

**Cyprus Energy Regulatory Authority**

***Consultancy Services for Establishing the Wholesale Electricity Market Monitoring procedures, the related Hardware & Software Needs and Supervision Services during the Implementation process of the agreed procedures***

**ESTIMATED VALUE: *Eighty Four Thousand Euro (€84,000)*** (for Deliverables 1 & 2) and **further *Thirty Six Thousand Euro (€36,000)*** for optional services (Deliverables 3 & 4) that may derive as deliverables of the Tender, exclusive of VAT

**Tender procedure No.: 01/2022**

***Amendment 1- 18/03/2022***

**The project is financed by the Cyprus Energy Regulatory Authority  
(Cancellation of the tender at any stage of the procedure, in the event that the House of Representatives will not approve the Budget of CERA for the year 2022, is possible)**

***Nicosia, 18 March 2022***

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**PART A: INSTRUCTIONS TO ECONOMIC OPERATORS**

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# **PART A: INSTRUCTIONS TO ECONOMIC OPERATORS**

## **1. DEFINITIONS**

1. The following terms shall have the meanings ascribed to them below:

### **AGREEMENT**

Part B of the Tender Documents, as completed based on the Contractor's Tender after the contract has been awarded and signed by both parties.

### **AWARD DECISION**

The decision issued by the competent body, whereby the Contract is awarded to the selected Tenderer.

### **CLARIFICATION**

Clarification on the submitted certificates and / or alternative credentials, or even completion of information which are missing due to the failure of submit the required certificates, provided that they were held by the tenderer before the date of submission of tenders. During the evaluation process the Contracting Authority may request such clarification.

### **COMPETENT AUTHORITY**

The Competent Authority is the Cyprus Energy Regulatory Authority (CERA).

### **COMPETENT BODY**

A body established by virtue of the Regulations which, within the powers granted to it, undertakes and handles matters concerning public procurement.

### **CONTRACT**

The public service contract between the Contracting Authority and the Contractor, which is concluded after announcement of the Award Decision and which comprises the following integral parts:

- a. The Agreement
- b. The Tender and any correspondence in relation thereto between the Contracting Authority and the Contractor.
- c. Annexes I, II, III and IV of the Tender Documents.

### **CONTRACTING AUTHORITY**

The *Cyprus Energy Regulatory Authority*, located in *Nicosia*.

**CONTRACTOR**

The Tenderer to be selected to enter into a Contract with the Contracting Authority

**CONTRACT SCOPE**

The provision of services for ***Establishing the Wholesale Electricity Market Monitoring procedures, the related Hardware & Software Needs and Supervision of the Implementation process of the agreed procedures*** falling under category 09310000-5, 71314000-2 and 71323100-9 of the CPV classification, as identified in detail in the Tender Documents.

**ECONOMIC OPERATOR**

Any legal person or public entity or group of such persons and/or entities, including any temporary association of undertakings which offers the supply of products or the provision of services or the execution of works.

**ESTIMATED VALUE**

The potential cost of the Contract, estimated by the Contracting Authority, exclusive of VAT, including any form of options and any renewals of the contract, as explicitly set out in the tender documents.

**INTERESTED ECONOMIC OPERATOR**

Any economic operator associated with the tender procedure in the System.

**LAW**

The Coordination of Procedures on the Public Procurement and on Related Matters Law of 2016 (Law 73(I)/2016), as amended in each case.

**REGULATIONS**

The General Regulations of 2012 (KDP 242/2012) on the Coordination of procedures for the Award of Public Works Contracts, Public Supply Contracts and Public Service Contracts including any amendments thereto.

**REPRESENTATIVE**

The person representing the Tenderer.

**SYSTEM**

The electronic platform for public procurement (e-Procurement) at the website address **[www.eprocurement.gov.cy](http://www.eprocurement.gov.cy)**

**TENDER**

The technical and financial proposal for implementation of the Contract Scope, drawn up and submitted by the Tenderer in the manner and under the terms described in the Tender Documents.

**TENDER DOCUMENTS**

The documents referred to in paragraph 4.2 as well as any addenda thereto.

## TENDERER

Any Economic Operator, that has submitted a tender.

- Any other terms used in the present Part A of the Tender Documents shall have the meanings ascribed to them by the Law, the Regulations or any other part of the Tender Documents.
- The headings, article titles, subtitles and table of contents are used for convenience and shall not be taken into consideration in the interpretation of the Tender Documents.

## 2. KEY DETAILS OF THE TENDER PROCEDURE

<b>Par.</b>	<b>ITEM</b>	
<b>2.1</b>	<b>Tender procedure No.</b>	<b>01/2022</b>
<b>2.2</b>	<b>Contract Scope</b>	<b>Consultancy Services for Establishing the Wholesale Electricity Market Monitoring procedures the related Hardware &amp; Software Needs and Supervision Services during the implementation process of the agreed procedures,</b> falling under category 09310000-5, 71314000-2 and 71323100-9 of the CPV classification
<b>2.3</b>	<b>Estimated Value</b>	<b>Eighty Four Thousand (€84,000) Euro</b> (for Deliverables 1 & 2) and <b>further Thirty Six Thousand Euro (€36,000)</b> for optional services (Deliverables 3 & 4) that may derive as deliverables of the Tender, exclusive of VAT.
<b>2.4</b>	<b>Financing</b>	<b>Contracting Authority</b>
<b>2.5</b>	<b>Right to use the negotiated procedure of article 29(5) of Law 73(I)/2016 (or article 44(στ) of Law 140(I)/2016)</b>	<b>Not Applicable</b>
<b>2.6</b>	<b>Tender procedure</b>	Open tender procedure for the award of a service contract.
<b>2.7</b>	<b>Award Criterion</b>	Most economically advantageous tender based on the best price-quality ratio.
<b>2.8</b>	<b>Contracting Authority</b>	<b>Cyprus Energy Regulatory Authority</b>
<b>2.9</b>	<b>Competent Official</b>	<b>Andreas Frixou</b>



Par.	ITEM	
		<p><i>regulator.cy@cera.org.cy</i></p> <p><b>Ag. Paraskevis 20</b></p> <p><b>2002 Strovolos, Nicosia</b></p> <p><b>22666363</b></p> <p><b>22667763</b></p>
2.10	Period of time during which the Tender Documents may be available	Until the deadline of the submission of tenders.
2.11	Method and Place for collection of the Tender Documents	Free of charge, from the eProcurement System <a href="http://www.eprocurement.gov.cy">www.eprocurement.gov.cy</a>
2.12	<p>Deadline for the Submission of Comments / Questions / Recommendations</p> <p>Time and place of open meeting (if applicable)</p> <p>Time and place of site visit (if applicable)</p> <p>Dispatch of answers by the Contracting Authority</p>	<ul style="list-style-type: none"> <li>• By Monday <b>28/03/2022</b> at 14:00</li> <li>• <b>Not applicable</b></li> <li>• <b>Not applicable</b></li> <li>• Monday, <b>11/04/2022</b> at 14:00</li> </ul>
2.13	Deadline for the Submission of Tenders	by 14:00 hours of <b>02/05/2022</b>
2.14	Place of Submission of Tenders	Electronically via the Cyprus e-Procurement System at <a href="http://www.eprocurement.gov.cy">www.eprocurement.gov.cy</a> under the relevant functionality at the workspace of the specific tender procedure.
2.15	Commitment not to Withdraw the Offer	5% of the Tender Value
2.16	Period of Validity of Tenders	4 months from the deadline of submission of Tenders

<b>Par.</b>	<b>ITEM</b>	
<b>2.17</b>	<b>Language in which Tenders must be drawn up</b>	Greek and/or English
<b>2.18</b>	<b>Currency of Tenders</b>	Euro
<b>2.19</b>	<b>Estimated date for the presentation of technical offers (if applicable)</b>	<i>Not applicable</i>
<b>2.20</b>	<b>Estimated date of notification of tender procedure results</b>	2 months, from the deadline of the submission of tenders
<b>2.21</b>	<b>Estimated date of contract signature</b>	4 months, from the deadline of the submission of tenders
<b>2.22</b>	<b>Location where the Services will be provided</b>	<i>At the Contractor's premises</i>
<b>2.23</b>	<b>Duration of Contract Execution</b>	25 weeks from contract signing for Deliverables 1, 2 and 3 (depending on the proposal of each Tenderer). For Deliverable 4 (depending in the proposal of each Tenderer), commencement will take place upon the execution of a separate tender procedure and will have a duration of 4 weeks.
<b>2.24</b>	<b>Factor for conversion to current prices</b>	<b><i>Not applicable</i></b>

### 3. LEGAL FRAMEWORK

#### 3.1 *Applicable legislation*

1. The Tender Procedure shall be conducted in accordance with the relevant Laws and Regulations of the Republic of Cyprus on the award of public contracts, as amended and in force, and in particular in accordance with:
  - a. The Coordination of Procedures on the Public Procurement and on Related Matters Law of 2016, published in the Official Gazette of the Republic of Cyprus on 28 April 2016 (Law 73(I)/2016).
  - b. The Regulations on the Award of Public Contracts (Supplies, Works and Services) (Organisations governed by Public Law and Village Authorities), published in the Official Gazette of the Republic of Cyprus on 06 July 2012 (KDP 242/2012).
  - c. The Regulations on the Management of Public Contract Implementation and Procedures for the Exclusion of Economic Operators from Public Procurement Procedures published in the Official Gazette of the Republic of Cyprus on 28 April 2016 (KDP 138/2016).

- d. The Law on the Review Procedures concerning the Award of Public Contracts of 2010, published in the Official Gazette of the Republic of Cyprus on 19 November 2010 (Law 104(I)/2010).
- e. The Regulations on the Award of Public Supply Contracts, Public Works Contracts and Public Service Contracts (use of electronic means), published in the Official Gazette of the Republic of Cyprus on 26 June 2009 (KDP 249/2009).

The above-mentioned legislation documents could be accessed by visiting the Website [www.treasury.gov.cy](http://www.treasury.gov.cy).

### **3.2 General principles**

1. Participation in the tender procedure is open to all interested economic operators meeting the legal, financial, technical or other requirements provided for in the Tender Documents.
2. By submitting their Tenders, Tenderers are assumed to be familiar with all relevant laws and Regulations of the Republic of Cyprus which affect, either directly or indirectly, the tender procedure and the implementation of the Contract Scope.
3. The Competent Body shall deem admissible the Tenders which comply with all terms, conditions and specifications of the Tender Documents, while it also may, in its absolute judgement and at its sole discretion, deem admissible Tenders exhibiting minor deviations. Minor deviations shall be taken to mean deviations which do not affect the extent of the Contract Scope or the quality of its execution, do not substantially limit the rights of the Contracting Authority or the obligations of the Contractor, and do not impair the principle of equal treatment of Tenderers.
4. Tenders which the Competent Body judges to be vague and impossible to be evaluated or contain terms which are contrary to the contents of the Tender Documents and/or conditional terms, shall be designated as inadmissible and shall be rejected.
5. Any attempt by or on behalf of a Tenderer to influence in any way whatsoever the judgement of the Contracting Authority or of the Competent Body in the discharge of their duties in connection with the tender procedure or its outcome, shall result in the rejection of its Tender.
6. Tenderers who have obtained or taken in their possession, without legal authority and at their own initiative, information or documents of a secret nature in connection to the tender procedure, shall be excluded from participation.

### **3.3 Protection of economic operators**

1. Every interested economic operator who has or had an interest in being awarded the Contract and who has sustained or is likely to sustain a loss as a result of an act or decision of the Contracting Authority which precedes the signature of the Contract and for which it is alleged that it violates any provision of the legislation in force, has the right to file a recourse to the Tenders Review Authority in accordance with the provisions of the Law on the Review Procedures concerning the Award of Public Contracts of 2010 (Law 104(I)/2010).

2. To file a recourse to the Tenders Review Authority, the applicant must pay a fee which is deposited into the General Government Account. More details are given in the Website of the Tenders Review Authority ([www.fra.gov.cy](http://www.fra.gov.cy)).

## **4. DETAILS OF TENDER DOCUMENTS**

### **4.1 Ownership and use of the Tender Documents**

1. All information contained in the Tender Documents and all rights thereon are the property of the Contracting Authority.
2. Use of the Tender Documents by the interested economic operators is restricted to the purposes of preparation of their Tenders.

### **4.2 Contents of the Tender Documents**

1. The Tender Documents comprise the following:
  - a. The Contract Notice.
  - b. The present Part A 'Instructions to Economic Operators'.
  - c. Part B 'Agreement and Special Conditions of Contract'.
  - d. Annex I 'General Conditions of Contract' .
  - e. Annex II 'Terms of Reference – Technical Specifications'.
  - f. Annex III 'Non- Disclosure Agreement'
  - g. Annex IV 'Data- Processing Agreement'
  - h. The attached Appendix containing Templates and more specifically:
    - **Form 1:** Commitment not to withdraw the Tender.
    - **Form 2:** Solemn Declaration Certifying the Tenderer's Personal Situation.
    - **Form 3:** Economic and Financial Standing.
    - **Form 4:** Technical and Professional Ability.
    - **Form 5:** CV.
    - **Form 6:** Declaration regarding the Protection of Employees.
    - **Form 7:** Technical Offer.
    - **Form 8:** Project Team Presentation Table.
    - **Form 9:** Financial Offer.
    - **Form 10:** Evaluation Criteria Table.
    - **Form 11:** List of Contractor's Certificates.
    - **Form 12:** Performance Guarantee
    - **Form 13:** Advance Payment Guarantee

- **Form 14:** Declaration of other Entities
2. If it is found that the tender documents are incomplete, as compared against the table of contents of the preceding paragraph, economic operators are entitled to request its completion. Recourses filed against the legality of the tender procedure on the grounds of non-completeness of the tender documents shall be rejected as inadmissible.

### **4.3 Receipt of Tender Documents**

1. Economic Operators may receive a copy of the Tender Documents, free of charge, via workspace of the tender procedure in the eProcurement System ([www.eprocurement.gov.cy](http://www.eprocurement.gov.cy)). Registered Economic Operators are urged to associate themselves with the competition, so as to receive notifications for any clarifications and/or addenda that may occur during this competition. Non-registered Economic Operators may register for free following the instructions available in the System. For any assistance for their registration or any other support on the use of the System, Economic Operators can contact the support team via telephone at +357 22605050 (extension 2), or via email at [eprochelpdesk@treasury.gov.cy](mailto:eprochelpdesk@treasury.gov.cy)
2. It is highlighted that for anyone to be considered an Interested Economic Operator, they should be registered to the System and associated with the procedure (associate while logged in), so that any information regarding the tender can be communicated to them through the System.

## **5. PROVISION OF CLARIFICATIONS ON THE TENDER DOCUMENTS**

### **5.1 Clarifications by the Contracting Authority**

1. The Contracting Authority may make additions, corrections or modifications of a small scale to the terms of the Tender Documents, which should be published via the e-Procurement System ([www.eprocurement.gov.cy](http://www.eprocurement.gov.cy)), in order to be made available to all interested economic operators within the period specified in paragraph 2.12.

### **5.2 Submission of questions in writing by the interested economic operators**

1. Any clarification questions, recommendations, comments and/or remarks regarding the terms of the Tender Documents shall be submitted by interested economic operators within the period specified in paragraph 2.12. The requests for clarifications must be submitted via the relevant functionality of the e-Procurement System, accessible from the workspace of the specific tender procedure.
2. As long as clarification requests, recommendations, comments and/or remarks are requested in accordance with the above, the Contracting Authority publishes on the e-Procurement System supplementary documents and/or clarifications where deemed necessary within the period specified in paragraph 2.12, whilst a relevant notification will be dispatched automatically to all Economic Operators associated with the competition.
3. Under any circumstances, interested economic operators cannot invoke verbal responses/answers/explanations given by any public servant. The Contracting Authority is not bound by any verbal responses/answers/explanations.

## 6. ELIGIBILITY AND REQUIREMENTS FOR PARTICIPATION

### 6.1 *Eligibility for participation*

1. Eligible for participation in the present tender procedure are legal persons (governed by public or private law) or consortia of legal persons lawfully established in Cyprus or in any other Member State of the European Union (EU) or of the European Economic Area (EEA) or in third countries who have signed and ratified the International Government Procurement Agreement (GPA) or have signed and ratified association agreements or bilateral agreement with the EU or with the Republic of Cyprus in the sector of Public Procurement.
2. Consortia of legal persons may submit a joint Tender on the following conditions:
  - a. That the rate of participation of each person is stated in the Tender.
  - b. That all persons participating in the Consortium fulfil the requirement of establishment specified in paragraph 1 above.
3. Consortia are not obliged to take a specific legal form either for the submission of the Tender, nor for the signature of the Contract.
4. Every legal person may participate in the tender procedure either individually or in one consortium only.
5. ~~To implement the Contract Scope, the Tenderer may use subcontractors, whom it is obliged to name in its Technical Offer, also mentioning the part of the Contract Scope that they shall undertake. It is understood that in the event the Tenderer intends to subcontract to third parties any share of the contract, the Tenderer, in preparing his Tender, has been informed on whether the same subcontractor participates in more than one (1) Tender of the same tender procedure under any capacity. **Not applicable**~~
6. The same requirements for the lawfully establishment as described in item (1) above, must be met by the entities whose capacities the Tenderer is invoking, within the meaning of paragraph 6.3 or/and paragraph 6.4.

### 6.2 *Personal situation of the Tenderer*

1. To be able to sign the Contract, interested economic operators must meet the following requirements concerning their personal situation:
  - a. They must not have been convicted by final judgement for:
    - i. participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime,
    - ii. corruption as defined in Article 3 of the Convention of the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA,
    - iii. fraud within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities of 27/11/1995,

- iv. terrorist offences or offences linked to terrorist as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism or inciting, aiding or abetting an offence as defined in Article 4 of the aforementioned Decision,
- v. money laundering or terrorist financing, as defined in Article 2 of the national laws for the Prevention and Suppression of Money Laundering and Terrorist financing Laws of 2007 - 2016,
- vi. child labour and other forms of trafficking in human beings in accordance with Article 2 of the Law 60(I) of 2014 on the Prevention, Fighting against Trafficking in and Exploitation of Human Beings and Protection of Victims.

It is noted that the obligation of the Contracting Authority to exclude economic operators from the procurement procedure is also applicable if the person convicted by final judgement for any of the above, is a member of an administrative, management or supervisory body of the economic operator or has powers of representation, decision or control therein.

- b. They must not be in breach of their obligations relating to the payment of taxes or social security contributions as at the Contract signing date, where these have been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the Republic of Cyprus or with those of the country where they are established.

It is noted that the Contracting Authority can exclude an economic operator from participation in the procurement procedure where it can demonstrate by any appropriate means that the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions.

- c. They must not be bankrupt or the subject of insolvency or winding-up proceedings, their assets must not be administered by a liquidator or by the court, they must not be in an arrangement with creditors, their business activities must not be suspended and they must not be in any analogous situation arising from a similar procedure under national laws and regulations.
- d. They must not be guilty of grave professional misconduct which renders their integrity questionable, as this can be demonstrated by the Contracting Authority by appropriate means.
- e. They must not have entered into agreements with other economic operators aimed at distorting competition, where the Contracting Authority has reasonably plausible indications to conclude so.
- f. They must not have a conflict of interest within the meaning of Article 6 of Law, that cannot be effectively remedied without excluding them from participation in the tender procedure.
- g. They must not have distorted the competition from the prior involvement in the preparation of the procurement procedure, as referred to in Article 38 of Law, unless this can be effectively remedied without excluding them from participation in the tender procedure.
- h. They must not have shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity

or a prior concession contract which led to early termination of that prior contract, damages or other comparable sanctions.

- i. They must not be guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria, must not have withheld such information or are not able to submit the supporting documents required pursuant to Article 59 of Law,
2. It is understood that if the interested economic operator is a consortium of persons, the above requirements must be met by all consortium members.
3. The same requirements must be met by the entities whose capacities the Tenderer is invoking, within the meaning of related items in paragraphs 6.3 and 6.4.
4. Where corrective actions have been taken by the tenderer in relation to any events / situations which may be considered as one of the above-mentioned grounds for exclusion, such action shall be declared by the tenderer within their tender. The Contracting Authority will examine the statements made by the Tenderer and, if judged to be unsatisfactory, before any rejection of the tender and in order to reach its final decision, it will request its views in writing.

### **6.3 Economic and financial standing**

To participate in the tender procedure, interested economic operators must meet the following requirements concerning their economic and financial standing:

1. The average annual turnover for the last three (3) financial years must be at least equal to 200.000 Euro.
2. It is understood that if the interested economic operator is a consortium of persons, it is sufficient for the above requirements to be met cumulatively by the consortium members.
3. Pursuant to the provisions of article 63 of Law 73(I)/2016, an interested economic operator may rely on the capacities of other entities, regardless of the legal connections between them. In such a case, the tenderer must be able to prove to the Contracting Entity that it shall have at its disposal the resources necessary.

### **6.4 Technical and professional ability**

To participate in the tender procedure, interested economic operators must meet the following requirements concerning their technical and professional ability:

1. The number of persons permanently employed by the interested economic operator, on average during the last three (3) years, should not be less than **five (5)**.
2. They must, during the last three (3) years, have completed successfully at least **three (3)** contracts, from which two of them with a value amounting to at least **80.000** euro each and having



as their scope the provision of consulting services related to Electricity Markets Monitoring and/or Electricity Markets Power Abuse with a minimum participation rate of <50%>.

The term “completed” shall mean that implementation of the respective contract is at least 80% complete.

3. They must include in the proposed Project Team which will responsible for the implementation of the Contract Scope, as key experts, personnel whose qualifications cover the minimum required as listed below:

**Key Expert 1: Contractor’s Project Manager**

B.Sc. and/or M/Sc. in Electrical/Mechanical Engineering, and Economics

Minimum ten (10) years post-graduate experience in Electricity Markets consulting

Specific Experience in Net Pool Electricity Markets Monitoring will be considered as an advantage.

Minimum involvement in two (2) consultancy services projects related to the provision of consulting services related to Electricity Markets Monitoring and/or Electricity Markets Power Abuse with a minimum participation rate of <50%> with a value of with a value amounting to at least 50.000 euro each.

*The following will be considered as additional qualifications, which will be taken into account during the Technical Offer Evaluation:*

- *Additional specific experience in Net Pool Electricity Markets Monitoring (maximum marks will be given for additional working experience of up to 5 years)*
- *Additional relevant working experience (maximum marks will be given for additional working experience of up to 10 years).*
- *Additional involvement in more related projects as the projects mentioned above as minimum criteria (maximum marks will be given for involvement in up to 5 additional projects).*

**Key Expert 2: Electricity Markets Expert**

B.Sc. and/or M/Sc. in Electrical/Mechanical Engineering, and/or Economics

Minimum five (5) years post-graduate experience in Electricity Markets consulting

*The following can be considered as additional qualifications, which will be taken into account during the Technical Offer Evaluation:*

- *Additional relevant working experience (maximum marks will be given for additional working experience of up to 10 years).*

- *Specific experience in consultancy services in related projects as the projects mentioned above as minimum criteria (maximum marks will be given for involvement in up to 5 projects).*

### **Key Expert 3: IT Expert**

B.Sc. and/or M/Sc. in Information Technology,

Minimum five (5) years post-graduate experience in Information Technology in Electricity/Energy Markets consulting

*The following can be considered as additional qualifications, which will be taken into account during the Technical Offer Evaluation:*

- *Additional relevant working experience (maximum marks will be given for additional working experience of up to 10 years).*
- *Specific experience in consultancy services in related projects as the projects mentioned above as minimum criteria (maximum marks will be given for involvement in up to 5 projects).*

Each of the above 3 positions should be fulfilled by only one Expert.

At least 60% of the project's total person-hours must be called by the Key Expert 1.

In addition to the above key experts, Tenderers may also include in the Project Team other experts, if they deem that necessary for the successful implementation of the Contract Scope.

The cost of supporting personnel must be considered when defining the financial offer or the fee rates for the experts (according to the Contract type).

4. It is understood that if the interested economic operator is a consortium of persons, the above requirements could be met cumulatively by the consortium members. It should be noted that the criterion regarding the successful implementation of contracts, could be fulfilled cumulatively only in terms of number of contracts.
5. Pursuant to the provisions of article 63 of Law 73(I)/2016, an interested economic operator may rely on the capacities of other entities, regardless of the legal nature of the links it has with them. In such a case, it must be able to prove to the Contracting Authority that it shall have at its disposal the resources necessary.

## **6.5 Commitment not to withdraw the Tender**

1. The 'Commitment not to withdraw the Tender' form must be completed according to the Specimen (Form 1) which is included in the Appendix of the Tender Documents.
2. In the eventuality that the Tenderer:
  - a. After the expiry of the deadline for the submission of Tenders, withdraws its Tender or a part thereof, during its period of validity, or
  - b. has submitted any false declaration or false certificate, or

- c. Having been notified of the acceptance of its Tender by the Contracting Authority during the period of validity of the Tender, and having been notified to present himself for signing the Contract:
  - (i) Refuses or neglects to provide within the specified time limit any Certificate and/or other document and/or the Performance Guarantee and/or fulfil any other of its obligations deriving from his participation in the present tender procedure, or
  - (ii) Refuses or neglects to sign the Contract.

He may be subject to the following penalties:

- a. Declaration in default and deprivation of all of their rights to the Award of the Contract,
  - b. The penalties provided by the Law and the Regulations regarding participation in future tender procedures for the award of a public contract.
3. Furthermore, the Tenderer undertakes the obligation to pay, by way of indemnification, an amount equal to 5% of their financial offer submitted, or part thereof which has been withdrawn.

## **7. DETAILS OF TENDERS**

### **7.1 Ownership**

1. The Contracting Authority will own the Tenders submitted in under the present tender procedure and the Tenderers are not entitled to the return of their Tenders by the Contracting Authority.
2. It is understood that any information contained in the submitted tenders will be used by the Contracting Authority for evaluation purposes and in compliance with the provisions of the Law.

### **7.2 Confidentiality**

1. The Contracting Authority shall consider the legitimate interests of the Tenderers concerning the protection of secrecy which applies to technical or trade aspects of their businesses.
2. Tenderers may specify in their technical offers the information which they consider to be confidential and which cannot be disclosed to third parties, stating the reasons for considering such information to be confidential.

### **7.3 Period of validity**

1. The period of validity of the Tenders is the period stated in paragraph 2.16 above. Tenders specifying a shorter period of validity than the one mentioned above shall be rejected as inadmissible.
2. The validity of Tenders may be extended, if requested by the Contracting Authority, in accordance with the Regulation.
3. Should the issue of extension of the validity of the Tenders arise, the Contracting Authority shall address a written question to the tenderers prior their expiry date, as to whether they accept the extension for a specific period of time. The tenderers must reply within the period specified by the Contracting Authority and if they refuse to extend the validity of their Tenders, such Tenders shall be rejected as inadmissible.

## **7.4 Variants**

Variants for all or part of the Contract Scope shall be admitted to the tender procedure, on the following conditions:

- a. The variant must meet the minimum specifications laid down for variants in Annex II of the Tender Documents.
- b. The variant must include a detailed presentation of its technical and/or financial advantages and disadvantages compared to the tender which is based on the terms and specifications of the Contract put out to tender. If the proposed alternative solution presents technical and/or financial disadvantages (which in all cases are unrelated to the minimum specifications), the benefit to the Contracting Authority of selecting the variant must be documented using technical drawings, calculations or other suitable means.
- c. Variants must be proposed (Technical details) by the deadline for Submission for Comments (Part A, Par. 2.12)

~~7.5~~ CERA will examine proposed variants and accept or reject them. In any case, CERA will notify the interested parties accordingly by the deadline for dispatch of answers by the Contracting Authority. ***Submission of Tenders for part of the Contract Scope***

~~Tenders either for the entire Contract Scope or for the entire scope of its individual components, are accepted as these are described in Annex II of the Tender Documents. **Not applicable.**~~

## **8. FORMAT AND SUBMISSION OF TENDERS**

### **8.1 Time and place of submission**

1. Economic operators must submit their Tenders no later than the deadline for the submission of Tenders specified in paragraph 2.13.
2. Tenders must be submitted electronically, via the workspace of this tender procedure in the e-Procurement System ([www.eprocurement.gov.cy](http://www.eprocurement.gov.cy)).
3. Tenders which were submitted after the specified date and time are considered to be late and shall not be taken into consideration.
4. Tenderers are allowed to modify or withdraw their submitted Electronic Tenders through the e-Procurement System, any time PRIOR to the deadline.
5. With the exception of the provisions of paragraph 9.5, no clarification, modification or rejection, by the tenderer, of a term of its Tender is allowed after the expiry of the deadline for the submission of Tenders.
6. Tenderers do not have the right to withdraw their Tenders or any part thereof after the expiry of the deadline for the submission of Tenders. If a Tender or any part thereof is withdrawn after this date, the Tenderer shall be subject to penalties and in particular to:

- a. Declaration of the Tenderer in default and deprivation of all of its rights to the Award of *the Contract*,
- b. a compensation of amount payable to the Contracting Authority equal to 5% of the Tenderer's financial offer or part thereof which has been withdrawn, and
- c. The penalties provided for by the Law and the Regulations regarding participation in future tender procedures for the award of a public contract.

## **8.2 Format of Tenders and Submission**

1. Tenders must be drawn up as determined in the Tender Documents, and must be submitted electronically through the eProcurement system ([www.eprocurement.gov.cy](http://www.eprocurement.gov.cy)) in the language specified in paragraph 2.17. Manuals, if any, accompanying the Technical Offer may be submitted in the English or Greek language.
2. The Tender contains three (3) Sub-folders with all the information pertaining to the Tender, as follows:
  - A. "Eligibility Criteria sub-folder"
  - B. "Technical Part sub-folder"
  - C. "Financial Offer Sub-folder"

If the technical data of the Tender is too large in volume and, consequently, its electronic submission may cause problems, it could be submitted in hard copy or in the form of a link.

The maximum volume of data that can be submitted through the System is 100MB.

3. If the Tender contains abbreviations to denote technical or other concepts, the Tenderer must provide definitions of the abbreviations in an accompanying table.
4. All Forms / Declarations requiring signature to be submitted, must be signed by an authorised person.
5. Guidance for the preparation and submission of electronic tender can be accessed in <Help> section in the eProcurement system.

The Economic Operators may contact the e-procurement support team at the telephone numbers mentioned in the Guide, for assistance on electronic tender submission procedures, prior the deadline for the tender submission, during working hours.

6. The eProcurement System (System) allows the initiation of the electronic submission of a Tender until the deadline for the submission of Tenders specified in Tender Documents. In the case where the submission of a Tender has been initiated prior to the said deadline, then the System allows for the uploading of the Tender for a period of 30 minutes after the submission deadline. Tenders of which their uploading to the System is not completed after 30 minutes have elapsed, or the uploading has been disrupted for any reason during this period, such Tenders will be rejected and will not be registered in the System. It is understood that the initiation or re-initiation of the tender submission process after the submission deadline is not possible and any issue that may arise during this period cannot be rectified.

Taking into consideration that the Tender upload speed can be affected by a number of factors, some uncertain, it is recommended that the initiation of the Tender submission process starts on

time, allowing the necessary time to complete the submission, but also rectify any possible matters that may arise.

It is specifically noted that based on the Legal Framework, each Economic Operator that utilizes the System, is solely responsible for the quality of its infrastructure, network connection speed and, subsequently, for the effectiveness achieved from the use of the System.

### **8.3 Contents of Sub-folders**

#### **8.3.1 Contents of “Eligibility Criteria” Sub-folder**

1. The “Commitment not to Withdraw the Tender” (Form 1).
2. For certifying the eligibility for participation, one of the following:
  - a. If the Tenderer is a legal person, proof of its establishment.
  - b. If the Tenderer is a consortium of legal persons, the above supporting documents should be submitted for each legal person participating in the consortium. A Cooperation Agreement, signed by all parties in the consortium, should also be submitted, stating:
    - (i) The intention of each participant to participate in the consortium,
    - (ii) The participation rate of each member in the consortium,
    - (iii) The consortium member to act as the leader of the consortium, and
    - (iv) The person appointed as Representative of the consortium.
3. For certifying the Economic and Financial Standing of the Tenderer, Form 3 duly completed. It should be noted that the Contracting Authority may request from the tenderers at any time during the evaluation procedure, to submit any documentation considered necessary, regarding the data declared in Form 3.
4. For certifying the technical and professional ability of the Tenderer, the following:
  - a. A list of the personnel employed by the Tenderer under a permanent employment relationship, using Form 4.
  - b. A list of a maximum of ten (10) contracts, using Form 4.
  - c. Documentation for the successful implementation of the contracts, as follows:
    - If the Employer is a Public Entity, a relevant certificate issued by the competent Public Authority.
    - If the Employer is a private entity, a certificate from that private entity or, failing this, a simple declaration by the Tenderer in which contact details are given of a person at the entity where the contract was executed.
  - d. Detailed CVs of the Project Key Experts/ Team members (Form 5).

5. If the Project Team includes key experts who are not in the permanent employment of the Tenderer, declarations by these persons, stating that a relevant cooperation agreement with the Tenderer exists and that they accept the terms of the tender procedure.
  - If the Tenderer relies on the capacities of other entities within the meaning of related items in paragraphs 6.3 and/or 6.4, submission of declarations by these entities, whereby they guarantee to the Contracting Authority that, should the Tenderer be appointed Contractor, they shall place at its disposal the necessary resources as appropriate (Form 14).

It is understood that in such a case, the supporting documents of items (3) and (4) should also include the information/documents concerning these entities, depending on the resources made available. In addition, the supporting document of item (2)(a) above should also be included.

In the event that the Tenderer relies on the capacities of other entities and the Project Team includes key experts that are in the permanent employment of these other entities, then the declarations by these experts as requested by paragraphs 5 above and 8.3.2, is **not** required.

6. Declaration for the protection of employees (Form 6).

Interested economic operators may obtain information on the obligations deriving from the provisions of the legislation on the protection of the employees and on working conditions currently in force in the Republic of Cyprus and applicable to the place of execution of the Contract Scope, from the Website of the Department of Labour Inspection ([www.mlsi.gov.cy/dli](http://www.mlsi.gov.cy/dli)).

### **8.3.2 Contents of “Technical Part” Sub-folder**

The Technical Part comprises of:

1. Technical Offer Form (Form 7)
2. Analysis of the technical Part as following:

#### **Section A:**

- a. UNDERSTANDING THE REQUIREMENTS OF THE CONTRACT

Detailed description of the way in which the Tenderer intends to approach the implementation of the Contract Scope, from which it should be established that the Tenderer understands:

- The requirements of the Contract, as these derive from the Terms of Reference and Technical Specifications of Annex II of the Tender Documents,
- The critical issues which are related to the achievement of the objectives of the Contracting Authority,
- The risks and assumptions which may affect the smooth implementation of the Contract Scope. It is understood that reference to such risks or assumptions shall not make such risks and assumptions a part of the Contract and shall not change the rights and obligations of the parties as these derive from the Contract.

- b. STRATEGY FOR IMPLEMENTATION OF THE CONTRACT SCOPE

- Detailed description of the methodology that the Tenderer intends to adopt for implementing the Contract Scope, with emphasis on quality assurance procedures, existing know-how and the tools to be used for the provision of the requested services.
  - Appropriate description and breakdown of the Contract Scope into activities and work packages to support the execution of activities, with further breakdown of work packages into specific tasks, in accordance with the requirements stated in the Terms of Reference and Technical Specifications of Annex II of the Tender Documents.
  - Identification and detailed description of the deliverables of the Contract.
- c. **ACTIVITIES SCHEDULE**
- Detailed schedule of the activities, work packages and deliverables of the Contract (Gantt chart).

**Section B: Project Team**

- a. A detailed description of the organisational structure of the Project Team and of the roles/duties of its members.
- b. Presentation of the Project Team in Form 8.
- c. CVs of the Key Experts and other experts participating in the Project Team, using Form 5. The CVs of the other experts shall be considered in the evaluation indicated in Form 10.
- d. If the Project Team includes other experts who are not in the permanent employment of the Tenderer, declarations by these persons should be submitted, stating that a relevant cooperation agreement with the Tenderer exists and that they accept the terms of the tender procedure.

**8.3.3 Contents of “Financial offer” Sub-folder**

1. The “Financial Offer” (Form 9).
2. For the preparation of the Financial Offer the following must be considered:
  - a. In every case where price is omitted in the Financial form for specific items/services, it shall be deemed that the corresponding price is included in the other prices and the Contractor shall not be entitled to seek any additional remuneration for these items/services.
  - b. In the case of a discrepancy between the unit rate and the total price, the unit rate shall prevail.
  - c. The rates and the total price of the offer shall be denominated in the currency specified in paragraph 2.18. Prices shall be quoted exclusive of VAT.
  - d. In completing the Financial Offer Form, the Tenderer must consider the deductions, if any, made under the law, and all other expenses required for meeting its obligations, as well as its expenses and profit.
  - e. The prices offered must be inclusive of the duties and taxes payable, and of the contributions, if any, levied under European Union laws on imported products. The prices offered shall be deemed final and shall not be affected by any variations of the aforementioned taxes, duties and/or contributions.



3. Submission of the Financial Offer in any other way whatsoever will result in its rejection.
4. If the price offered does not result clearly from the Financial Offer, the Tender shall be rejected as inadmissible.

## **9. CONDUCT OF THE TENDER PROCEDURE**

### **9.1 *Opening of Tenders***

1. The opening of the tenders submitted in time in the e-Procurement System shall be carried out by authorised persons, after the expiry of the deadline for the submission of tenders as shown in paragraph 2.13, as described in the Regulations mentioned in paragraph 3.1(e).
2. The sub-folders “Eligibility Criteria” and “Technical Part” are opened.
3. Assessment and evaluation of Technical Offers are carried out for the Tenders that have not been rejected in the stage of verification of the participation credentials.
4. Opening of the “Financial offer” Sub-folder shall take place for the Tenders that have not been rejected in the technical evaluation stage.
5. For the purpose of safeguarding the basic principles of public procurement, and more specifically that of transparency, upon the opening of the “financial Offer” Sub-folder, the prices submitted by the Tenderers shall be automatically visible in the System, by all interested parties, with the reservation that the recorded prices have not undergone any sort of evaluation.

### **9.2 *Verification of eligibility and requirements for participation***

1. After the opening of the “Eligibility Criteria” and “Technical Part” Sub-folders, the Competent Body shall first verify the fulfilment of the requirements for participation as well as the correctness and completeness of the submitted supporting documents. The results of this verification should be recorded in a form.
2. If the verification procedure establishes that there are Tenders which do not meet the requirements or the disqualification reasons of paragraph 6.2(1)(a) and (c)-(i) are valid, and having considered any actions that have been declared pursuant to paragraph 6.2(4), the Contracting Authority considers such Tenders as inadmissible, their Technical Offers shall not be evaluated and their Financial Offers is not opened. Such Tenders shall be rejected by the Contracting Authority, through its Competent Body.

### **9.3 *Evaluation of Technical Part***

1. The Competent Body shall proceed with the evaluation of the Technical Offers submitted in order to establish their completeness and determine whether or not they meet the requirements and specifications of the Contract Scope, and shall enter in a special form any Offers which it deems should be rejected, detailing for each one of them the exact grounds for rejection.
2. Technical offers are evaluated in accordance with the criteria set in the relevant Table (Form 10).
3. The mark given to each individual criterion is set to a maximum of 100 points.

4. The mark of each individual criterion shall be weighted using the weighting factor for that particular criterion and rounded to 2 decimal digits.
5. By adding the weighted mark of every individual criterion within each group of criteria, the total mark of that group is obtained.
6. The final technical evaluation mark (T) is the sum of the marks of the section's criteria.
7. The final Technical Offer marks will be entered in a special form by the Competent Body, with adequate justification of the mark.
8. With the completion of the above-mentioned evaluation stages, the Award Competent Body, shall decide to reject or not the tenders. The tenders that have not been rejected from the Award Competent Body, shall proceed to the opening of their Financial Offer Sub-section.

**9.4 Evaluation of Financial Offers**

1. The Competent Body shall verify the contents of the Financial Offer Sub-section, to determine the degree to which they meet the requirements of the Tender Documents.
2. If the verification procedure establishes that there are Tenders which do not satisfy the relevant terms and conditions as required by the Tender Documents, then the Contracting Authority, through its Competent Body, shall reject these Tenders.
3. Evaluation of the Financial Offers shall take place on the basis of current prices, using the factor specified in paragraph 2.24 (if applicable) to convert all future payments, if any, to current prices. Evaluation of the Financial Offers shall be made on the basis of the revised Financial Offer figures, as these shall be obtained after the above conversion.
4. Where the Competent Body considers a Financial Offer to be abnormally low, the Competent Body must request in writing the Tenderer to supply, within ten (10) days of being requested to do so, those clarifications about the composition of its Offer which the Competent Body may deem advisable, as per the provisions of article 69 of Law 73(l)/2016. The Competent Body shall examine the clarifications and shall decide whether to accept or reject the tender.
5. For the Evaluation of the Financial Offers, the relative cost C of each Tender is calculated as follows:

$$C = \frac{\text{Financial Offer of Lowest Bidder}}{\text{Financial Offer under Evaluation}} \times 100$$

Where:

- Financial Offer under Evaluation: the total amount for which the Tenderer intends to implement the Contract,
- and,
- Financial Offer of Lowest Bidder: the price of the Tender with the lowest Financial Offer.

## **9.5 Clarifications on the Tenders**

1. The Contracting Authority may, request a Tenderer to provide clarifications regarding the contents of its Tender, throughout the evaluation procedure. In such a case, the provision of clarifications is mandatory for the Tenderer and is not considered to be a counter-offer.
2. Where information or documentation to be submitted by economic operators is or appears to be incomplete or erroneous or where specific documents are missing, the Contracting Authorities may request the economic operators concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit provided that such requests are made in full compliance with the principles of equal treatment and transparency. Economic operators in this case are obliged, under penalty of disqualification, to supply such missing information *within five (5) working days* from the day on which they are requested to do so.
3. From the clarifications supplied by Tenderers in accordance with the above, only those concerning the issues for which they were requested shall be considered.

## **9.6 Conclusion of the Evaluation**

1. The establishment of the final ranking of Tenders in decreasing order of their final mark is calculated as follows:

$$L = T * 0.70 + C * 0.30$$

where:

T = the Technical Offer evaluation mark, and

C = the relative cost of the Financial Offer.

2. The Tender with the highest mark L shall be considered to be the most advantageous Tender based on best price-quality ratio.
3. In cases where the marks of two or more Tenders are the same, these Tenders are ranked in decreasing order of their Technical Offer mark.

## **10. CONCLUSION OF THE TENDER PROCEDURE**

### **10.1 Award of Contract**

The Contract is awarded to the Tenderer whose Tender is found, after the conclusion of the evaluation procedure, to be the most economically advantageous tender based on price-quality ration.

### **10.2 Notification of the results of the tender procedure**

1. The Contracting Authority shall inform the candidate Contractor of the Award Decision.
2. The Contracting Authority shall notify the Tenderers of the decision taken and of the reasons for it, as per the provisions of article 54 of Law 73(I)/2016.

### **10.3 Cancellation of the tender procedure**

1. The tender procedure may be cancelled before the specified deadline for the submission of Tenders for specific and justified reasons, by decision of the Contracting Authority.
2. Cancellation of the tender procedure after the expiry of the deadline for the submission of Tenders may be decided, provided that it is duly justified and consistent with the fundamental principles of the European Community act regarding public procurement.
3. The interested economic operators / Tenderers do not maintain and shall waive any claim against the Contracting Authority on account of such cancellation, if any, without prejudice to the rights defined in paragraph 3.3 above.

### **10.4 Drawing up and signature of the Agreement**

1. The Tenderer who has been awarded the Contract is obliged to present himself, within a period of twenty (20) days of receipt of the relevant invitation of the Contracting Authority, for signing the relevant Agreement (Part B of the Tender Documents). If the aforementioned deadline expires and the Tenderer has not presented himself to sign the Agreement, then he shall be declared in default of the Award made to him and of all rights deriving from it, and the Tenderer shall be subject to the penalties refer to in paragraph 6.5.
2. In such a case, the Contracting Authority has the right to refer the matter back to the Competent Body, with a view to awarding the Contract to the Tenderer who has submitted the next, as per the ranking of paragraph 9.6. it is Understood that the Tenders are valid at the date of award.
3. The Tenderer who has been awarded the Contract is obliged to present himself for signing the Agreement, also providing the following items:
  - a. The Certificates / Declarations contained in the relevant Table (Form 11),
  - b. The authorisation documents for the person who shall sign the Agreement,
  - c. In the case of a consortium of persons, a final Cooperation Agreement determining the participation rate of each member in the consortium, the legal representative of the consortium and the consortium member to act as the leader of the consortium. It is understood that this information can not be different from that defined in the cooperation agreement of paragraph 8.3.1.
  - d. The Performance Guarantee for the Contract, in accordance with the provisions of the following paragraph.
4. The stamp duties of the Agreement to be signed shall be fully borne by the Contractor.

### **10.5 Performance Guarantee**

1. The amount of the Performance Guarantee must cover 10% of the Contract price.
2. The Performance Guarantee for the Contract shall be returned to the Contractor after the final qualitative and quantitative acceptance of the Contract Scope and after the claims, if any, of both parties have been settled, while it shall be automatically forfeited in favour of the Contracting

Authority in the event of failure by the Contractor to fulfil its obligations, as these derive from the Contract.

3. The Performance Guarantee for the Contract shall be issued by financial institutions or other legal persons lawfully operating in Cyprus or in other countries of the European Union (EU) or of the European Economic Area (EEA) or in third countries who have signed and ratified the International Government Procurement Agreement (GPA) or in other countries who have signed and ratified association agreements or bilateral agreements with the EU or with the Republic of Cyprus, and having the right to issue such guarantees in accordance with the legislation of these countries.
4. The Performance Guarantee for the Contract must be in the format of Form 12.
5. In the case of a consortium, the Guarantee must state that it covers jointly and severally all consortium members.