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**THIS TRANSLATION IS UNOFFICIAL AND DOES NOT REPRESENT A LEGAL BINDING TENDER  
DOCUMENTATION**

**TENDER DOCUMENTATION**

**SELECTION OF TENDERER TO DELIVER PROFESSIONAL CONSULTING SERVICES AND ACCESS TO THE  
SOFTWARE FOR THE IMPLEMENTATION OF COMPLEX MULTIOBJECT MULTIROUND ELECTRONIC  
AUCTION FOR AWARDED RADIO FREQUENCIES IN THE 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz,  
2300 MHz, 3500 MHz and 3700 MHz FREQUENCY BANDS**

**C O N T E N T**

**GENERAL PART:**

- INSTRUCTIONS TO TENDERERS FOR OFFER PREPARATION

**SPECIAL PART:**

- Offer (Form 1)
- Pro forma invoice (Form 2)
- Contract Sample (Form 3)
- Declaration of Suitability (Form 4)
- Authorization for the acquisition of personal data (Form 5)
- TECHNICAL SPECIFICATIONS

## INSTRUCTIONS TO TENDERERS FOR OFFER PREPARATION

### I. GENERAL

#### 1. Information about the Contracting Authority

Agency for Communication Networks and Services of the Republic of Slovenia, Stegne 7, 1000 Ljubljana, Slovenia.

#### 2. Type of Procedure

The Contracting Authority will conduct open procedure in accordance with the Article 25 of the Public Procurement Act (Official Gazette of the Republic of Slovenia, No. 12/2013 – UPB5 and 19/2014; hereinafter: ZJN-2).

#### 3. Subject of the Public Procurement

Subject of the Public Procurement is to choose the Tenderer to deliver professional consulting services and access to the software for the implementation of complex multiobject multiround electronic auction for awarding radio frequencies in the 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz frequency bands.

The subject of this procedure is described in detail in the Technical Specifications, which are part of this Tender Documentation.

#### 4. The Right to participate

Any legal or natural person who is registered for the activity that is the subject of this Public Procurement and has all the required permission to perform this Procurement can participate in this Procurement procedure.

Tenderers may submit only one offer. **Tenderer who takes part in more than one offer regardless whether he takes part independently or as a partner in joined offer disqualifies all offers in which he takes part. Those offers will be eliminated.**

##### 4.1. Foreign Tenderers

Tenderers located in a foreign country have to fulfil the same conditions as Tenderers based in the Republic of Slovenia.

Tenderers who are not established in Slovenia, shall submit proof of suitability referred to in point 12. of the Chapter II of this Instructions.

Where the country in which the Tenderer is established does not issue documents required by paragraph 12.1., 12.2. and 12.3. of the Chapter II of this Instructions, the Contracting Authority may accept a declaration under oath by witnesses or a declaration under oath by the Tenderer's legal representative. Such declaration shall be made before a competent judicial or administrative

authority, a notary or a competent professional or legal entity in the country where the Tenderer is established.

#### **4.2. Acting with Subcontractors**

The Tenderer may itself carry out the public Procurement in full or performed by Subcontractors. In the case of the Contract with Subcontractors, **the Tenderer shall indicate all Subcontractors (name, full address, registration number, VAT number and bank account) and part of the Contract, which will be performed by a single Subcontractor (item, quantity, value, location and time of execution of these works).**

The Tenderer is aware that direct payments to Subcontractors by the Contracting Authority are in accordance with the seventh paragraph of Article 71 of the ZJN-2. For the implementation of direct payments the Tenderer shall attach to his invoice invoices or situations of Subcontractors, which had previously been approved by the Tenderer.

**The Tenderer shall in his Offer authorize the Contracting Authority to make direct payments to the Subcontractor on the basis of the invoice, while the Subcontractor is obliged to give his consent for direct payments.**

The Tenderer performing the Contract with one or more Subcontractors, shall have at the conclusion of the Contract with the Contracting Authority or during the implementation of the Contract, Contracts with Subcontractors. The Subcontractor shall provide the Contracting Authority a copy of the Contract he entered into with his customer (Tenderer), within five days of signing this Contract. The Contracting Authority shall immediately upon receipt of the copy of the Contract determine whether the Tenderer's authorization of the previous paragraph and the Subcontractor agreement in the previous paragraph has been submitted. If there is no authorization or consent, the Tenderer or Subcontractor shall be immediately invited to submit the document within five days of receipt of the notice.

If the Subcontractor is replaced after the conclusion of the Contract with the successful Tenderer, or if Tenderer enters into a Contract with a new Subcontractor, the selected Tenderer shall within 5 days after the change submit to the Contracting Authority:

- A statement that all undisputed obligations to the original Subcontractor have been settled, if the Subcontractor was replaced,
- Authorization for payment for the work undertaken or supplies directly to the new Subcontractor and
- Consent of the new Subcontractor for direct payment.

When a Tenderer intends to perform the Contract with the Subcontractor, the conditions referred to in point 12.1.3. of the Chapter II of this Instructions shall be fulfilled by the Subcontractor involved in the execution of the Contract.

Contracting Authority has the right that for all new Subcontractors which were not specified in the offer (replacement of Subcontractors or introducing new Subcontractors) later verifies fulfilment of above mentioned conditions. In case that Subcontractors do not meet the conditions the Tenderer shall not hire them. In case that the Tenderer does not comply with this rule, this represents fault-based grounds for termination of contract.

The Contracting Authority notifies the Tenderer and Subcontractor that Subcontractor shall not cooperate at implementation of Public procurement, in case of not fulfilment of the conditions.

**For each Subcontractor the Tenderer shall enclose also consent of Authorization for the acquisition of personal data.**

#### **4.3. Acting as a Joint Venture or a Consortium**

A group of legal entities are allowed to submit the Offer as a Joint Venture or a Consortium. In doing so, the group selected shall submit a Partnership Agreement, from which it will clearly show the following:

- the list of all partners in a Joint Venture or a Consortium (name, full address of the partner, legal representative, registration number, VAT number and bank account),
- the Power of Attorney to leading partner in the Joint Venture or a Consortium,
- unlimited joint liability of all the partners in the group in relation to Contracting Authority,
- field of work, which will be performed by a single partner in the group and part of each partner in the group indicated in % and amount of work performed by each partner in the group,
- method of payment over leading partner in the group or to each partner in the group,
- provisions in case of withdrawal of each of partner in the group,
- dispute resolutions among partners within the group,
- other possible rights and obligations among partners in the group,
- life of legal act.

**In the case of Joint Venture or a Consortium, the Tenderer should in Form-1 specify all that will take part in that joined offer. Each Tenderer individually shall fulfil the conditions set out in point 12.1. and in point 12.2. of the Chapter II of this Instructions, other conditions may be fulfilled jointly.**

**The joint offer shall include authorization for the acquisition of personal data (Form-5) for each partner.**

If this Public procurement is awarded to Tenderers that have submitted joined offer, replacement of members of a Joint Venture or a Consortium during the execution of Contract is not possible. If some member of a Joint Venture or a Consortium would like to terminate the execution of public procurement or if there is some sort of insolvency procedure started against a member of a Joint Venture or a Consortium the Contracting Authority will terminate the Contract of execution of Public procurement.

#### **4.4. Capacities of other legal entities**

The Tenderer may, where appropriate and for a particular Contract, rely on the capacities of other legal entities, regardless of the legal nature of the links which it has with them. In this case it shall prove to the Contracting Authority that it will have at its disposal the resources necessary for performance of the Contract. An agreement to that effect signed between such entities may be considered as such proof. If the Tenderer fails to provide the required proof, the Contracting Authority may exclude his Offer.

## **5. Additional Information for Tenderers**

Information about the content of Tender documents can only be requested in writing through the Procurement portal<sup>1</sup>. Information will be submitted through the Procurement portal.

If the Tenderer in connection with the Tender documents, or in connection with the preparation of the Offer requests any further clarification, it shall apply up to and including on **19.12.2014**.

The Contracting Authority is obliged to provide additional explanations relating to the Tender documents through the Procurement portal no later than six days prior to the deadline for submission of Offers, provided that the request was issued on time.

## **6. Amendments of Tender documents**

The Contracting Authority reserves the right to amend or supplement the Tender documents. In the event that the Contracting Authority shall modify or amend the Tender documents during the period for submission of Offers, this will be posted on the Procurement portal.

After the expiry of the time limit for the receipt of Offers the Contracting Authority may no longer amend the Tender documents.

In the event of the Contracting Authority shall modify or amend the Tender documents five or less days prior to the deadline for submission of Offers, the deadline for submission of Offers will be extended accordingly to the scope and content of changes.

With the postponement of the deadline for receipt of Offers, the rights and obligations of the Contracting Authority and the Tenderer bind to the new deadlines, which arise from the extended deadline for submission of Offers.

## **7. Confidentiality of data and process**

Data justifiably classified by Tenderer as confidential, will be used only for the purpose of the Public Procurement and will not be accessible to anyone outside the authorized persons of the Contracting Authority responsible for the implementation of the public Procurement procedure. The Tenderer may mark the documents that contain personal information, but are not included in any public register or otherwise publicly available and other business information in accordance with Paragraph 39 and 40 of the Companies Act-1 as confidential information. In spite of this Contracting Authority points to take account of the principle of transparency in Public Procurement that data affecting the choice cannot be treated as confidential.

Contracting Authority will treat as confidential those documents in Offer documentation which will have large letters "CONFIDENTIAL" written in the upper right corner and under this sign the signature of the person signing the Offer. If only a certain piece of information in the document should be confidential this part should be underlined in red, in line along the right side should be written "CONFIDENTIAL". Contracting Authority is not responsible for the confidentiality of the data which will not be marked as stated above.

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<sup>1</sup> <http://www.enarocanje.si>

## **II. OFFER**

### **1. Language of the Offer**

The public Procurement procedure is conducted in the Slovene language.

The Offer shall be drafted in Slovene or English language.

All evidence of suitability shall be submitted in the Offer documentation with the original documents in its original language as well as its Slovene or English translation.

If the Contracting Authority, during the revision and evaluation of Offers, deems it necessary that the part of Offer documents, which is not submitted in the Slovene language, should be officially translated into the Slovene language, it may require the Tenderer to do so and set an appropriate time limit. The translation costs shall be borne by the Tenderer.

In the case of a dispute, the Offer or its official translation into the Slovene language shall apply and, where Tender documents, or a part thereof, are in a foreign language, the language concerned shall prevail.

### **2. Complete Offer**

A complete Offer is an Offer that is received on time, is formally complete, admissible, properly prepared and appropriate.

When preparing the Offer and filling out forms, the Tenderer shall follow the instructions listed on each form.

Where the Contracting Authority establishes that an Offer is formally incomplete, it must admit and enable the amendment of such Offer in accordance. Where the tenderer fails to make appropriate amendments or changes within the time limit set by the Contracting Authority, the Contracting Authority must eliminate such Offer.

The Offer shall include all the documents listed below that has to be filled-in, signed and stamped:

- Form 1: Offer;
- Form 2: Pro forma Invoice;
- Form 3: Contract Sample;
- evidence in accordance with Point 12 of Chapter II of this Instructions;
- Form 4: Declaration of Suitability;
- Form 5: Authorization for the acquisition of personal data – is enclosed only by Slovene Tenderers;
- fulfilled Technical Specifications (see Point 12.4. of Chapter II of this Instructions).

In case that at implementation of the Public procurement Tenderer will cooperate with Subcontractors the Tenderer has to enclose for each Subcontractor the documents listed below:

- Form 1: Offer – they fill-in first point of the form;
- Form 4: Declaration of Suitability;
- evidence in accordance with Point 12 of Chapter II of this Instructions;

- Form 5: Authorization for the acquisition of personal data – is enclosed only by Slovene Tenderers;
- Authorization for payment for the work undertaken directly to the Subcontractor (see Section 4.2. of Chapter I of this Instructions);
- Consent of the Subcontractor for direct payments (see Section 4.2. of Chapter I of this Instructions);

In case that at implementation of the Public procurement Tenderer will act with joint offer, he has to enclose for each partner in joined offer the documents listed below:

- Form 1: Offer – they fill-in first point of the form;
- Form 4: Declaration of Suitability;
- evidence in accordance with Point 12 of Chapter II of this Instructions;
- Form 5: Authorization for the acquisition of personal data – is enclosed only by Slovene Tenderers;
- Authorisation for signing the joined offer.

When preparing the Offer, the Tenderer shall take into account the prescribed order.

The Contracting Authority reserves the right to verify the correctness of all information. If the Contracting Authority will not be able to verify the data, they will not be taken into account.

### **3. Form of the Offer**

The Offer must be submitted in one (1) original, one (1) copy and an electronic version on electronic media. In case of any discrepancies between the copies the original will prevail.

The Offer documentation must be typed or legibly written in indelible ink. Content of the forms, statements, papers and documents must not be changed.

All forms must be completed, signed and stamped.

The Offer documentation shall be signed by the Tenderer's legal representative or other person authorized to sign Offer of the estimated type, value and extent.

All sheets of the original Offer must be quilted with string, both ends of it at the last or first affixed with sealing wax or tape, attachment must be secured by rubber stamp or signature of the person signing an Offer. Form of binding is reasonably adapted from the Article 35 of the Law on Notaries (Official Gazette of RS, No. 2/2007-UPB3, 33/2007-ZSReg-B, 45/2008). Overview must be possible, without damage to sealing wax or tape. Binding with string is only necessary for the original, while it is preferred that a copy is bind so that it is possible to make any further copying easier.

### **4. Documents in the Offer**

Validation of the Offer documents shall not exceed the deadline as defined by the specific provisions of the Tender documents. In those cases where the validation of documents is not specified, they should reflect the legal status of the Tenderer relevant on the day fixed for the submission of Offers.

## 5. Submission of Offers

The original and a copy of the Offers shall be inserted in two envelopes marked "Original" and "Copy". Both envelopes shall be inserted into one outer envelope marked: "PONUDBA ZA IZBIRO PONUDNIKA ZA IZVEDBO STROKOVNIH SVETOVALNIH STORITEV IN DOSTOPA DO PROGRAMSKE OPREME ZA IZVEDBO KOMPLEKSNE ELEKTRONSKE DRAŽBE, KI VKLJUČUJE VEČ PREDMETOV IN VEČ KROGOV, ZA PODELITEV RADIJSKIH FREKVENC V 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz IN 3700 MHz FREKVENČNIH PASOVIH – NE ODPIRAJ" and shall be delivered to the following address:

Agencija za komunikacijska omrežja in storitve Republike Slovenije, Stegne 7, 1000 Ljubljana.

*(Meaning: "OFFER FOR THE SELECTION OF TENDERER TO DELIVER PROFESSIONAL CONSULTING SERVICES AND ACCESS TO THE SOFTWARE FOR THE IMPLEMENTATION OF COMPLEX MULTIOBJECT MULTIROUND ELECTRONIC AUCTION FOR AWARING RADIO FREQUENCIES IN THE 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz FREQUENCY BANDS – DO NOT OPEN").*

The Tenderer shall write his full address onto the outer envelope. Envelope should be closed or sealed in a way that it is evident that it was not opened before the public opening.

Tenderer can deliver the Offer to Contracting Authority by post or hand it over personally at the Contracting Authority's address.

## 6. Deadline for submission of the Offers

Deadline for the submission of the Offers is **5.1.2015 at 10:00 a.m. CET**. A timely Offer shall be an Offer that is received by the Contracting Authority before the specified Offer receipt date.

Where an Offer exceeds the time limit set for the receipt of Offers, such submissions shall be considered as too late. Such Offers shall be returned to tenderers after the completion of the opening procedure, unopened and marked as "too late".

The Offer which was delivered to the post office before the deadline for submission of Offers, but arrives to the Contracting Authority after the deadline, is not a timely Offer and will be after the completion of the opening procedure returned to Tenderer unopened and marked as "prepozna" *(meaning: "too late")*.

## 7. Modifications and withdrawal of the Offer

The Tenderer may modify or withdraw his Offer by way of a written notice that shall be delivered to the above address prior to the deadline for the submission of Offers.

The Tenderer's notice of modification shall be prepared, sealed and submitted in the same manner as the Offer itself. It shall be marked as "SPREMEMBA PONUDBE ZA IZBIRO PONUDNIKA ZA IZVEDBO STROKOVNIH SVETOVALNIH STORITEV IN DOSTOPA DO PROGRAMSKE OPREME ZA IZVEDBO KOMPLEKSNE ELEKTRONSKE DRAŽBE, KI VKLJUČUJE VEČ PREDMETOV IN VEČ KROGOV, ZA PODELITEV RADIJSKIH FREKVENC V 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz in 3700 MHz FREKVENČNIH PASOVIH – NE ODPIRAJ" and it must be sent to the address of the Contracting



Authority by registered mail or personally submitted to the reception office of the Contracting Authority.

*(Meaning: "MODIFICATION OF THE OFFER FOR THE SELECTION OF TENDERER TO DELIVER PROFESSIONAL CONSULTING SERVICES AND ACCESS TO THE SOFTWARE FOR THE IMPLEMENTATION OF COMPLEX MULTIOBJECT MULTIROUND ELECTRONIC AUCTION FOR AWARDED RADIO FREQUENCIES IN THE 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz in 3700 MHz FREQUENCY BANDS – DO NOT OPEN").*

In the event that the Tenderer replaces its Offer with a new Offer, the previous Offer has to be withdrawn from the Procurement process. Withdrawal of Offer must reach the Contracting Authority before the deadline for submission of Offers and shall be given in writing. Written withdrawal of Offer shall be appropriately marked as "UMIK PONUDBE ZA IZVEDBO STROKOVNIH SVETOVALNIH STORITEV IN DOSTOPA DO PROGRAMSKE OPREME ZA IZVEDBO KOMPLEKSNE ELEKTRONSKE DRAŽBE, KI VKLJUČUJE VEČ PREDMETOV IN VEČ KROGOV, ZA PODELITEV RADIJSKIH FREKVENC V 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz in 3700 MHz FREKVENČNIH PASOVIH" and it must be sent to the address of the Contracting Authority by registered mail or personally submitted to the reception office of the Contracting Authority.

*(Meaning: "WITHDRAWAL OF THE OFFER FOR THE SELECTION OF TENDERER TO DELIVER PROFESSIONAL CONSULTING SERVICES AND ACCESS TO THE SOFTWARE FOR THE IMPLEMENTATION OF COMPLEX MULTIOBJECT MULTIROUND ELECTRONIC AUCTION FOR AWARDED RADIO FREQUENCIES IN THE 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz in 3700 MHz FREQUENCY BANDS").*

Documentation relating to the change, supplement or replacement of the Offer must be prepared in accordance with Point 5 of this Chapter and addressed to the address of the Contracting Authority.

In case of a withdrawal, the Offer will be returned to the Tenderer unopened.

## **8. Correction of errors**

The Offer shall contain no changes or additions other than those that are necessary to correct the Tenderer's mistakes. In this case, the corrections shall be initiated by the person or persons who are signers to the Tender.

## **9. Permissible amendments**

Where the Contracting Authority establishes that a offer is formally incomplete, it can enable the amendment or change it in a part where it is not complete. The Contracting Authority requires the amendment or change of the offer only in case when some specified fact cannot be check by the Contracting Authority itself. Where the Tenderer fails to make appropriate amendments within the time limit set by the Contracting Authority the Contracting Authority must eliminate such offer.

The Tenderer is not allowed to amend or change:

- it's unit price, price of items, the total value of Offer and Offer in the context of criteria,
- Part of the Offer, which binds to the technical specifications of the subject of this public Procurement in sense of change firstly offered subject of public procurement with new subject,

- Those elements of the Offer which affect or could affect the different classification of the Offer in relation to the rest of the Offers, which were submitted in the public Procurement procedure.

Despite of provisions of previous paragraph only the Contracting Authority can at the written consent of the Tenderer correct obvious calculation errors discovered during the review and evaluation of Offers. In doing so, the quantity and unit price must not be changed.

## **10. Indication of misleading information**

Contracting Authority will submit a proposal to the National Review Commission for the initiation of violation procedure:

- in the event that the Contracting Authority will have reasonable doubts that the Tenderer submitted false statements or evidences in the Offer,
- if the Tenderer or Subcontractor has not submitted to the Contracting Authority authorization or consent within the prescribed time in accordance with paragraph 9 of Article 71 of ZJN-2.

## **11. Offer Costs**

All costs associated with the preparation and submission of the Offer, including costs of materials brochures, catalogues, if requested by the Contracting Authority, shall be borne by the Tenderer. Contracting Authority shall in no event be liable for any damage that might result from these costs irrespective of the conduct of procedures in relation to the public Procurement and the final selection of the Tenderer.

## **12. QUALIFICATION CONDITIONS**

The Tenderer must fulfil all conditions stated in this Tender documentation. In order to prove fulfilment of the conditions, the Tenderer shall submit evidences for each required condition. If the State in which the Tenderer has its headquarters does not issue such documents, the Tenderer may submit a declaration under oath by the witnesses or a declaration under oath by the Tenderer's legal representative. The declaration has to be submitted at competent judicial or administrative authority, notary or competent professional or legal entity in the country where the Tenderer is established.

All documents must be completed, signed by the Tenderer's legal representative or other person authorized to conclude Contracts and stamped. Documents must show the up to date status. Documents for proving the fulfilment the conditions can be enclosed in photocopy except in cases where for specific document otherwise is required. The Contracting Authority can later on require enclosing of the originals if he doubts in credibility of photocopies.

The Contracting Authority will consider the capability of providers based on the following conditions:

### **12.1. Tenderer's suitability**

12.1.1. The Tenderer or its legal representatives in the case of legal persons have never been the subject of a conviction by final judgement of crimes listed in The Criminal Code (Official Gazette of the Republic of Slovenia, No. 50/2012; hereinafter: KZ-1):

- acceptance of bribe during the election (Article 157 of KZ-1)
- fraud (Article 211 of KZ-1);
- abuse of a position of monopoly (Article 225 of KZ-1);
- false bankruptcy (Article 226 of KZ-1);
- defrauding creditors (Article 227 of KZ-1);
- commercial fraud (Article 228 of KZ-1);
- fraud affecting the European Union (Article 229 of KZ-1);
- deception in obtaining loan or advantages (Article 230 of KZ-1);
- fraud in securities trading (Article 231 of KZ-1);
- deception of purchasers (Article 232 of KZ-1);
- unauthorised use of another's mark or model (Article 233 of KZ-1);
- unauthorised use of another's patent or topography (Article 234 of KZ-1);
- forgery or destruction of business documents (Article 235 of KZ-1);
- disclosure and unauthorised acquisition of trade secrets (Article 236 of KZ-1);
- abuse of information system (Article 237 of KZ-1);
- abuse of insider information (Article 238 of KZ-1);
- abuse of financial instruments market (Article 239 of KZ-1);
- abuse of position or trust in business activity (Article 240 of KZ-1);
- prohibited acceptance of gifts (Article 241 of KZ-1);
- prohibited giving of gifts (Article 242 of KZ-1);
- counterfeiting money (Article 243 of KZ-1);
- fabrication and use of counterfeit stamps of value or securities (Article 244 of KZ-1);
- money laundering (Article 245 of KZ-1);
- abuse of non-cash means of payment (Article 246 of KZ-1);
- use of counterfeit non-cash means of payment (Article 247 of KZ-1);
- fabrication, acquisition and disposal of instruments of forgery (Article 248 of KZ-1);
- tax evasion (Article 249 of KZ-1);
- smuggling (Article 250 of KZ-1);
- disclosure of classified information (Article 260 of KZ-1);
- acceptance of bribes (Article 261 of KZ-1);
- giving bribes (Article 262 of KZ-1);
- accepting benefits for illegal intermediation (Article 263 of KZ-1);
- giving of gifts for illegal intervention (Article 264 of KZ-1);
- criminal association (Article 294 of KZ-1).

Evidence:

- a) Tenderers established in the Republic of Slovenia: Declaration (Form 4) and Authorization for the acquisition of personal data (Form 5) or Proof of good conduct from the Criminal Records of natural or legal persons that is not older than four months on a due date for submission of the offers
- b) Foreign Tenderers: Evidence in accordance with section 4.1. of the Chapter I of this Instructions

12.1.2. The Tenderer is not on the day of submission of Offers disqualified from being awarded public Contracts due to the inclusion in the record of Tenderers with negative references in accordance with Article 77a of ZJN-2, Article 81.a ZJNVETPS or Article 73. ZJNPOV.

Evidence:

Tenderers established in the Republic of Slovenia and Foreign Tenderers: Declaration (Form 4)

- 12.1.3. The Tenderer has on the date of submission of the Offer, in accordance with the regulations of the country in which he is established or regulations of the Contracting Authority no outstanding, unpaid obligations relating to the payment of social security contributions or in connection with the payment of taxes in the amount of 50 euros or more.

Evidence:

- a) Tenderers established in the Republic of Slovenia: Declaration (Form 4)
- b) Foreign Tenderers: Evidence in accordance with section 4.1. of the Chapter I of this Instructions

- 12.1.4. The Tenderer is not listed in the evidence in business entities in accordance with Article 35 of Integrity and Prevention of Corruption Act (Official Gazette of the Republic of Slovenia No. 69/2011 – UPB2) or that from the before mentioned evidence follows that officer of the Contracting Authority or its family member is not the member of management or/and is not directly or via other persons in more than 5 % involved at founding rights, management or equity.

Evidence:

Tenderers established in the Republic of Slovenia and Foreign Tenderers: Declaration (Form 4)

## **12.2. Suitability to pursue professional activity**

- 12.2.1. The Tenderer has a valid registration to do business, which is the subject of this procedure (consulting services in the field of mobile industries and /or regulatory affairs) pursuant to the regulations of the Member State of his establishment.

Evidence:

- a) Tenderers established in the Republic of Slovenia: Declaration (Form 4)
- b) Foreign Tenderers: Evidence in accordance with section 4.1. of the Chapter I of this Instructions

## **12.3. Technical and/or professional eligibility**

- 12.3.1. The Tenderer has experience with development and execution of complex auctions involving multiple objects and multiple rounds in last 5 years.

Evidence:

Reference certificate that is signed by the organisation ordering the services.

Certificate must contain:

- project title;
- project budget;
- project duration (start date and end date of the project);
- contact person with his/her e-mail address and/or telephone number.

The Tenderer can submit several references.

(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services).

- 12.3.2. Tenderer is capable to provide auction software for complex multiple objects and multiple rounds auctions.

Evidence:

Reference certificate that is signed by the organisation ordering the services.

Certificate must prove:

- capability to develop and to provide software for complex multiple objects and multiple rounds auctions;
- successful application of this software;
- contact person with his/her e-mail address and/or telephone number.

The Tenderer can submit several references.

(When in doubt, AKOS can check the proof by contacting the organisation ordering the services).

12.3.3. The Tenderer is expected to have knowledge and experience in the areas of auction, spectrum regulation and wireless communication markets.

Evidence:

Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:

- project title;
- project budget;
- project duration (start date and end date of the project);
- contact person with his/her e-mail address and/or telephone number.

The Tenderer can submit several references.

(When in doubt, AKOS can check the proof by contacting the organisation ordering the services).

12.3.4. A Tenderer must have sufficient technical and professional ability and/or knowledge to perform the Contract and to provide the Consultancy Services over the full term of the Contract. Such sufficient technical and professional ability and/or knowledge is proved by described:

- Average annual manpower of both staff and managerial staff over the past five years;
- Educational and professional qualifications (managerial);
- Educational and professional qualifications (personnel);
- Technical ability to perform the Contract;
- Measures for ensuring quality.

Evidence:

To substantiate the knowledge and experience requirements the Tenderer must provide:

- Details of the average annual numbers of both staff and managerial staff over the previous 5 years. CVs for the key personnel with knowledge and experience in similar projects. CVs for at least three of additional supporting personnel must be provided;
- Details of the organisation's technical ability to perform the Contract, including details of skills, efficiency, experience and reliability relevant to the Contract;
- Details of the organisation's measures to ensure quality such as Quality Management systems and Quality and security certificates. This statement should include a full description of the measures currently or proposed to be put in place in relation to staff absences, equipment or software failure; and the nature and level of supervision which will be provided to ensure that a high quality service will be delivered.

It is not necessarily to prove each condition item in Point 12.4. of this Chapter with separate certificate. One certificate could cover multiple conditions.

#### **12.4. Filled-in Technical Specifications**

The Tenderer shall enclose the list of solutions of requirements which are described in Technical Specifications.

Evidence:

- declaration regarding the understanding of the subject of this public procurement;
- description of intended fulfilment of requirements from Technical Specifications (the description should have 200 – 500 words).

#### **13. Exclusion of Offers**

Contracting Authority will eliminate:

- Offers that are not received on time;
- Offers which do not fulfil all the requirements of point 2 and 12 of the Chapter II of this instructions;
- the offer that will not meet all technical requirements.

#### **14. Offer price**

The Tenderer shall indicate in the Offer the final price in EUR. Final price should include all costs, discounts and rabates. Offer price must have the level and value of VAT shown separately.

The price shall be fixed for the duration of the Contract.

#### **15. Selection criteria**

The criterion for selecting the best Offer is the most economically advantageous Offer.

Offers will be evaluated by the number of points achieved based on the following criteria:

**1. Price offered (without VAT) = 40 points;**

- a. Fixed price offered for all services before the start of the auction and after the auction;
- b. Daily auction rate for services during the auction;
- c. Consultancy hour rate after the end of the auction.

**2. References provided by Tenderers = 40 + 10 points;**

- a. References confirming that the Tenderer has successfully completed auction projects ordered by Authorities acting as auctioneer (involved as partner or as leader ) = 40 points;
- b. References confirming that the Tenderer has successfully completed auction projects ordered by Bidders in such an auction (involved as partner or as leader) = 10 points.

**3. Project understanding = 10 points.**

##### **15.1. Total Price Offered**

At this criterion points are calculated regarding fixed price, daily auction rate and consultancy hour rate.

#### **15.1.1. Fixed price**

The Contracting Authority expects that Tenderers will calculate a Total Price for all consultancy services Offered by the Tenderer, which contains the following components:

- 1) Total Price of Pre-Auction Consultancy Services (Chapter 2.2.1 of Technical specifications), Auction rules (Chapter 2.2.2) and Auction Software (Chapter 2.2.3 of Technical specifications), assuming
  - a. auction workshops (see Section 8 of Chapter 2.2.1 of the Technical specifications),
  - b. 1 mock auction for AKOS staff and 1 mock auction for each prospective bidder separately (see Section 9 of Chapter 2.2.1 of Technical specifications),
  - c. Software license for the complex multi-round CCA auction.
- 2) Total Price of Post Auction services (Final auction report, auction results analysis, documentation and archive of auction procedure).

#### **15.1.2. Auction daily rate**

Tenderer should provide rate for auction day. Auction day is considered as a consultancy day during the auction. The rate does not depend on number of tenderer's staff involved in process of auction. Auction daily rate has to include all costs (e.g. traveling and accommodation costs).

Contracting Authority will take into account 15 auction days.

#### **15.1.3. Consultancy hour rate**

Tenderer should provide rate for consultancy hour. Consultancy hours are intended for possible consultation services after the end of auction. The rate does not depend on number of tenderer's staff involved in consultation process.

Contracting Authority will take into account 40 consultancy hours.

#### **15.1.4. Calculation of valuation points for the Total Price**

Number of points for this criterion is calculated (in accordance with the formula below) as ratio between the lowest price Offered and evaluated offered price. The result will be multiplied with 40 and will be rounded to one decimal place. The Tenderer that Offers the lowest price gets 40 points.

$$P = (P_L / P_X) \times 40$$

P = Number of points for criteria »Price Offered«

P<sub>L</sub> = Lowest price Offered (compared with all Tenderers whose bids are evaluated)

P<sub>X</sub> = Price that is being evaluated

P<sub>Fix</sub> = Total fixed price Offered

P<sub>AP</sub> = Auction daily rate

P<sub>CH</sub> = Consultancy hour rate

The Price evaluated is calculated as sum of Offered fixed price, 15 auction daily rates and 40 Consultancy hour rates.

$$P_X = P_{Fix} + 15 \times P_{AP} + 40 \times P_{CH}$$

## 15.2. Calculation of Points for the References of tenderers

### 15.2.1. References on Projects for Authorities acting as auctioneers

References to auction Projects for National Regulatory Authorities acting as auctioneers will be awarded with:

Criteria	Documents to prove reference	Weight
The leader in last 5 years in successfully completed CCA multiband spectrum auction project of EU regulator for electronic communications as auctioneer.	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	40
Involvement as partner in last 5 years in successfully completed CCA multiband spectrum auction project of EU regulator for electronic communications as auctioneer, whose share has to be at least 20 % of the value of the whole project.	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	10
The leader in last 5 years in successfully completed CCA single band spectrum auction project of EU regulator for electronic communications as auctioneer.	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul>	20



	<p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	
<p>Involvement as partner in last 5 years in successfully completed CCA single band spectrum auction project of EU regulator for electronic communications as auctioneer, whose share has to be at least 20 % of the value of the whole project.</p>	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	5
<p>The leader in last 5 years in successfully completed public mobile services spectrum auction project containing 700MHz or 2300 MHz frequency band of non-EU regulator as an auctioneer.</p>	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	10
<p>Involvement as partner in last 5 years in successfully completed public mobile services spectrum auction project containing 700MHz or 2300 MHz frequency band of non-EU regulator as an auctioneer whose share has to be at least 20 % of the value of the whole project.</p>	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul>	2,5

	<p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	
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**Maximum amount of points for this criterion is limited to 40.**

Number of points for this criterion is calculated (in accordance with the formula below) as ratio between evaluated references of Tenderer (sum of all references multiplied by Weight of reference) and the highest number of points for references achieved. The result will be multiplied with 40 and will be rounded to one decimal place. The Tenderer that achieve the highest value for references gets 40 points.

$$RA = (RA_x / RA_{Max}) \times 40$$

RA = Number of points for criteria » References of auctioneers«

RA<sub>i</sub> = Value of each reference is number of Documents to prove qualification for Criteria multiplied by Weight of reference

RA<sub>x</sub> = Evaluated references of Tenderer is Sum of Values of reference for each reference)

RA<sub>Max</sub> = Highest number of points achieved for references

#### **15.2.2. References on projects related to bidders (operators)**

References that are related to bidders (operators) will be evaluated with:

<b>Criteria</b>	<b>Documents to prove reference</b>	<b>Weight of reference</b>
<p>The leader in last 5 years in successfully completed CCA multiband spectrum auction project of EU regulator for electronic communications as a bidder.</p>	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	<p>8</p>

<p>Involvement as partner in last 5 years in successfully completed CCA multiband spectrum auction project of EU regulator for electronic communications as a bidder, whose share has to be at least 20 % of the value of the whole project.</p>	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	<p>2</p>
<p>The leader in last 5 years in successfully completed public mobile services spectrum auction project containing 700MHz or 2300 MHz frequency band of non-EU regulator as a bidder.</p>	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	<p>4</p>
<p>Involvement as partner in last 5 years in successfully completed public mobile services spectrum auction project containing 700MHz or 2300 MHz frequency band of non-EU regulator as a bidder whose share has to be at least 20 % of the value of the whole project.</p>	<p>Reference certificate on successfully completed projects signed by the organisation ordering the services. Certificates must contain:</p> <ul style="list-style-type: none"> <li>- project title;</li> <li>- project budget;</li> <li>- project duration (start date and end date of the project);</li> <li>- contact person with his/her e-mail address and/or telephone number.</li> </ul> <p>The Tenderer can submit several references.</p> <p>(When in doubt, the Contracting Authority can check the proof by contacting the organisation ordering the services.)</p>	<p>1</p>

**Maximum amount of points for this criterion is limited to 10.**

Number of points for this criterion is calculated (in accordance with the formula below) as ratio between evaluated references of Tenderer (sum of all references multiplied by Weight of reference) and the highest number of points for references achieved. The result will be multiplied with 10 and will be rounded to one decimal place. The Tenderer that achieve the highest value for references gets 10 points.

$$RB = (RB_x / RB_{Max}) \times 10$$

RB = Number of points for criteria » References of bidders «

RB<sub>i</sub> = Value of each reference is number of Documents to prove qualification for Criteria multiplied by Weight of reference

RB<sub>x</sub> = Evaluated references of bidder is Sum of Values of reference for each reference

RB<sub>Max</sub> = Highest number of points archived for references

### **15.3. Project understanding**

Tenderer has to provide the proposal of the auction performance by specifying the interrelation between consulting services and the potential of the auction software in relation to future frequency electronic auction which is subject of this tender. Subjects who will be evaluated are:

- The arrangement of project management = **2 points**
- Description of solutions for each task = **2 points**
- Composition of consultant-teams based for each task and duration of each task = **2 points**
- Description of cooperation and consultation during the conduction of the auction = **2 points**
- Outline possible issues that might arise during the whole auction procedure = **2 points**.

Proposal for each subject from list above will be awarded with 2 points. If there is no proposal there are no points. The proposals of auction performance with all subjects evaluated will be awarded with maximum 10 points (UP).

### **15.4. Determination of the Winning Tenderer**

Total amount of points consists of: Price Offered, References on Projects for Authorities acting as auctioneers, References related to bidders and Project understanding.

Maximum number of points is 100.

$$T = P + RA + RB + UP$$

The Tenderer, complying with all conditions and with the highest total of points will be declared as winning Tenderer.

**In case that two or more Offers reach the same total number of points, the Offers will be sorted in accordance with the following criteria:**

1. AKOS will select the Offer with the highest number of points in the category "References on Projects for Authorities acting as auctioneers".

2. In case that all respective Offers have the same number of points in the category “References on Projects for Authorities acting as auctioneers”, AKOS will chose the Offer with the highest number of points in the sub-category “References of Bidders”.
3. In case that all respective Offers have the same number of points in the category “References of Bidders”, AKOS will chose the Offer with the highest number of points in the sub-category “Price Offered”.
4. In case that two or more respective Offers have still the same number of points the winner will be chosen with the lottery.

#### **16. Abnormally low tender**

If the Contracting Authority considers an Offer for a given Contract to be abnormally low or it is doubtful that the Contract could be executed, it shall verify if it is abnormally low.

The Contracting Authority will verify if an Offer is abnormally low, even if the value of the Offer is by more than 50% lower than the average value of timely Offers and for more than 20% lower than the following listed Offer, but only if he received at least four timely Offers.

Where the Contracting Authority verifies the completeness of all Offers, it verifies in accordance with the preceding sentence if the Offer is abnormally low in relation to the complete Offers. Before rejecting such Offer, the Contracting Authority shall in accordance with the Article 49 of ZJN-2 request in writing the details of the predetermined constituent elements of the Offer which it considers relevant to the execution of the Contract or to the classification of Offers.

#### **17. Submission of owner structure data**

The Tenderer to whom the Contract is awarded shall, at the Contracting Authority's request submit the data stated below in the process of awarding the public Procurement procedure or executing the Contract:

- Information regarding the Tenderer's founders, partners, including silent partners, shareholders, limited partners or other owners and information about the shares of such persons;
- Information on entities, which are according to the provisions of the law governing companies are considered to be associated with the Tenderer.

#### **18. Offer validity**

The Offer must remain valid for a period of 180 days after the deadline for submission of Offers.

In exceptional circumstances the Contracting Authority may require the Tenderer to extend the period of validity of the Offer for a further period. The request and response of the Tenderer must be given in writing or by fax. Tenderer may refuse the request. The Tenderer, who agrees to that request will not be required or permitted to change the Offer otherwise.

#### **19. Variant Offers**

Variant Offers will not be taken into consideration.

## **20. Rejection of all Offers**

The Contracting Authority may reject all Offers. Where the Contracting authority has rejected all Offers, it must immediately send written notification to tenderers of its decision and provide the reasons for having rejected all Offers, or of its decision to initiate a new procedure, and notify its supervisory authority.

## **III. PUBLIC OPENING OF OFFERS**

The public opening of all timely received and properly marked Offers will be led by a designated impartial Commission (hereinafter: Commission). The opening will take place at the Post and Electronic Communications Agency of the Republic of Slovenia, Stegne 7, 1000 Ljubljana, Slovenia, in the conference room on **5.1.2015 at 10:15 a.m. CET**.

At the public opening of Offers only legal representative of the Tenderer or his representative, who is obliged to give the Commission a written Power of Attorney to represent the Tenderer, may participate. The authorized representatives of Tenderers who do not submit to the Commission the power to engage the public opening of Offers and other present cannot give comments.

At the public opening the Commission reads the name of Tenderer and the Offer price and possible discounts.

Minutes of the Offer opening session shall be taken. Offers shall be opened in order of receipt.

At the end of the public opening the minutes will be signed by the President and members of the Commission and legal representatives or authorized representatives of Tenderers. By signing the legal representative or authorized representative of the Tenderer certifies that he agrees with the method of the opening session. If anyone of the above does not want to sign, this is entered in the record as well as reasons for refusing to sign.

Minutes of the Offer opening will be sent to all Tenderers who have submitted Offers within three working days after the public opening of Offers.

## **IV. EVALUATION OF OFFERS**

The Contracting Authority will prior to the awarding of the Contract at the latest, examine the existence and content of data provided in the Offer.

Every Offer which is correct in accordance with the Point 2 of Chapter II of those Instructions and meets all deadline, conditions and specifications set out in the Tender documents is considered complete. If the Offer is not complete or substantially correct it will be rejected. The regularity of Offer do not affect non-essential typographical errors. Every Offer that in any way, and contrary to the Tender documents significantly alter any rights and obligations of the Tenderer is considered incorrect.

## **V. THE CONTRACT**

The Contracting Authority will sign with the successful Tenderer a Contract in accordance with the provisions of the model Contract of Form 3.

The Contract must be signed within 10 days of receipt of Contracting Authority's call to the signing of the Contract.

The Contract is signed for period of one year starting the day of signature.

Due to the reasons set in Paragraph 5 of Article 80 ZJN-2 the Contracting Authority may withdraw from the implementation of this Public Procurement. For withdrawal from the implementation of Public Procurement the Contracting Authority needs approval of its Supervisory Authority.

## **VI. REVIEW PROCEDURE**

Legal protection of Tenderers in the public Procurement procedure is provided in accordance with the provisions of the Law on legal protection in public Procurement procedures (Official Gazette of the Republic of Slovenia, No. 43/11; hereinafter: ZPVPJN), following the procedure and in the manner provided by law.

Request for legal protection in public Procurement procedures may be filed at any stage of the Procurement process against any act of Contracting Authority, unless ZJN-2 or ZPVPJN provides otherwise. Request for legal protection may be filed by legitimized active person, as defined by the Article 14 of ZPVPJN.

The request for review must include:

1. Name and address of the applicant (hereinafter referred to as applicant) and the contact person,
2. Name of the Contracting Authority,
3. Code of the public Procurement,
4. Object of the public Procurement,
5. Alleged violation,
6. Facts and evidence to prove the violation,
7. Power of Attorney for pre-audit and review process, if the applicant performs with the Agent,
8. An indication of whether the specific Procurement procedure is co-financed from European funds and from which Fund.

The applicant must submit to the request for review proof of payment of fees in the amount of € 3,500.00.

Fee has to be paid to the sub-account opened at the Bank of Slovenia for the purpose of the fees for pre-audit and audit process Number 01100-1000358802 - enforcement budget. In doing so, the applicant must sign in the order for payment the following information: 11 16110-7111290-XXXXXXLL (X means publication Number of a Contract notice and L means an indication year).

The request for review shall be filed in writing directly to the Contracting Authority by registered mail or recommended as a receipt. The applicant must send a copy for review at the same time to the Ministry responsible for finance.

Application for review relating to the content of the publication, invitation to Tender or Tender documents, except in the case of the fourth paragraph of Article 25 of ZPVPJN, must be filed within eight working days from the day of:

- Publication of the Contract notice or
- Notification of additional information, information on incomplete procedure or adjustment, if that notice to amend or supplement the requirements or criteria for selecting the best Tenderer in the Tender documents or previously published a Contract notice, or
- Receipt of the invitation to Tender.

If the Contracting Authority finds that the application for review was not timely filed or not filed by legitimized active person from the Article 14 of ZPVPJN, that the applicant in accordance with the second paragraph of Article 15 of ZPVPJN did not provide proof of payment of fee or that has not been paid the appropriate fee, the application will be in no later than three working days of receipt rejected.



TENDERER

FORM 1

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## OFFER

### 1. TENDERER

#### DATA REGARDING TENDERER AND SUBCONTRACTORS OR MEMBERS IN JOINT VENTURE OR CONSORTIA

##### TENDERER OR LEADING MEMBER (in case of joint venture or consortia)

Name or full company name of the Tenderer	
Tenderer's headquarters	
Person in charge or legal representative (person responsible for signing the contract)	
Contact person	
Telephone No.	
Telefax	
E-mail address	
Bank account of Tenderer (IBAN)	
Registration No.	
VAT ID	

Competent tax authority	
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## **2. IMPLEMENTATION OF PUBLIC PROCUREMENT WITH SUBCONTRACTORS**

This chapter fulfils Tenderer in case of cooperation with Subcontractors. At the same time Tenderers also fulfil the first chapter of this form for each Subcontractor separately.

<b>No.</b>	<b>Name or full company name of Subcontractors</b>
1.	
2.	
3.	
4.	

Tenderer fulfils the table below “Part of public procurement implemented by Subcontractor” for each Subcontractor in all parts in which they will cooperate.

### ***Part of public procurement implemented by Subcontractor:***

Short company name of Subcontractor	
Description of part implemented by Subcontractor	
Quantity	
Value	
Place of implementation	

Deadline of implementation	
----------------------------	--

### **3. IMPLEMENTATION OF PUBLIC PROCUREMENT IN JOINT VENTURE OR CONSORTIA**

This chapter fulfils Tenderer when implementing this public procurement within joint venture or consortia. At the same time each member of joint venture or consortia fulfils also the chapter one of this form.

No.	Name or full company name of members of joint venture or consortia
1.	
2.	
3.	
4.	

**This form is signed by representatives of all Tenderers submitting joint offer.**

We declare that:

- we will maintain public procurement professionally and with high quality in accordance with rules of profession, in accordance with legislation in force (Laws, Regulations, Standards, Technical Approvals), technical instructions, recommendations and norms, in case of selection for implementation of this public procurement;
- we will implement this public procurement with professionally educated employees or staff and will take into account all requirements due to safety at work and labour legislation, valid in the Republic of Slovenia;
- we completely agree with and accept conditions and other requirements of the Contracting Authority stated in Tender Documentation without any restriction;
- by preparing the Offer we have overviewed complete Tender Documentation;
- we are completely aware of the scope and complexity of this public procurement;
- we will not start any claim for compensation against the Contracting Authority in case of non-selecting for implementation of this public procurement;
- we submitted true and credible declarations.



Date: \_\_\_\_\_

Stamp and signature

\_\_\_\_\_

**TENDERER**


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**PRO FORMA INVOICE**

**SUBJECT OF THE PUBLIC CONTRACT: SELECTION OF TENDERER TO DELIVER PROFESSIONAL CONSULTING SERVICES AND ACCESS TO THE SOFTWARE FOR THE IMPLEMENTATION OF COMPLEX ELECTRONIC MULTIOBJECT MULTIROUND AUCTION FOR AWARDDING RADIO FREQUENCIES IN THE 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz FREQUENCY BANDS**

No.	Description of supply/service	Unit	Quantity	Price per Unit without VAT:	VAT (%)	Price without VAT:
1.	Pre-Auction Consultancy Services (Chapter 2.2.1 of Technical specifications), Auction rules (Chapter 2.2.2) and Auction Software (Chapter 2.2.3 of Technical specifications), including:	Pre-Auction Consultancy Services, Auction Software and License	1			
	a) Auction workshops (see Section 8 of Chapter 2.2.1 of the Technical specifications)	Workshop	1			
	b) 1 mock auction for Contracting Authority's staff and 1 mock auction for each prospective bidder separately (see Section 9 of Chapter 2.2.1 of the Technical specifications)	Mock auction	1			
	c) Price of software license for CCA auction	Piece	1			

	format					
2.	Post Auction Consulting services (Final auction report, auction results analysis, documentation and archive of auction procedure).	Post Auction Consulting services	1			
3.	Auction day	Day	15			
4.	Consultancy hour	Hour	40			
				<i>Total price without VAT :</i>		
				<i>The amount of VAT:</i>		
				<i>Total price in EUR including VAT:</i>		

Date: \_\_\_\_\_

Stamp and signature

\_\_\_\_\_

**DRAFT CONTRACT**

Agency for Communication Networks and Services of the Republic of Slovenia, Stegne 7, 1000 Ljubljana, Registration No. 1332899, VAT ID SI10482369, represented by the director Franc Dolenc (hereinafter: "the Contracting authority")

and

....., Company Registration No. ...., VAT ID ....., represented by ..... (hereinafter: "the Provider"),

hereby enter into

**CONTRACT No.:** \_\_\_\_\_

**INTRODUCTORY PROVISIONS**

## Article 1

(1) The Contracting authority and the Provider establish that:

- the Contracting authority carried out the procedure to award a public Contract for "*Selection of tenderer to deliver professional consulting services and access to the software for the implementation of complex electronic multiobject multiround auction for awarding radio frequencies in the 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz frequency bands*" on the Public Procurement Portal under publication No. .... on ..... and in the EU Official Journal under publication No. .... on ..... pursuant to Article 25 of the Public Procurement Act (Official Gazette of the Republic of Slovenia No. 12/13 – UPB5 and 19/14; hereinafter: ZJN-2);
- based on the public Procurement referred to in the first paragraph and the Offers received, the Contracting authority selected the Provider as the most favourable tenderer for the award of the Contract referred to in the first paragraph under Public Contract Award Notice No. .... dated \_\_\_\_\_,
- the Provider has the necessary professional and technical competences for providing the Service as defined by this Contract.

(2) The subject of this Contract shall be financed based on the Contracting Authority's approved Budget of Contracting Authority for the relevant year that forms the basis for the implementation of activities. The funds have been allocated to account No. 4020.

## Article 2

Under this Contract the Parties shall define the general and specific conditions of the provision of the Service.

## **SUBJECT OF THE CONTRACT**

### **Article 3**

(1) The subject of this Contract shall be the provision of professional consulting services and access to the software for the implementation of complex electronic multiobject multiround auction for awarding radio frequencies in the 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz frequency bands.

(2) The Offer and complete Tender documentation shall form an integral part of this Contract.

### **Article 4**

(1) The Contracting authority may, under this Contract, order additional services to the Provider that were not included in the initial Contract award but have become necessary for the provision of the Service due to unforeseeable circumstances, or when such activities cannot be technically or economically separated from the main Service without causing difficulties to the Contracting authority, or in the event of services which the Contracting authority could award separately from the initial Contract award but has decided not to do so due to their critical role in the subsequent phases of the implementation of this Contract and the successful provision of the Service defined by this Contract.

(2) In cases stated above, the Contracting authority shall implement a negotiated procedure without prior publication of a Contract notice and add an Annex to this Contract or sign a new Contract with the Provider pursuant to Item 1 of the fifth paragraph of Article 29 of the ZJN-2.

## **OBLIGATIONS OF THE CONTRACTING AUTHORITY AND THE PROVIDER**

### **Article 5**

The Contracting authority undertakes to:

- make available to the Provider all necessary information, data and documents available to the Contracting authority and related to the provision of the Service under this Contract,
- cooperate with the Provider's authorised representative,
- submit its requests to the Provider in due time to enable the normal implementation of Contractual services,
- ensure the human, informational and financing resources required for the implementation of services,
- give the Provider all the support necessary for the provision of services according to the requirements of this Contract,
- inform the Provider of any and all changes and new conditions that could affect the provision of the Contractual services,
- review the Provider's report and the specifications of tasks completed according to the technical requirements of the Tender documentation after each completed phase,
- pay for services within the agreed deadlines.



## Article 6

The Provider confirms that it has familiarised itself with the subject of this Contract as defined in the technical specifications that are an integral part of this Contract before submitting its Offer and signing this Contract and undertakes to:

- perform the services in compliance with all the applicable regulations of the Republic of Slovenia and the European Union governing the subject of this Contract and according to professional standards,
- perform the services under this Contract in a professional and perfectly manner, at a high level of quality and in accordance with good business practices,
- ensure the highest quality of services regardless of the time and location of their implementation,
- perform the services in the most economical manner within the Contracting Authority's specifications,
- use advanced information technologies and methods in the implementation of the services,
- provide all necessary algorithms for the conduct of auction and access to computer hardware and software, including intellectual property rights, as well as all related materials and equipment,
- provide a detailed security plan for the prevention of violations of auction rules and unfair competition,
- cooperate with the Contracting authority's staff and other advisors employed by the Contracting authority,
- Offer advice in setting up auctions according to the Contracting authority's technical requirements, which form an integral part of this Contract,
- conduct auction according to the Client's technical requirements, which form an integral part of this Contract,
- Offer assistance to the Contracting authority's following a completed auction,
- support the Contracting authority's in the event of any disputes relating to the subject of this Contract,
- provide assistance in support and related services connected to the subject of this Contract
- fulfil all foreseen obligations in due time and in the required manner,
- notify the Contracting authority in written form of any circumstances that could make the correct and high-quality provision of the services difficult or impossible,
- notify the Contracting authority in written form of any new circumstances that could affect the substance or time aspects of the provision of the services,
- enable the Contracting authority to conduct appropriate supervision,
- draw up a report with specifications of completed tasks according to the technical requirements of the Tender documentation after each completed phase,
- observe and implement the Contracting authority 's requests as defined in the Tender documentation pursuant to Article 1 of this Contract, comply with its Offer dated \_\_\_\_\_, on the basis of which the Provider was selected, and act in accordance with the provisions of this Contract for its entire duration,
- issue invoices for the services performed in accordance with the prices stated in its Offer following the completion of such services and upon the Contracting authority 's approval of its report.

#### Article 7

(1) If the Contracting authority orders a service that in the Provider's opinion would be in contravention of regulations or cause disproportionate damage to the Contracting authority or a third party, the Provider may decline to perform such a service, without infringing the terms of this Contract, if the Provider submits valid argumentation for such a refusal and prove the existence and present facts in support of its refusal. If the request does not allow for the professionally optimal provision of services or requires solutions contrary to professional rules, the Provider shall notify the Contracting authority of this fact and propose a more suitable solution; however, if the Contracting authority insists on its request, the Provider shall be obligated to fulfil its task according to the Contracting authority's request.

(2) The Provider's unsubstantiated refusal to perform a requested task or a deviation from the requested method of implementation shall be deemed a breach of obligations assumed under this Contract, due to which the Contracting authority may terminate this Contract, provided that the Contracting authority has previously notified the Provider of the infringements in writing.

#### Article 8

The Contracting authority's requests and specifications shall be subject to change, amendment and supplementation by mutual arrangement during the term of the Contract, in which case the Provider shall not in any way be entitled to a reimbursement of any costs that modified requests may cause.

### COMPETENT AUTHORITIES

#### Article 9

(1) The administrator of the Contract for the Contracting Authority shall be \_\_\_\_\_.

(2) The administrator of the Contract for the Provider \_\_\_\_\_, who shall also be responsible for the provision of services under this Contract.

### CONTRACT VALUE

#### Article 10

(1) The Provider shall charge the following prices for the services defined in Article 1 of this Contract:

1. Sum total of all counselling services prior to the implementation of the auction, the preparation of detailed auction rules and the provision of software for the conduct of the auction: EUR \_\_\_\_\_
2. Sum total of all counselling services following the auction (auction analysis, final auction report, documentation and archiving of the auction procedure): EUR \_\_\_\_\_
3. Price of an auction day: EUR \_\_\_\_\_
4. Price of a counselling hour: EUR \_\_\_\_\_

based on the Provider's Offer no. \_\_\_\_\_.

(2) Payment for the point 3. and 4. of previous Paragraph of this Article will be maintained on the grounds of actually performed days or hours.

(3) The Parties agree that this price shall include all of the Provider's costs. The price referred to in the previous paragraph shall include all duties, taxes and costs. The stated prices are DDP (Incoterms 2010).

(4) The price shall be fixed for the entire duration of this Contract.

## **TERMS OF PAYMENT**

### **Article 11**

The Provider shall issue invoices for services performed under this Contract to the Contracting Authority following the completion of each phase based on a report approved by the Contracting Authority and in accordance with the Offer prices as follows:

- Phase One (pre-auction consulting services): the Provider shall issue an invoice on a first day of start of auction;
- Phase Two (consulting days during the auction): the Provider shall issue an invoice on the day of issuing the Decisions (in accordance with Paragraph 6 of Article 45 of Electronic Communications Act (Official Gazette of the Republic of Slovenia, No. 109/12, 110/13, 40/14 - ZIN-B in 54/14 - odl. US);
- Phase Three (consulting services after the auction): the Provider shall issue an invoice for services maintained from the issuing of the Decisions allocating radio frequencies until the end of validation of this contract.
- Post auction consulting services after the approved report from the Contracting Authority for each single order.

### **Article 12**

(1) The Contracting Authority shall pay each issued invoice previously confirmed by the Contracting Authority 's Contract Administrator within 30 days of the official date of receipt of the invoice into the following bank account of the Provider: IBAN \_\_\_\_\_ held at (name and BIC of the bank) \_\_\_\_\_.

(2) If the deadline for payment is non-working day, it is considered that the deadline for payment is the first subsequent working day.

### **Article 13**

In the event the Contracting Authority fails to pay the invoice in due time, the Provider shall be entitled to charge penalty interest for late payment from the due date to the date of payment of the invoice.

## **PROVIDER'S GUARANTEES AND WARRANTY OBLIGATIONS**

### **Article 14**

- (1) The Provider guarantees to provide high quality services in accordance with applicable regulations and standards and the requests specified by the Contracting authority.
- (2) In the event the Provider fails to provide a specific service under this Contract, the Contracting authority may order such services from other providers at the Provider's expense.

## **FORCE MAJEURE**

### **Article 15**

- (1) Force majeure shall mean any unforeseen and unexpected event arising independently from the Parties' intentions that could not have been foreseen on the day of the conclusion of this Contract and which in any way affects the fulfilment of Contract obligations.
- (2) The Provider undertakes to inform the Contracting authority of any case of force majeure within three days of such an event.
- (3) Neither of the Parties shall be held responsible for failure to fulfil any of their obligations due to reasons beyond their control.

## **BUSINESS SECRET**

### **Article 16**

- (1) The Parties agree that all data received through the implementation of this Contract shall constitute a business secret and undertake to duly protect such data and use it exclusively for the implementation of this Contract.
- (2) The Contracting authority also undertakes to protect all of the Provider's business information received under this Contract.
- (3) The Provider undertakes not to publish or use in any manner the Contracting authority's business secrets or confidential information to which the Provider was allowed access during or after the term of this Contract if such materials are designated as confidential or for internal use only, without obtaining prior explicit written approval from the Contracting authority.
- (4) The Contracting authority shall be entitled to hold the Provider responsible for the full sum of all damages incurred by the publication or use of the Contracting authority's business secrets or confidential information.

## **CONTRACTUAL PENALTY**

### **Article 17**

(1) In the event that the provider fails to meet the time limit for the implementation of services for reasons that are not caused by the Contracting authority and which cannot be reasonably justified, the Provider shall be obligated to pay 0.5% of the Contractual sum total for each day of the delay, up to a maximum of 10% of the sum total stated in Items 1 and 2 of the first paragraph of Article 10 of this Contract.

(2) If a delay or error during the implementation hinders the purpose of this Contractual relationship, the Contracting authority shall be entitled to terminate this Contract and request damages.

## **ANTI-CORRUPTION CLAUSE**

### **Article 18**

If it is determined that during the course of the public tender on the basis of which this Contract was signed or during the implementation of this Contract anyone acting in the name or for the benefit of the one of the Parties Offered, promised or awarded any undue advantage to a representative, authorised person or agent of the Contracting authority or another public sector body or organisation in order to be awarded the Contract, receive special conditions or omit due supervision over the Contractual obligations, or any other action or omission incurring damage to any public sector body or organisation, or allowing undue benefits to any representative or agent of a public sector body or organisation, the other Party or its representative, authorised person or agent, this Contract shall be deemed null and void.

## **WITHDRAWAL FROM THE CONTRACT**

### **Article 19**

If the Contracting Authority during the public discussions which will deal with implementation of planned public tender procedure finds out that there are justified reasons for not implementing of planned public tender procedure in time this contract is valid, the Contracting Authority can withdraw from this contract.

## **DISPUTE RESOLUTION**

### **Article 20**

(1) In case of any dispute relating this Contract, the Contracting Parties shall seek a consensual solution.

(2) If such solution is not found, the dispute shall be resolved by the competent court in Ljubljana.

## FINAL PROVISIONS

### Article 21

- (1) This Contract shall enter into force on the date it is signed by the last of the two Parties.
- (2) The Contract may be changed or amended with a written annex agreed upon and signed by both Parties. If any of the provisions of this Contract is held to be invalid or later becomes so, the remaining provisions of this Contract shall not in any way be affected. An invalid provision shall be replaced with a valid provision that fulfils the intent of the provision rendered invalid as closely as possible.

### Article 22

- (1) Either of the Parties may withdraw from this Contract due to a breach of Contractual obligations by the other Party if the breach continues after a written notice. In the event of withdrawal, the parties shall settle all mutual obligations under this Contract and any damages incurred.
- (2) Either Party may withdraw from the Contract provided that the Party chooses an appropriate time to withdraw in consideration of the other Party and in view of the reasons for the withdrawal, and settles all costs incurred by such withdrawal.

### Article 23

Mutual rights and obligations not explicitly defined by this Contract shall be governed by the provisions of the law regulating obligational relationships and other applicable provisions regulating mutual obligations under this Contract.

### Article 24

- (1) The Contract is signed for period of one year starting the day of signature.
- (2) This Contract has been drawn up in four (4) identical copies, of which two (2) copies shall be handed to the Client and two (2) to the Provider.

PROVIDER:

CLIENT

Date:

Date:

\_\_\_\_\_  
\_\_\_\_\_

AKOS

Franco Dolenc  
Director

Annexes:

- Offer, dated ....., including a preliminary cost estimate,
- Tender documentation No. .... dated .....

TENDERER

FORM-4

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### DECLARATION

**This Declaration is an evidence of compliance with those conditions set out in point 12 of the Chapter II of this Instructions, for which the Contracting Authority has indicated that submission of this Declaration is sufficient.**

Tenderer shall circle as appropriate if he meets the condition or not.

No.	Under criminal and material responsibility we declare that:	Circle as appropriate	
1.	The Tenderer or its legal representatives in the case of legal persons have never been the subject of a conviction by final judgement of crimes listed in the first paragraph of Article 42 of the ZJN-2: acceptance of bribe during the election; fraud; abuse of a position of monopoly; false bankruptcy; defrauding creditors; commercial fraud; fraud affecting the European Union; deception in obtaining loan or advantages; fraud in securities trading; deception of purchasers; unauthorised use of another's mark or model; unauthorised use of another's patent or topography; forgery or destruction of business documents; disclosure and unauthorised acquisition of trade secrets; abuse of information system; abuse of insider information; abuse of financial instruments market; abuse of position or trust in business activity; prohibited acceptance of gifts; prohibited giving of gifts; counterfeiting money; fabrication and use of counterfeit stamps of value or securities; money laundering; abuse of non-cash means of payment; use of counterfeit non-cash means of payment; fabrication, acquisition and disposal of instruments of forgery; tax evasion; smuggling; disclosure of classified information; acceptance of bribes; giving bribes; accepting benefits for illegal intermediation; giving of gifts for illegal intervention; criminal association.	YES	NO
2.	The Tenderer is not on the day of submission of Offer disqualified from being awarded public Contracts due to the inclusion in the record of Tenderers with negative references in accordance with Article 77.a of ZJN-2, Article 81.a of ZJNVETPS or Article 73 of ZJNPOV.	YES	NO
3.	The Tenderer has on the date of submission of the Offer, in accordance with the regulations of the country in which he is established or regulations of the Contracting Authority no outstanding, unpaid obligations relating to the payment of social security contributions or in connection with the payment of taxes in the amount of 50 euros or more.	YES	NO
4.	The Tenderer is not listed in the evidence in business entities in accordance with Article 35 of Integrity and Prevention of Corruption Act (Official Gazette of the Republic of Slovenia No. 69/2011 – UPB2)	YES	NO

	or that from the before mentioned evidence follows that officer of the Contracting Authority or its family member is not the member of management or/and is not directly or via other persons in more than 5 % involved at founding rights, management or equity.		
5.	The Tenderer has a valid registration to do business, which is the subject of this procedure (consulting services in the field of mobile industries and /or regulatory affairs) pursuant to the regulations of the Member State of his establishment.	YES	NO

Tenderer shall complete:

- A. The activity can be done on the basis of entry in the Court or Business Register, under entry number \_\_\_\_\_ or based on the entry in the Tax Office of the Republic of Slovenia unit in \_\_\_\_\_, number \_\_\_\_\_ or an entry in the register \_\_\_\_\_ number \_\_\_\_\_ in accordance with the law of the country.
- B. To carry out activities covered by this Contract, we have on the basis of \_\_\_\_\_ (law) obtain an authorization, number \_\_\_\_\_ issued at \_\_\_\_\_ on \_\_\_\_\_.
- We are members of the following organizations: \_\_\_\_\_ (write only if the legal entity must conduct its business for the member of a particular organization, chambers of commerce, associations, etc. ..).
- C. To carry out activities covered by this Contract we do not need special permission and can perform activity on the basis of entry in the Court or Business Register or based on the entry in the Tax Office of the Republic of Slovenia.

Under criminal and material responsibility we declare that all the above information is true and accurate.

This Declaration is an integral part of the Offer, which we are applying for a Public Contract "SELECTION OF TENDERER TO DELIVER PROFESSIONAL CONSULTING SERVICES AND ACCESS TO THE SOFTWARE FOR THE IMPLEMENTATION OF COMPLEX MULTIOBJECT MULTIROUND ELECTRONIC AUCTION FOR AWARDED RADIO FREQUENCIES IN THE 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz AND 3700 MHz FREQUENCY BANDS".

Public Contract was published on the Procurement portal, publication date ....., publication number ..... and in the Official Journal of the EU, publication date ....., publication number .....

Date: \_\_\_\_\_

Stamp and signature

\_\_\_\_\_





#### FORM 5

Authorization for the acquisition of personal data (must be submitted only in case the Tenderer is established in Slovenia) and is therefore not translated.

## 1. TECHNICAL SPECIFICATIONS

### 1.1. INTRODUCTION

The purpose of this Invitation to Tender is to enable AKOS to procure independent, expert Consultancy Services for

- Consultation support for finalisation of the Information Memorandum, containing all information about the planned auction including preparation of Auction Rules;
- CCA Auction design and software for the award of radio frequencies in the 700 MHz, 1400 MHz, 1800 MHz, 2100 MHz, 2300 MHz, 3500 MHz and 3700 MHz bands in one simultaneous auction (Pre-Auction Consultancy Services, Section 2.1.1);
- the provision of Consultancy Services associated with the effective and efficient implementation and execution of this auction,
- post-auction support.

Tenders should note, that AKOS is planning to auction the following spectrum:

Frequency band	Lower band (FDD) from ... to ... [MHz]	Upper band (FDD) from ... to ... [MHz]	Simplex band (TDD) from ... to ... [MHz]	Bandwidth to be awarded [MHz]
700 MHz	703–733	758–788		2 x 30
1400 MHz		1452-1492		1 x 40
1800 MHz	1775–1785	1870–1880		2 x 10
2100 MHz FDD	1920–1980	2110–2170		2 x 5
2300 MHz TDD			2300 – 2400	1 x 20
3500 MHz FDD	3435 - 3490	3535 - 3590		2 x 55
3500 MHz TDD			3490 - 3510	1 x 20
3700 MHz TDD	3640 - 3800		3640 - 3800	1 x 160

\*Possible one or two new categories with special obligations

## **2. SPECIFIC REQUIREMENTS**

### **2.1. CONSULTANCY SERVICES**

This section details the specific requirements of the Invitation to Tender in the substance. The requirements described in this section are without prejudice to mandatory requirements set out in other sections of the Contract Documents.

### **2.2. REQUIREMENTS**

By issuing the Invitation to Tender, AKOS is seeking to procure independent, expert Consultancy Services, for and on behalf of AKOS, in relation to the upcoming multiband CCA auction:

#### **2.2.1. Pre-Auction Consultancy Services (Preparation of the frequency auction)**

1. AKOS requests support in finalization of the Information Memorandum prepared by AKOS, which will - amongst other topics - include a full description of the auction objects and procedural aspects of the auction, auction rules and technical requirements. This Information Memorandum will be consulted with the interested public to make sure that all relevant contributions to AKOS's plans can be incorporated in the Tender Documentation.
2. The successful tenderer/consultant shall provide consultation support to AKOS with regard to the results of the public consultation of the Information Memorandum.
3. The successful tenderer/consultant will customize/develop the auction software needed for the auction process. This phase of the project will consist of the customization/development of computer software and the specification of any necessary computer hardware or other equipment for the implementation and verification of the auction, together with documentation and necessary instructions and assistance of use of this software.
4. The auction software should have the functionality to generate an accurate full audit trail report that is suitable for publication by AKOS and would be independently verifiable. While AKOS would not require the intellectual property of such computer software to be assigned to it outright, it will require the Consultant to provide the software (and related licenses to use the software) to AKOS and appropriate third parties (the latter including prospective bidder/s and any party/s engaged by AKOS to verify the results of the auction outcome);
5. The auction software should be designed to providing overall information security, including, but not limited, to the process of bidder authentication, data security, fraud protection, backup/retrieve procedures etc.
6. The tenderer/consultant shall provide an auction logistics plan and detailed time schedule which should:
  - ensure that all computer software and hardware to be used in auction implementation is suitable and secure in terms of its reliability, the physical robustness of the Information Technology (IT) system, its redundancy and back-up systems;
  - ensure that the method chosen for bidders to communicate bids is secure, efficient and is not subject to tampering or other interference;

- seek to ensure that the potential for anti-competitive behaviour (such as, but not limited to, collusion and gaming) is - as far as possible - excluded before and during the auction; and
  - ensure that the computer software to be used in the auction implementation allows to generate an accurate audit process and that such data reports, if required by AKOS, is suitable for publication;
7. The successful tenderer/consultant shall provide the validation of the software implementation of auction algorithms, auction rules and other computer software.
  8. The successful tenderer/consultant shall organize workshops on the essentials of the auction design separate for AKOS staff and for bidders.
  9. The successful tenderer/consultant shall organize one live mock auction separate for AKOS staff and for each prospective bidder.
  10. The successful tenderer/consultant shall provide assistance to AKOS throughout the auction implementation process (including but not limited to addressing any queries raised in relation to the implementation of the auction software system).

#### **2.2.2. Auction rules**

1. For Information Memorandum and later for Tender Documentation it is necessary to specify detailed auction rules for which the auction software has to be adapted.

#### **2.2.3. Auction software**

1. The auction software must be capable of submitting and dealing with bids to provide an outcome of the CCA auction.
2. The successful tenderer/consultant shall be responsible for providing all of the necessary auction implementation algorithms, computer software and hardware, intellectual property licenses and any other material and equipment required for it to meet the requirements specified in this tender.
3. The successful tenderer/consultant shall provide a detailed security plan as well as a detailed plan how to avoid violations of auction rules and unfair competition.
4. It is important to note that AKOS does not intend to run auction server software on its own IT infrastructure.

##### **2.2.3.1. General description of the auction software**

1. As a minimum, the software solution shall include hosting, operation, support, availability, security facilities (encryption, backup, access control, logging, etc.) as well as uptime. In case fault repair is needed during an auction in progress, it must be possible to restart the auction process as soon as fault free continuation is proven. The auction process shall continue from the time when the last completed auction round took place.
2. The auction software shall store data exchanged throughout the auction process between bidders, the auction system and AKOS actions in a database so as to enable detailed reviewing

after completion of the auction process. Data shall be stored in a safe manner. The tenderer shall deliver a copy of the original database to AKOS.

3. In addition, the auction software must be capable of distributing a common indication of time that may be accessed by AKOS and all bidders and is synchronized with each bidding round.
4. Since the CCA auction is planned to be used, the tool must ensure that the following is available to AKOS after each auction round: The number of active bids, the size and placing of bids, and the names of the parties submitting the bids. It must also be possible to follow the bids received, both as a percentage increase and as a bid sum increase. The auction software must display the running auction process graphically. When the auction has been completed, the name of the winning bidders and the amount of the winning bids must be communicated electronically AKOS. It is important that integrity in relation to all parties involved be ensured from the start to the end. Integrity implies security that a message in its present form is identical to the content it had at the time of origination.
5. A web-based interface must be established for the information to be provided to bidders. The site shall contain the information that AKOS decides to publish. Such information might be excess demand, a currently updated list of the highest bids and the number of active bids. AKOS logo must be clearly displayed on the site.
6. As part of the tender, the successful tenderer/consultant shall prepare a general description of the auction software.
7. The software must be Web based, and the successful tenderer/consultant shall provide a description of how bidders get access to the auction software, including a description of security aspects of this connection. That the auction software must be Web based means that the bidders can use the software as an Internet application reserved for registered bidders with special access to the software. The auction software must be easily accessible to the bidders.
8. The auction software must be able to function on a standard platform and shall be implemented on the IT infrastructure of the consultant. As a consequence, there must be no requirement to install major software applications, neither at AKOS nor at bidders. It must be possible for AKOS to connect to the auction software from at least three different computers.
9. In case AKOS internal network should be out of operation for a period, the auction software must nevertheless be capable of working.

#### **2.2.3.2. Interfaces**

1. The data sets presented on the interfaces will have to be decided during the consultation period. The interfaces have to be in Slovene and in English language.
  - AKOS interface - the successful tenderer/consultant must provide at least the following interfaces to AKOS to control and/or monitor the auction process and for presentation of the auction results: auctioneer interface and observer interface. The implementation must allow AKOS to connect from at least three different terminals (auctioneer interface and auction observer interfaces). It is however only a requirement to support one active connection (auctioneer interface) from one of the terminals at each instance in time. For redundancy purposes it must be possible to switch from observer interface to auctioneer interface on any observer terminal.

- Bidder interface - There must be a secure communication interface to all bidders, the distributed information shall be sent simultaneously to all bidders. It must be possible to run the bidder interface on industry standard personal computer hardware and operating systems and/or standard web-browsers. It must be possible for the bidders to use the bidder interface over a standard internet connection over the public Internet. The successful tenderer/consultant must provide the bidders with the result of each auction round as a text file or another commonly used downloadable data format. The purpose of this is to allow bidders to post-process and analyze the auction data between each round.

#### **2.2.3.3. Authentication and security**

1. It is important that the auction software can ensure correct identification of AKOS and the bidders (authenticity) and verify the correctness of information transmitted (integrity over the public internet).
2. The authentication solution must allow the bidder to connect from at least two different terminals. It is however only required to support one active connection from one of the terminals at each instance in time.
3. A strong encryption solution for protecting the secrecy of the bid over the public Internet must be supported.
4. The successful tenderer/consultant must describe in his tender the authentication and security solution, to substantiate the fulfillment of the requirements detailed above.

#### **2.2.3.4. Reliability requirements**

1. The successful tenderer/consultant must provide an implementation of the auction system with functional redundancy. In the case of an infrastructure or software failure that falls within the successful tenderer's responsibility, it must be possible to reset the system to the system state after the last completed auction round. It must be possible for the auction process to restart from the point of the last completed auction round in reasonable time, after clarification of the reason for the incurred failure.
2. The successful tenderer/consultant must describe the IT infrastructure solution chosen to achieve the redundancy and restart requirements in the tender, to substantiate the fulfillment of the requirements detailed above.
3. Connections over the public Internet to the bidders that are outside the control of the successful tenderer/consultant are not within the scope of the reliability requirements. Also, any bidders' IT infrastructure problems are not within the scope of the reliability requirements, with the exception of reliability problems that can be traced back to the bidder interface functionality that is provided by the Consultant.

#### **2.2.3.5. Traceability of auction process**

1. The successful tenderer/consultant must store interactions during the auction process between the bidders, the system and the auctioneer in a database so that a complete, detailed audit trail

can be ensured after the end of auction process. This information must be handed over to AKOS and must be securely stored by the Consultant.

2. At least the following information must be stored:

- The user identity, content and timestamp of all information that is sent from the bidders' interface.
- The user identity, content and timestamp of all information that is received by the system from the bidders.
- The user identity, content and timestamp of all information that is sent to the bidders' interface
- The user identity, content and timestamp of all information that is entered into the system by the auctioneer.

3. Traces must allow independent audit of the whole auction procedures and action results.

4. It must be possible to provide the information above to AKOS in the form of a standard text file. The tenderer must, on request from AKOS, provide the original database file to AKOS. AKOS might also request the tenderer to provide a graphical presentation of the entire auction, with information on status for each round, bidders' actions in each round, standing high bids, etc.

#### **2.2.3.6. Testing procedures for auction software**

1. The successful tenderer/consultant should provide and organize testing auctions for AKOS staff and accordingly the on-site instructions for use, prior to the final auction. It is also required that tenderer should provide the whole solution to pass security testing.

#### **2.2.4. Conduct of Auction**

1. The successful tenderer/consultant is requested to assist AKOS in the conduct of the auction which would include, but is not limited to, the following:
  - Provision of all necessary preconditions for the successful Conduct of Auction;
  - Technically carrying out the frequency auction, including handling of bids submitted and all other issues related to the successful Conduct of Auction;
  - Presence of the successful tenderer/consultant's staff at AKOS premises and assistance in all Auction related matters during the entire time of the Conduct of Auction, if necessary;
  - Analysis of bids received to determine the results of each stage of the auction;
  - Securely notifying at the conclusion of each relevant stage of the auction the results to AKOS and providing an audit trail report, by which AKOS can verify the results of each stage of the auction. The audit trail report should be produced in such a form that it can be made available to the Court of Audit of Republic of Slovenia and can be independently verifiable;
  - Auction results shall be available to each successful bidder in appropriate form;
  - Reporting any suspected breach of the auction rules to AKOS in a prompt and detailed manner and providing assistance to AKOS in any actions which may be taken by it in relation to such breaches;
  - Documenting all log files and database of all actions during the Auction until the Conclusion of the Auction including the notification of the Auction results in the form of a final report

to AKOS and providing an audit trail report by which AKOS can verify the results of each stage and the final result of the auction including the security report. The audit trail and the Final Report should be produced in such a form that it can be made available to the Court of Audit of Republic of Slovenia and be independently verifiable;

#### **2.2.5. Post-auction**

1. The successful tenderer/consultant shall assist AKOS in any post-auction review and verification process determined by AKOS including supporting AKOS in any litigation involving AKOS on the subject matter of this Invitation to Tender and Contract.

#### **2.2.6. Ancillary**

1. The successful tenderer/consultant shall be prepared to assist AKOS in any ancillary or related tasks connected to this tender as may be determined by AKOS.

#### **2.2.7. Additional requirements regarding Reports**

1. The specific nature of each report required to be provided by the successful tenderer will be detailed in the Consultancy Agreement. In relation to these reports, the successful tenderer would be required to submit:
  - All reports in Adobe PDF format;
  - A back-up electronic copy of the reports on an appropriate electronic storage device and
2. A printed and signed copy of each document.
3. The provision of the Consultancy Services has to be in English or Slovenian language and all deliverables has to be submitted in English or Slovenian language.

#### **2.2.8. Content of Detailed proposal**

Tenderers should clearly demonstrate their ability to perform each of the Specific Requirements:

1. Pre-Auction Consultancy Services (Preparation of the auction)
2. Auction rules
3. Auction software
4. Conduct of Auction
5. Post-auction
6. Ancillary
7. Additional requirements regarding Reports

The submitted offer shall indicate the suggested, principle approach of the Tenderer with regard to the auction format and the auction design as well as the confirmation by the Tenderer that all the software to be used in conjunction with the auction and its implementation will be licensed to AKOS, so that AKOS will have rights to use and, in turn, rights to sub-licence the use of this software in accordance with the Contract to third parties (the latter including prospective bidder/s and any party/s engaged by AKOS exclusively for the purpose of verifying the results of the auction outcome).