accordance with the effective legislation governing the area of public finance, the area of the subject matter of the public procurement tender and the area of strategic commodity reserves.

# FUNDAMENTAL RULES FOR ACCESS, NOTIFICATIONS AND CLARIFICATIONS IN RELATION WITH TENDER DOCUMENTATION

## Accessing the tender documentation

Tenderers may obtain the procurement/tender documentation on the website of the Contracting Authority at [http://www.dbr.si](http://?).

No fee shall be charged for downloading the procurement/tender documentation.

## Notifications and clarifications in connection with tender documentation

The communication with the tenderers relating to the questions in connection with the scope and content of the call for tenders and in connection with the preparation of a tender shall be solely through the public procurement portal.

The Contracting Authority will deem that a request for the clarification of the procurement/ tender documentation and/or any other question in connection with the public procurement has been submitted in a timely manner provided that it will be asked on the public procurement portal by and including **11 August 2020 at 12:00 o’clock (CET) at the latest.**

The Contracting Authority will not respond to any requests for clarifications and/or other questions in connection with the public procurement made after the expiry of the aforementioned deadline.

The Contracting Authority may in accordance with Article 67 of the Public Procurement Act (ZJN-3) make modifications or amendments to the tender documentation. The Contracting Authority will issue such modifications and amendments in the form of annexes to the tender documentation. Each and every annex to the tender documentation shall become an integral part of the tender documentation. The questions asked and the answers given published on the public procurement portal shall also be deemed to be an integral part of the procurement/tender documentation.

# DETERMINATION OF CAPABILITY

## Determination of capability for participation in the procurement procedure for the award of the public contract and documentary evidence/STATEMENTSs

The tenderer must fulfil all the conditions set out in this point.

In accordance with Article 79 of the Public Procurement Act (ZJN-3), at the time of the submission of a tender, the Contracting Authority will, instead of the certificates issued by public authorities or third parties, accept the European Single Procurement Document (ESPD), consisting of a self-declaration as preliminary evidence relating to points 8.1.1 to 8.1.5 of these Instructions to Tenderers.

The economic operator must state in the ESPD form all information on the basis of which the Contracting Authority will confirm or obtain other information by accessing a national data base, and to grant in the ESPD form the consent that the Contracting Authority may

obtain the supporting document concerned.

Insofar as no such verification will be possible, the Contracting Authority will prior to awarding the public contract request from the tenderer to which the Contracting Authority has decided to award the contract, request that the tenderer shall submit documentary evidence (certificates, statements, copies of permits) as proof of the non-existence of the grounds for exclusion set out in point 8.1.1 of these Instructions to Tenderers and as proof of the fulfilment of the requirements for participation set out in points 8.1.2 to 8.1.5 of these Instructions to Tenderers.

The economic operator may also present documentary evidence on the non-existence of the grounds for exclusion set out in point 8.1.1 of these Instructions to Tenderers and documentary evidence on the fulfilment of the requirements for participation set out in points 8.1.2 to 8.1.5 of these Instructions to Tenderers of its own accord, and namely via the e-JN information system under the heading »Other attachments«. The Contracting Authority reserves the right to verify the credibility of the submitted documentary evidence at their signatory.

Insofar as the tenderer is not established in the Republic of Slovenia and cannot obtain the requested documents since the country in which the tenderer is established does not issue such documents, they can be substituted by a declaration on oath or, in the country in which the tenderer is established there is no provision for declaration on oath, by a declaration made by the

person concerned before a competent judicial or administrative authority, a notary or a

competent professional or trade organisation in the country of origin of this person or in the

country in which the tenderer is established.

The same rule as laid down in the preceding paragraph shall also apply to a person who is member of the administrative, management or supervisory body of the tenderer (established in the Republic of Slovenia) or who has powers of representation, decision or control therein, who is an alien and who does not have residence in the Republic of Slovenia.

For joint tenders and tenders with sub-contractors the provisions to be also taken into consideration are set out in points 10.3.1 (Joint tender) and 10.3.2 (Tender with sub-contractors) of these Instructions to Tenderers.

### Exclusion grounds

1. To the economic operator or a person who is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control therein has been the subject of a conviction by a final judgment containing elements of the criminal offences laid down in the first paragraph Article 75 of the Public Procurement Act (ZJN-3).

An economic operator, which is in the situation referred to in the above paragraph, may provide evidence to the Contracting Authority in accordance with the ninth paragraph Article 75 of the Public Procurement Act (ZJN-3) that sufficient measures have been taken to demonstrate the reliability despite the existence of grounds for exclusion.

DOCUMENTARY EVIDENCE/STATEMENTSS:

The filled in ESPD form (in »Part III: Exclusion grounds, Section A: Grounds relating to criminal convictions«) for all economic operators in the tender and the tenderer’s power of representation and the powers of representation of all natural persons listed under the heading »Other attachments«.

The Contracting Authorityshall require power of representation for obtaining information from the criminal records both for the tenderer and also for any persons who are the members of the administrative, management or supervisory body of that economic operator or have powers of representation, decision or control therein. Should the Contracting Authority not be in a position to verify from the criminal records as of the date on which the deadline for the submission of tenders expires, the Contracting Authority will request from the tenderers a declaration on oath or a declaration made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade organisation, in accordance with the fourth paragraph of Article 77 of the Public Procurement Act (ZJN-3). The tenderer may attach the certificates from the criminal records, the tenderer’s authorisation and the authorisations of all the sated natural persons under the heading »Other attachments«.

1. As of the day of the submission of its tender, the economic operator must have complied with its obligations relating to the payment of compulsory charges or other pecuniary non-tax liabilities under the law governing financial administration, collected by the tax authority in accordance with regulations of the country in which it is established or with the regulations of the country of the Contracting Authority, where the value of those outstanding past due liabilities total EUR 50.00 or more as at the date of the submission of the tender or request. The economic operator must have submitted by the date of the submission of the tender or request all the withholding tax returns for income from the employment relationship for the period of five years preceding the date of the submission of the tender or request.

DOCUMENTARY EVIDENCE/STATEMENTS:

The filled in ESPD form (in »Part III: Exclusion grounds, Section B: Grounds relating to the payment of taxes or social security contributions«) for all economic operators in the tender.

1. As of the date of the expiry of the deadline for the submission of tenders, the economic operator must not be in the register of economic operators with negative references referred to under point (a) of the fourth paragraph of Article 75 of the Public Procurement Act (ZJN-3).

DOCUMENTARY EVIDENCE/STATEMENTS:

The filled in ESPD form (in »Part III: Reasons for exclusion, Section D: National exclusion grounds«) for all economic operators in the tender.

1. In the three years preceding the expiry of the deadline for the submission of tenders or requests, the competent authority of the Republic of Slovenia or another Member State or a third country did not find the economic operator guilty of having committed at least twice the violations relating to remuneration for work, working time, rest time, provision of work on the basis of contracts of civil law, despite the existence of the elements of employment relationship or in connection with undeclared work for which a fine was imposed by virtue of a final decision or several final decisions for a minor offence/misdemeanour.

DOCUMENTARY EVIDENCE/STATEMENTSS:

The filled in ESPD form (in »Part III: Reasons for exclusion, Section D: National reasons for exclusion«)for all economic operators in the tender.

The Contracting Authority will at any time exclude an economic operator from the participation in the public procurement procedure in accordance with eight paragraph of Article 75 of the Public Procurement Act (ZJN-3), where it transpires that, in view of acts committed or omitted, the latter was or is either before or during the procedure in one of the situations referred to in this point of the Instructions to Tenderers.

### Conditions for participation relating to suitability to engage in a professional activity

1. The economic operator must be duly enrolled in one of the professional or trade registers kept in the Member State of its establishment. The list of relevant professional or trade registers in the EU Member States is laid down in Annex XI to Directive 2014/24/EU on public procurement.

DOCUMENTARY EVIDENCE/STATEMENTS:

The **ESPD** filled out (in »Part IV: Selection criteria, Section A: Suitability, Enrolment in the relevant professional registers OR Entry into trade register«) for all economic operators in the tender.

The ESPD must comprise all necessary information so that the Contracting Authority may verify in the official records whether the concerned criterion is fulfilled. Insofar as no such verification is possible, the Contracting Authority will request from the tenderer to submit a copy of enrolment in one of the relevant professional or trade registers. The tenderer may submit a **copy of enrolment in the register** under the heading »Other attachments«.

### Conditions for participation relating to economic and financial standing

1. The tenderer must have adequate credit rating established on the basis of the standardised approach to credit risk in BASEL II: up to and including BBB. The Contracting Authority will take into account the credit ratings awarded by the credit rating institutions on the basis of BASEL II and comparable with the following credit ratings: AJPES – up to and including SB7, Moody's – up to and including Baa3, S&P – up to and including BBB-, Fitch – up to and including BBB-.

DOCUMENTARY EVIDENCE/STATEMENTS:

The filled in ESPD form (in »Part IV: Conditions for participation, Section B: Economic and financial standing«).

The ESPD form must comprise all the necessary information, for which the Contracting Authority may verify in the official records that the relevant condition is fulfilled. Insofar as such verification would not be possible, the Contracting Authority will request that the tenderer shall submit the credit ratings.

### Other conditions

1. The tenderer has not been convicted for a minor offence/misdemeanour by way of a final judgment from Article 22 of the Integrity and Prevention of Corruption Act (*Zakon o blagovnih rezervah*) (Official Gazette of the Republic of Slovenia, No. 96-2009 – UPB2 and 83/2012) and does not have any outstanding obligations vis-à-vis the Contracting Authority past due date more than thirty (30) days (2nd paragraph of Article 18 of the Commodity Reserves Act (*Zakon o blagovnih rezervah*)).

DOCUMENTARY EVIDENCE/STATEMENTS:

The filled in ESPD form (in »Part VI: Concluding statements; The undersigned formally declare that…«) for all economic operators in the tender.

1. The tenderer is not on the list of economic operators from Article 35 of the Integrity and

Prevention of Corruption Act (*Zakon o integriteti in preprečevanju korupcije*) (Official Gazette of the Republic of Slovenia, No. 69/11-UPB2) and no prohibition of doing business with the Contracting Authority based on that article applies to him.

DOCUMENTARY EVIDENCE/STATEMENTS:

The filled in ESPD form (in »Part VI: Concluding statements; The undersigned formally consent to…«) for all economic operators in the tender.

# SELECTION CRITERIA

The criterion for the selection of the successful tenderer shall be the most economically advantageous tender determined on the basis of the lowest price per item unit /piece net of VAT (with all costs pertinent to the quality and timely execution of the contract, the costs of guarantee and discounts and rebates). In the event that the successful tenderer should fail to offer for an individual lot the entire quantity of the product, the procurement of the remaining quantities shall be awarded to the tenderer with the second lowest offered price for the individual item.

In the event that several tenderers should offer the same price for a particular item, all tenders containing the same price will be selected as the most economically advantageous tenders and the quantity of a particular item shall be proportionally divided in relation to the quantity offered by the tenderers having the same price.

# TENDER

## Tender documentation

The tender documentation comprises the following documents:

1. The filled in form »**04-form\_estimated value of single lots**«,
2. The filled in form »**form** **ESPD**« (for all economic operators in the tender, also for any and all sub-contractors);
3. The bank guarantee – tender security;
4. The filled in form »**09-authorisation\_tenderer**«;
5. The filled in form »**10-authorisationo\_natural\_persons**«;
6. The filled in form »**11-Statement on participation of natural and legal persons in the tenderer’s ownership**«.

Following the examination of the received tenders, the Contracting Authority will invite the tenderer with the most economically advantageous tender to submit the supporting documents/documentary evidence as indicated in relation to the requested conditions, i.e. the grounds for exclusion. The tenderer may enclose the supporting documents/documentary evidence at the time of the submission of the tender under the heading »Other attachments«.

When invited by the Contracting Authority, the successful tenderer in the public procurement procedure or the execution of the public tender will have to submit within eight days following the receipt of the invitation the information with regard to the following:

* Its founders, partners including silent partners, shareholders, limited partners or other owners, and the information on the equity interests of the aforementioned persons,
* economic operators which are considered to be its associated companies in accordance
* with the provisions of the law governing companies.

The tenderer who has submitted its tender declares under criminal responsibility and civil liability that all the information and supporting documents given in the tender is true and that the attached supporting documentation corresponds to the original. If that is not the case, the tenderer shall be liable to the Contracting Authority for any and all damage caused.

## Drawing up the tender

### Documentary evidence/STATEMENTSs attesting to the fulfilment of the requirements set out in the technical specifications

The subject matter of the tender must meet at least the minimum technical requirements laid down in the technical specification, which is an integral part of this tender documentation.

### ESPD form for all economic operators

The European Single Procurement Document or ESPD is a formal self-declaration provided by the economic operator confirming that the economic operator is not in one of the situations in which there are grounds for exclusion and that the economic operator fulfils the terms and conditions to participate in the procurement procedure, while ensuring adequate information requested by the Contracting Authority. The ESPD form also includes a formal statement to the effect that the economic operator will be able, upon request and without delay, to provide those supporting documents that the relevant grounds for exclusion does not apply and/or that the relevant terms and conditions for the participation in the procurement procedure are fulfilled.

The information stated in the ESPD and/or in the documentary evidence/STATEMENTSs submitted by the economic operator must be in full force and effect.

The economic operator shall import the Contracting Authority’s ESPD form (file XML) from the web address of the public procurement portal/ESPD: [http://www.enarocanje.si/ESPD/](http://?) and shall directly enter the requested information into the form.

A completed and signed ESPD must be enclosed to the tender for each and every economic operator participating in the tender in any role whatsoever (as the tenderer, economic operators on whose capacities the tenderer and the sub-contractors rely on).

The tenderer submitting the tender via the e-JN system shall upload its ESPD under the heading »ESPD – the tenderer«, whereas the ESPDs of other participants shall be uploaded under the heading »ESPD – other participants«. The tenderer submitting the tender via the e-JN system shall upload the electronically signed ESPD in the electronic xml. format or in the unsigned ESPD in the electronic xml. format, whereas in the latter case, in accordance with the General conditions for using the e-JN information system it shall be deemed that a legally binding document has been submitted having the same effect as a signed one.

For other participating tenderers under the heading »ESPD – other participants«, the tenderer shall enclose the signed ESPDs in electronic pdf. format or the xml format in electronically signed.

The version of the form in the English language is provided for tenderers’ information only. The tenderer must complete and sign the form in the Slovenian language.

### Form »estimated value of single lots«

The tenderer must offer to provide in Estimated value of single lots all the items by taking into consideration the technical specifications, which are an integral part of the tender documentation.

The tenderer must fill in for an individual lot all items in estimated value of single lots. The price per unit must be stated for four (4) decimal places, whereas other items must be quoted for two (2) decimal places.

Insofar as the tenderer should fail to fill in the price referring to an individual item, it shall be deemed that the procurement of the concerned item has not been offered.

The tenderer may not modify the scope and content of the estimated value of a single lot.

The tender price net of VAT must comprise all discounts and costs/expenses (the delivery of the product, forwarding costs, transportation costs, customs duties and any and all other costs/expenses).

Contract price for the entire quantity must be stated net of VAT and with VAT.

In the event that during the examination and evaluation of tenders the Contracting Authority has identified manifest calculation errors, the steps taken will be in accordance with the seventh paragraph of Article 89 of the Public Procurement Act (ZJN-3).

**The tenderer shall upload into the e-JN system under the heading »Estimated value of single lots« the filled out form »Estimated value of single lots« in .pdf file, which will be accessible at the public opening of tenders.**

### Securing the fulfilment of the tenderer’s obligations – tender security

The tenderers shall submit tender security together with the tender. As tender security the tenderers may submit financial collateral/guarantee, issued by an investment-grade bank or suretyship issued by an investment-grade insurance company.

The amount of tender security shall be 5% of the contract value net of VAT.

The tender security must be valid until and including **26 October 2020**.

The Contracting Authority will forfeit the tender security in the following cases:

* if the tenderer withdraws the tender after the expiry of the deadline for the submission of tenders or unlawfully modifies the tender during its validity period or
* if the tenderer when invited by the Contracting Authority fails to sign the contract or
* if the tenderer fails to submit the performance security in accordance with the requirements set out in the tender documentation.

The validity of the financial collateral to guarantee the seriousness of the tender shall not expire prior to the expiry of the deadline for the submission of the financial collateral to guarantee due execution of the contractual obligations – performance security. When requested to do so by the Contracting Authority the tenderer is obliged to extend the validity of financial collateral or to submit a new financial collateral, if due to objective reasons it was not possible to conclude the contract by the set deadline.

After opening of tenders, to the tenderers whose tender submissions fail, financial collateral shall be returned within five (5) business days after the decision to award the contract becomes final.

The International Chamber of Commerce (ICC) Uniform Rules for Demand Guarantees (URDG) 2010 Revision (seed the enclosed guarantee models) shall apply to bank guarantees.

Where security is arranged in the form of suretyship, the request for payment need not be accompanied with the original insurance document.

### Security for the purpose of guaranteeing the correct execution of contractual obligations – performance security

The successful tenderer must submit financial collateral for due execution of contractual obligations – performance security. Financial collateral must be unconditional and payable on first call. The successful tenderer may submit a bank guarantee issued by an investment-grade bank or suretyship security issued by an investment-grade insurance company in the amount of 5% of the total contract value (with VAT) or a certificate attesting to the transferred funds deposited in the Contracting Authority’s bank account number: SI56 2900 0005 5148 819.

The successful tenderer shall submit the financial collateral for due execution of contractual obligations – performance security – to the Contracting Authority within eight (8) days after the contract signature and with the duration of the security until **31 December 2020.**

The currency of the financial collateral must be equal to the currency of the public tender. A financial collateral, which the successful tenderer does not submit in the format of the model provided in the tender documentation, in terms of its scope and content shall not materially deviate from the model form of financial collateral provided in the tender documentation and shall not contain any additional terms and conditions for payment, shorter deadlines than set by the Contracting Authority, a lower amount than determined by the Contracting Authority or alteration of territorial jurisdiction for resolving disputes between the beneficiary and the issuer of security.

The deposit paid in shall be returned to the successful tenderer without any interest accrued within 30 days following the expiry of the effectiveness of the public procurement contract and it may be comprised in the payment of the contract price.

The Contracting Authority shall forfeit the performance security for the due execution of obligations under the public procurement contract in the following cases:

* if the successful tenderer fails to begin to execute its contractual obligations in accordance with the provisions of the public procurement contract or
* if the successful tenderer fails to execute its contractual obligations in accordance with the provisions of the public procurement contract or
* if the successful tenderer fails to execute its contractual obligations in accordance with the provisions of the public procurement contract in a timely manner or
* if the successful tenderer fails to execute its contractual obligations with due diligence in accordance with the provisions of the public procurement contract or
* if the successful tenderer suspends the execution of its contractual obligations in accordance with the provisions of the public procurement contract.

If during the duration of the public procurement contract, the deadlines for the execution of the contract are changed, the contractor shall also modify the security, i.e. extend its validity.

## Other provisions for the preparation of tenders

### Joint tender

In the case that a joint tender is submitted by a group of tenderers (consortium), each tenderer must fulfil all the requirements set out in points 8.1.1, 8.1.2, 8.1.3, and 8.1.5. All the tenderers in the joint tender must submit the documents that attest to the fulfilment of those requirements by each and every partner in the consortium.

The tenderers may cumulatively fulfil the requirements stipulated in point 8.1.4. The documents, which refer to attesting to the fulfilment of those requirements, shall be provided by any partner in the consortium that submits the joint tender.

All the tenderers in the joint tender must fill in the ESPD individually and state therein all the requested information.

The form »Estimated value of single lots« shall be submitted by all the tenderers stated in the joint tender (one form signed by at least one of the partners, which take part in the joint tender). The tenderers may submit the financial collateral in such a way that only one of the partners in the consortium or each partner separately submits it. Insofar as the security is submitted by every partner ion the consortium, the sum of all the amounts of security shall add up as a minimum to the amount of the requested amount.

In the case that a joint tender is submitted, the legal persons shall state in the »ESPD« form all the partners to participate in that joint tender. The partners taking part in the joint tender may also one of the legal persons with which the Contracting Authority will communicate until the decision on the award of the public contract is taken; otherwise, the Contracting Authority will address all the documents to all the partners taking part in the joint tender.

Insofar as the joint tender has not been submitted for all lot categories, it shall be clearly stated to which lots the joint tender applies and which partners in the consortium submitting the partners in the consortium submit the tender for a particular lot.

In the event that such a consortium is selected for the execution of the procurement under the public contract, the Contracting Authority will be able to demand than an act on joint execution of the public contract be drawn up (such as, for example, a co-operation contract) in which the tasks and responsibilities of individual tenderers for the execution of the public contract shall be specified in detail. Notwithstanding any such contract, the tenderers shall be jointly and severally liable to the Contracting Authority.

### Tender with sub-contractors

In the event that the tenderer will co-operate with sub-contractors for the execution of the public procurement, all the proposed sub-contractors must be stated in the ESPD. The tenderer must also submit in the tender the filled in ESPD forms for each and every sub-contractor with which he will collaborate in the public tender.

Insofar as the tenderer sub-contractor does not apply for all the lots, it shall be clear from the statement in the ESPD for each sub-contractor for which lots a particular sub-contractor has applied.

Insofar as in relation to the sub-contractor there are grounds for exclusion, i.e. the sub-contractor will not fulfil the relevant requirements for participation set out in point 8.1. of these Instructions to Tenderers, the Contracting Authority will reject the sub-contractor and request its replacement.

The sub-contractor must in the same way as the tenderer fulfil the requirements set out in points 8.1.1, 8.1.2, 8.1.3, and 8.1.5. of these Instructions to Tenderers.

The tenderer must enclose for each and every sub-contractor the same documentary evidence/STATEMENTSs attesting to the fulfilment of the requirements set out in the preceding sentence as it itself must submit, other than in relation to the requirements for which the documentary evidence/STATEMENTSs to be submitted by the sub-contractor are envisaged.

The successful tenderer shall be entirely liable vis-à-vis the Contracting Authority for the execution of the public procurement contract.

### Information about variants

No variants will be accepted.

### Languages in which tenders may be submitted

The tender must be drawn up in the Slovenian or in the English language. The Tender Documentation je drawn up also in the English language. In the event of a discrepancy between the version in the Slovenian language and the version in the English language, the Slovenian version shall prevail over the English version.

### Preparation and submission of tenders in the e-JN system

The tenderer shall submit the tender documentation in such a manner that after the registration, i.e. logging into the e-JN system at the web address: [https://ejn.gov.si](http://?) in relation to the concerned public procurement the option »Participate in public procurement« shall be clicked to open the webpage for the preparation of the tender. Having entered the information and documents, the tenderer saves the information and documentation in the system and submits it by clicking the button »Submit« to open the window in which the economic operator submitting the tender confirms being acquainted with the General Terms and Conditions accepts them and by clicking the button »Submit« submits the tender.

The detailed instructions in connection with manner for the preparation and the submission of the tenders are laid down in the Instructions for using the e-JN system, which are an integral part of this tender documentation and published at the web address [https://ejn.gov.si](http://?).

### Period of validity of tenders

The minimum time frame during which the tenderer must maintain the tender is until **26 October 2020***.*

In exceptional circumstances, the Contracting Authority will be able to request that the tenderers extend the period of the validity of tenders and the tender security for a certain determined additional period. The tenderer may turn down such a requirement without causing the forfeiture of the tender security.

### Tender costs

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

### Classified information

Aggregate information and information relating to individual categories and quantities of the commodities held as the government strategic stocks and information on their distribution shall be treated as classified information.

The tenderer, which by participating in this tendering procedure becomes aware of any and all classified information, shall be obliged to safeguard such information in accordance with the regulations on the protection of classified information.

### Anti-corruption clause

In the course of the procedure for the award of the public contract, neither the Contracting Authority nor the tenderers shall initiate and implement acts that would determine in advance the selection of a particular tender or that would prevent the contract from entering into full force and effect, i.e. that the contract would not be executed.

Any and all procedures for the award of public contracts is prohibited.

# CONTRACT AWARD NOTICE

The Contracting Authority will sign the decision to award the public contract on the Public Procurement portal. It shall be deemed that the decision has been served as of the day of its publication on the publ9ic procurement portal.

# WITHDRAWAL FROM THE EXECUTION OFPUBLIC TENDER

Pursuant to the eight paragraph of Article 90 of the Public Procurement Act (ZJN-3), the Contracting Authority may withdraw from the tendering process after the decision to award the public contract becoming final until the conclusion of the contract on the reasonable grounds that it no longer needs or has no funds for the subject-matter of procurement or that it has reasonable cause to suspect that the contents of the contract were or could be a result of a criminal offence, or that other extraordinary and unforeseeable circumstances beyond its control have arisen that have rendered the performance of the contract impossible. In the event that the Contracting Authority withdraws from the tendering process, it shall notify the tenderers in writing of its decision and of the reasons for withdrawing from the tendering g process.

# CONTRACT

The public procurement contract will be first signed by the successful tenderer and after that also by the Contracting Authority.

In accordance with the sixth paragraph of Article 14 of the Integrity and Prevention of Corruption Act (*Zakon o integriteti in preprečevanju korupcije*) (Official Gazette of the Republic of Slovenia, No. 69/11-UPB2; hereinafter: Integrity and Prevention of Corruption Act (ZIntPK)), prior to signing the public procurement contract, the successful tenderer shall submit in response to the Contracting Authority’s call, a statement or information on the participation of natural and legal persons in the tenderer's assets, including the participation of silent partners, as well as on economic operators, which are considered to be companies affiliated to the tenderer under the provisions of the law regulating companies. In the event that the tenderer submits a false statement or provides false information on the facts stated, the contract shall be rendered null and void.

The successful tenderer must sign and send back to the Contracting Authority four counterparts of the signed contract within 10 business days after its receipt.

Before its signing, the content of the public procurement contract will be adjusted by taking into consideration whether the successful tenderer intends to submit a joint tender, register the participation of sub-contractors and the like. By signing the ESPD, the tenderer confirms that it accepts the content of the tender documentation complete with the technical specifications and both contract model forms complete with the endorsed bill of exchange.

# LEGAL PROTECTION

A request for review that refers to the content of the publication and/or the tender documentation may be filed within ten business days of the date of the publication of the notice of public procurement or a notice of additional information, information on any outstanding procedure or correction, if by virtue of that notice the requirements or the criteria for the selection of the successful tenderer are modified or amended, where the request for review may refer to the modified, amended or clarified content of the publication or tender documentation or to a statement in the original publication or in the tender documentation directly connected with that statement. It is not permissible to file a request for review after the deadline for the submission of tenders, save in the case that the deadline for the submission of tenders is shorter than ten business days. Should that be the case, a request for review shall be filed within ten business days of the day of the publication of the tender notice.

The applicant shall pay the fee in the amount of EUR 4,000.00 by a credit transfer to the bank account of the Ministry of Finance, number SI56 0110 0100 0358 802, open at Banka Slovenije, Slovenska 35, 1505 Ljubljana, Slovenia, SWIFT CODE: BSLJSI2X; IBAN: SI56011001000358802.

A request for review must be filed with Zavod Republike Slovenije za blagovne rezerve (Agency of the Republic of Slovenia for Commodity Reserves), Dunajska cesta 106, 1000 Ljubljana, by personal delivery at that address or by registered mail with the receipt of service.

Tomi RUMPF

Director ad interim