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**1077**

Pursuant to Article 93, paragraph 4 of the Law on Public Procurement (“Official Gazette of the Republic of Serbia”, No. 91/19),

The Public Procurement Office enacts the following

**RULEBOOK**

**on the Content of Tender Documentation in Public Procurement Procedures**

**Subject matter**

Article 1

This Rulebook regulates in more detail the content of the tender documentation prepared by the contracting authority in the public procurement procedure (hereinafter referred to as: tender documentation).

**1. Contents of the tender documentation**

*a) The content of the tender documentation in an open procedure*

Article 2

The tender documentation, according to the nature of the subject matter of procurement, contains:

1) general information on the subject matter of procurement:

(1) subject matter of public procurement,

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) type, technical characteristics (specifications), quality, quantity and description of goods, works or services, manner of control and provision of quality guarantee, deadline for execution, place of execution or delivery of goods, possible additional services, etc.;

3) technical documentation and plans;

4) criteria for qualitative selection of the business entity (grounds for exclusion and criteria for selection of the business entity), with instructions on how to prove the fulfilment of these criteria;

5) data related to the contract award criteria, as follows:

(1) contract award criteria,

(2) relative importance in the weights for each criterion, as well as the methodology for assigning weights for each criterion, except when the criterion is only price,

(3) where weighting is not possible for objective reasons, the contracting authority shall specify the criteria in descending order of importance,

(4) reserve criteria on the basis of which the contracting authority will award the contract in a situation where there are two or more tenders that are equal after the application of the criteria,

(5) if the life-cycle cost is used, the data to be provided by tenderers and the method used by the contracting authority on the basis of that data to determine the life-cycle costs;

6) data on the basis of which the bidders prepare the bid form;

7) data on the basis of which the bidders prepare the form of the statement on fulfilment of the criteria for qualitative selection of the business entity;

8) forms of documents that are an integral part of the offer, as follows:

(1) the structure of the offered price structure,

(2) bid preparation cost form;

9) model contract or framework agreement;

10) instructions to bidders on how to prepare a bid.

The tender documentation in an open procedure may contain other information necessary for the preparation and submission of bids.

*b) Content of the tender documentation in a restrictive procedure*

Article 3

The tender documentation, according to the nature of the subject matter of procurement, contains:

1) general information on the subject matter of procurement:

(1) subject matter of public procurement,

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) criteria for qualitative selection of the business entity (grounds for exclusion and criteria for selection of the business entity), with instructions on how to prove the fulfilment of these criteria;

3) manner and deadline for submitting the application;

4) type, technical characteristics (specifications), quality, quantity and description of goods, works or services, manner of control and provision of quality guarantee, deadline for execution, place of execution or delivery of goods, possible additional services, etc.;

5) technical documentation and plans;

6) data related to the contract award criteria, as follows:

(1) contract award criteria,

(2) relative importance in the weights for each criterion, as well as the methodology for assigning weights for each criterion, except when the criterion is only price,

(3) where weighting is not possible for objective reasons, the contracting authority shall specify the criteria in descending order of importance,

(4) reserve criteria on the basis of which the contracting authority will award the contract in a situation where there are two or more applications that are equal after the application of the criteria,

(5) if the life-cycle cost is used, the data to be provided by tenderers and the method used by the contracting authority on the basis of that data to determine the life-cycle costs;

7) data on the basis of which the candidates, i.e., bidders prepare the application form or the bid form;

8) data on the basis of which the candidates prepare the form of the statement on the fulfilment of the criteria for the qualitative selection of the business entity;

9) forms of documents that are an integral part of the offer, as follows:

(1) offered price structure form,

(2) bid preparation cost form;

10) model contract or framework agreement;

11) instructions to bidders on how to prepare a bid.

The tender documentation in the restrictive procedure may also contain other information necessary for the preparation and submission of applications, i.e., bids.

*c) Content of the tender documentation in the competitive procedure with negotiation and the negotiated procedure with the publication of a public invitation*

Article 4

The tender documentation for the qualification phase, according to the nature of the subject of procurement, contains:

1) general information on the subject matter of procurement:

(1) the subject matter of the public procurement with a description of the needs and required characteristics of goods, services or works, stating which elements of the description of needs and required characteristics of goods, services or works are minimum requirements that all bids must meet and cannot change during the procedure;

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) criteria for qualitative selection of the business entity (grounds for exclusion and criteria for selection of the business entity), with instructions on how to prove the fulfilment of these criteria;

3) manner and deadline for submitting the application;

4) data related to the contract award criteria, as follows:

(1) contract award criteria,

(2) relative importance in the weights for each criterion, as well as the methodology for assigning weights for each criterion, except when the criterion is only price,

(3) where weighting is not possible for objective reasons, the contracting authority shall specify the criteria in descending order of importance,

(4) reserve criteria on the basis of which the contracting authority will award the contract in a situation where there are two or more applications that are equal after the application of the criteria,

(5) if the life-cycle cost is used, the data to be provided by tenderers and the method used by the contracting authority on the basis of that data to determine the life-cycle costs;

5) data on the basis of which the candidates prepare the application form;

6) data on the basis of which the candidates prepare the form of the statement on the fulfilment of the criteria for the qualitative selection of the business entity.

The tender documentation for the negotiation phase according to the nature of the subject matter of procurement contains:

1) general information on the subject matter of procurement:

(1) subject matter of public procurement,

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) type, technical characteristics (specifications), quality, quantity and description of goods, works or services, manner of control and provision of quality guarantee, deadline for execution, place of execution or delivery of goods, possible additional services, etc.;

3) technical documentation and plans;

4) data related to the contract award criteria, in the manner prescribed in paragraph 1, item 4) of this Article;

5) elements of the contract to be negotiated and the manner of negotiation;

6) a note if the procedure is carried out in several phases in order to reduce the number of bids being negotiated;

7) data on the basis of which the bidders prepare the bid form;

8) forms of documents that are an integral part of the offer, as follows:

(1) offered price structure form,

(2) bid preparation cost form;

9) model contract or framework agreement;

10) instructions to bidders on how to prepare a bid.

The tender documentation in the competitive procedure with negotiation and the negotiated procedure with the publication of a public invitation may also contain other information necessary for the preparation and submission of applications, i.e., bids.

*d) Content of the tender documentation in the competitive dialogue*

Article 5

The tender documentation for the qualification phase, according to the nature of the subject of procurement, contains:

1) general information on the subject matter of procurement:

(1) description of the needs of the Contracting Authority,

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) criteria for qualitative selection of the business entity (grounds for exclusion and criteria for selection of the business entity), with instructions on how to prove the fulfilment of these criteria;

3) manner and deadline for submitting the application;

4) data related to the contract award criteria, as follows:

(1) contract award criteria,

(2) the relative importance in the weights for each criterion, as well as the methodology for assigning weights for each criterion,

(3) where weighting is not possible for objective reasons, the contracting authority shall specify the criteria in descending order of importance,

(4) reserve criteria on the basis of which the contracting authority will award the contract in a situation where there are two or more applications that are equal after the application of the criteria,

(5) if the life-cycle cost is used, the data to be provided by tenderers and the method used by the contracting authority on the basis of that data to determine the life-cycle costs;

5) data on the basis of which the candidates prepare the application form;

6) data on the basis of which the candidates prepare the form of the statement on the fulfilment of the criteria for the qualitative selection of the business entity.

The tender documentation for the dialogue phase, according to the nature of the subject of procurement, contains:

1) the manner in which the contracting authority will conduct the dialogue;

2) a note if the procedure is carried out in several phases in order to reduce the number of decisions on which dialogue will be conducted;

3) data related to the contract award criteria, in the manner prescribed in paragraph 1, item 4) of this Article;

The tender documentation for the phase of submitting final bids according to the nature of the subject of procurement contains:

1) general information on the subject matter of procurement:

(1) description of the needs of the Contracting Authority,

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) type, technical characteristics (specifications), quality, quantity and description of goods, works or services, manner of control and provision of quality guarantee, deadline for execution, place of execution or delivery of goods, possible additional services, etc.;

3) technical documentation and plans;

4) data related to the contract award criteria, in the manner prescribed in paragraph 1, item 4) of this Article;

5) data on the basis of which the bidders prepare the bid form;

6) forms of documents that are an integral part of the offer, as follows:

(1) offered price structure form,

(2) bid preparation cost form;

7) model contract or framework agreement;

8) instructions to bidders on how to prepare a bid.

The tender documentation in the competitive dialogue may also contain other information necessary for the preparation and submission of applications or tenders.

*e) Content of the tender documentation in the innovation partnership*

Article 6

The tender documentation for the qualification phase, according to the nature of the subject of procurement, contains:

1) general information on the subject matter of procurement:

(1) subject matter of public procurement,

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) criteria for qualitative selection of business entity (grounds for exclusion and criteria for selection of business entity), and may also contain criteria related to the ability of business entities in the field of research and development and implementation of innovative solutions, with instructions on how to prove fulfilment of these criteria;

3) the manner in which the contracting authority will implement the innovative partnership by phases, temporary goals that partners should achieve in each phase, conditions for termination of partnership, i.e., reduction of number of partners, conditions, method of payment and amount of compensation to be paid to partners;

4) the manner in which intellectual property rights will be regulated;

5) manner and deadline for submitting the application;

6) data related to the contract award criteria, as follows:

(1) contract award criteria,

(2) the relative importance in the weights for each criterion, as well as the methodology for assigning weights for each criterion,

(3) where weighting is not possible for objective reasons, the contracting authority shall specify the criteria in descending order of importance,

(4) reserve criteria on the basis of which the contracting authority will award the contract in a situation where there are two or more applications that are equal after the application of the criteria,

(5) if the life-cycle cost is used, the data to be provided by tenderers and the method used by the contracting authority on the basis of that data to determine the life-cycle costs;

7) data on the basis of which the candidates prepare the application form;

8) data on the basis of which the candidates prepare the form of the statement on the fulfilment of the criteria for the qualitative selection of the economic entity.

The tender documentation for the negotiation phase according to the nature of the subject matter of procurement contains:

1) general information on the subject matter of procurement:

(1) the subject matter of the public procurement with a description of the needs for innovative goods, services or works and descriptive elements that constitute the minimum requirements that all tenders must meet,

(2) a description of each lot, if the subject of the public procurement is formed by lots;

2) type, technical characteristics (specifications), quality, quantity and description of innovative goods, works or services, manner of control and quality assurance, deadline, place of execution or delivery of goods, possible additional services, etc.;

3) data related to the contract award criteria, in the manner prescribed in paragraph 1, item 6) of this Article;

4) elements of the contract to be negotiated and the manner of negotiation;

5) a note if the procedure is carried out in several phases in order to reduce the number of bids being negotiated;

6) data on the basis of which the bidders prepare the bid form;

7) forms of documents that are an integral part of the offer, as follows:

(1) offered price structure form,

(2) bid preparation cost form;

8) model contract or framework agreement;

9) instructions to bidders on how to prepare a bid.

The tender documentation in the innovation partnership may also contain other information necessary for the preparation and submission of applications or bids.

*f) Content of the tender documentation in the negotiated procedure without publishing a public invitation*

Article 7

The tender documentation, according to the nature of the subject matter of procurement, contains:

1) general information on the subject matter of procurement:

(1) the subject matter of the public procurement with a description of the needs and required characteristics of goods, services or works, stating which elements of the description of needs and required characteristics of goods, services or works are minimum requirements that all bids must meet and cannot be negotiated,

(2) description of each lot, if the subject of the public procurement is formed by lots;

2) type, technical characteristics (specifications), quality, quantity and description of goods, works or services, manner of control and provision of quality guarantee, deadline for execution, place of execution or delivery of goods, possible additional services, etc.;

3) technical documentation and plans;

4) criteria for qualitative selection of the business entity (grounds for exclusion and criteria for selection of the business entity), with instructions on how to prove the fulfilment of these criteria;

5) data related to the contract award criteria, as follows:

(1) contract award criteria,

(2) relative importance in the weights for each criterion, as well as the methodology for assigning weights for each criterion, except when the criterion is only price,

(3) where weighting is not possible for objective reasons, the contracting authority shall specify the criteria in descending order of importance,

(4) reserve criteria on the basis of which the contracting authority will award the contract in a situation where there are two or more tenders that are equal after the application of the criteria,

(5) if the life-cycle cost is used, the data to be provided by tenderers and the method used by the contracting authority on the basis of that data to determine the life-cycle costs;

6) elements of the contract to be negotiated and the manner of negotiation;

7) data on the basis of which the bidders prepare the bid form;

8) data on the basis of which the bidders prepare the form of the statement on fulfilment of the criteria for qualitative selection of the business entity;

9) forms of documents that are an integral part of the offer, as follows:

(1) offered price structure form,

(2) bid preparation cost form;

10) model contract or framework agreement;

11) instructions to bidders on how to prepare a bid.

The tender documentation in the negotiated procedure without publishing a public invitation may contain other information necessary for the preparation and submission of bids.

*e) Content of tender documentation in case of concluding a framework agreement, dynamic procurement system and electronic bidding*

Article 8

If the public procurement procedure is conducted for the purpose of concluding a framework agreement, according to the type of procedure and the nature of the subject of public procurement, the tender documentation shall also contain:

1) information on whether the framework agreement is concluded with one or more bidders;

2) the duration of the framework agreement;

3) the manner of concluding the public procurement contract on the basis of the framework agreement;

4) information on the contracting authorities that will conclude the framework agreement, on whose behalf the framework agreement will be concluded, or for which the framework agreement is intended.

If a dynamic procurement system is formed, according to the nature of the subject of public procurement, the tender documentation contains:

1) information on the nature and estimated quantity of the planned procurements and, if any, the division into categories of goods, services or works and the characteristics that describe them;

2) information on the planned duration of the system;

3) if possible, information on the value or order of the size and frequency of contracts to be awarded;

4) all necessary information regarding the dynamic purchasing system, including information on how the dynamic purchasing system is run, the electronic equipment used and the technical connections and specifications;

5) longer deadline for evaluation of applications that the contracting authority intends to apply.

If an electronic auction is conducted, the tender documentation shall contain the data provided for in Annex 5 of the Law on Public Procurement (hereinafter referred to as: Law).

Article 9

In the case of contracts for public procurement of services, contracts for public procurement of works, as well as contracts for public procurement of goods covering services or setup and installation works, the tender documentation may provide that business entities, which are legal entities, state in the bid or application relevant professional qualifications of the staff to be responsible for the execution of the contract.

Where necessary, the contracting authority may provide in the tender documents for the fulfilment of financial and economic capacity or technical and professional capacity relating to groups of business entities, provided that this is justified by objective reasons and proportionate.

Any capacity referred to in paragraph 2 of this Article that is different from the capacity required of an economic entity that independently submits a bid, the contracting authority shall determine so that they are justified by objective reasons and proportionate.

**2. Closer regulation of the content of the tender documentation**

*Instruction to bidders on how to prepare a bid*

Article 10

Instruction to bidders on how to prepare a bid (hereinafter referred to as: Instruction), according to the type of procedure and the nature of the subject of public procurement contains:

1) information on the language in which the bid should be prepared, and if it is allowed to bid, in whole or in part, in a foreign language, an indication of which foreign language, as well as which part of the bid may be in a foreign language;

2) manner and deadline for submission of bids;

3) notice on the possibility that the bidder may submit a bid for one, more or for all lots and instructions on the manner in which the bid should be submitted, if the subject matter of public procurement is formed in several lots;

4) notification on the possibility of submitting a bid with variants, if the submission of such a bid is allowed or required;

5) manner of amending, supplementing and revoking the bid;

6) manner of communication in the public procurement procedure;

7) request that the bidder, in case it entrusts the execution of part of the contract to a subcontractor, states in its bid which part of the contract it will entrust to the subcontractor (by subject or quantity, value or percentage), data on the subcontractor, as well as pays the subcontractor for the part of the contract that he has executed, if the subcontractor requests that the due receivables be paid directly;

8) a request that the bidder, in the case of a bid of a group of bidders, state which part of the public procurement contract (by subject or in quantity, value or percentage) will be executed by an individual member of the group of bidders;

9) requirements regarding the requested manner and conditions of payment, the warranty period, as well as any other circumstances on which the acceptability of the bid depends;

10) currency and the manner in which the price in the bid should be stated and expressed;

11) data on the type, content, manner of submission, amount and deadlines of means of ensuring the fulfilment of the bidder’s obligations, if the contracting authority requests the same;

12) defining special requirements, if any, regarding the protection of confidentiality of data provided by the contracting authority to bidders, including their subcontractors;

13) notification on the manner of taking over or submitting documentation, ie certain parts of it when, in accordance with the Law, electronic means of communication are not obligatory;

14) notification that the bidder may request in writing through the Public Procurement Portal additional information or clarifications related to the procurement documentation, as well as that he may indicate to the contracting authority any observed deficiencies and irregularities in the procurement documentation;

15) notification on the manner in which additional explanations may be requested from the bidder after the opening of bids and control with the bidder or its subcontractor;

16) notification on deadlines and manner of submitting a request for protection of rights, with detailed instructions on the content of a valid request for protection of rights, the amount of the fee and the certificate confirming that the payment of the fee has been made, which is attached to the request for protection request to the contracting authority, in order for the request to be considered complete;

17) notification that the use of the stamp is not obligatory when making the offer, i.e., application;

18) notification to the bidder to confirm with a statement of integrity, which is an integral part of the bid form, under full material and criminal responsibility that it submitted its bid independently, without agreement with other bidders or interested persons and to guarantee the accuracy of data in the bid.

*Data on the basis of which the bidders prepare the bid form*

Article 11

The content of the tender documentation referred to in Articles 2–7 of this Rulebook also includes data on the basis of which the bidders prepare the bid form, which contains:

1) general data on the bidder, i.e., each bidder from the group of bidders, as well as subcontractors (business name or abbreviated name from the appropriate register, registered office address, identification number and tax identification number, contact, etc.);

2) the validity period of the bid expressed in the number of days from the day of bid opening, which may not be shorter than 30 days;

(3) subject matter of public procurement,

4) price and other criteria for awarding the contract, which can be expressed numerically;

5) other procurement requirements, which the contracting authority considers relevant for the conclusion of the contract and which can be expressed numerically;

6) data on the part of the contract that will be entrusted to the subcontractor (by subject or in quantity, value or percentage), data on the subcontractor, as well as data that the contracting authority will make payments directly to the subcontractor, in case the subcontractor requests direct payment of due receivables;

7) a statement of integrity by which the bidder confirms under full material and criminal responsibility that it submitted its bid independently, without agreement with other bidders or interested persons and to guarantee the accuracy of the data in the bid.

*Data on the basis of which the candidates prepare the application form*

Article 12

The content of the tender documentation referred to in Articles 3–6 of this Rulebook also consists of data on the basis of which candidates prepare the application form, which contains:

1) general data on the candidate, i.e., each candidate from the group, as well as subcontractors (business name or abbreviated name from the appropriate register, registered office address, identification number and tax identification number, contact, etc.);

2) the validity period of the application expressed in the number of days from the day of opening the application, which may not be shorter than 30 days;

(3) subject matter of public procurement,

4) data on the part of the contract that will be entrusted to the subcontractor (by subject or in quantity, value or percentage), data on the subcontractor, as well as data that the contracting authority will make payments directly to the subcontractor, in case the subcontractor requests direct payment of due receivables;

5) a statement of integrity by which the candidate confirms under full material and criminal responsibility that it submitted its bid independently, without agreement with other bidders or interested persons and to guarantee the accuracy of the data in the bid.

*Offered price structure form*

Article 13

The form of the structure of the offered price, if necessary, lists the basic elements:

1) offered price (unit and total) with and without VAT;

2) other costs, which are included in the offered price.

The form of the structure of the offered price will be considered, if the basic elements are contained in the form of the offer.

The form of the structure of the offered price shall contain only the data referred to in paragraph 1, item 2) of this Article, if the contracting authority requires or allows tenders to be submitted in the form of electronic catalogues or that tenders contain electronic catalogues.

*Form of bid preparation costs*

Article 14

The form of costs of preparation of the bid may show the costs of making a sample or model, if they are made in accordance with the technical specifications of the contracting authority and the cost of obtaining security instruments.

*Security instruments*

Article 15

The tender documentation may specify the security instrument by which the bidders ensure the fulfilment of their obligations in the public procurement procedure, as well as the fulfilment of their contractual obligations.

The security instrument referred to in paragraph 1 of this Article may be:

1) bank guarantee;

2) mortgage;

3) guarantee of another legal entity with appropriate creditworthiness;

4) one of the forms of manual pledge of securities or other movables;

5) bill of exchange;

6) insurance policy, etc.

Article 16

The security instrument shall last at least as long as the deadline for fulfilling the bidder's obligation that is the subject of security.

In the case of an agreed advance payment, the contracting authority may not pay any amount before receiving the requested security for the refund of the advance payment.

**3. Final provisions**

*Termination of effectiveness of regulations*

Article 17

On the day this Rulebook enters into force, the Rulebook on the content of tender documentation in public procurement procedures (“Official Gazette of the Republic of Serbia”, No. 93/20) shall cease to be valid.

*Entry into force*

Article 18

This Rulebook shall enter into force on the day following the day of its publication in the “Official Gazette of the Republic of Serbia”.

No. 110-00-5/2021-1

In Belgrade, dated 10 March 2021

Acting Director,

**Sandra Damčević**, personally signed