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**TO ALL TENDERERS!**

# INVITATION TO TENDER

Dear Sir / Madam,

Regional Dialogue (RD), RD Office in Slovenia, Kalce 5J, 1370 Logatec, Slovenia (hereinafter referred to as "Contracting authority"), hereby invite you to submit a tender in response to this invitation to tender for **"Development and implementation of an electronic platform for identification of systemic anomalies in public procurement and oversight of public expenditures."**

Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions, and specifications contained in this Invitation to Tender (hereinafter referred to as the 'tender documentation' or 'the documentation'). Failure to submit a tender containing all the required information and documentation within the deadline specified below will lead to the rejection of the tender. Comments in the tender relating to the tender documentation which have not previously been brought to the attention of the Contracting Authority by the tenderer in the manner set out in this invitation will not be taken into account and may lead to the immediate rejection of the tender without further evaluation.

Tenders must be submitted no later than **4 December 2024, until 11:00 a.m. CET**, in the manner published in this tender documentation. Tenders received after this deadline will be rejected.

All costs incurred in preparing and submitting tenders are borne by the tenderers and cannot be reimbursed.

**All tenderers will be informed in writing of the results of this tender procedure.**

More detailed instructions on how to submit a tender and the technical specifications are given below.

REGIONAL DIALOGUE  
Katja Geršak

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## 1. CONTRACTING AUTHORITY

This procurement procedure is carried out by:

**REGIONALNI DIALOG, Zavod za organizacijo prireditev in raziskovanje**

**Kalce 5J**

**1370 Logatec**

**Identification number: 3456765000**

**Tax number: SI 32476728**

## 2. SUBJECT OF THE TENDER

Subject of the tender: Development and implementation of an electronic platform for identification of systemic anomalies in public procurement and oversight of public expenditures.

The detailed specification of the subject of the tender is set out in the document "Technical specifications".

## 3. METHOD OF AWARD

On the basis of the conditions and criteria set out in the tender documents, the contracting authority will select the tenderer with whom it will conclude the contract. A model of the contract to be concluded with the selected tenderer is enclosed as an annex to the tender documentation.

## 4. DEADLINE AND METHOD OF OFFER SUBMISSION

The deadline for submission of tenders is **4 December 2024, until 11:00 a.m. CET**.

Tenders received after this deadline will be marked as 'untimely' and rejected.

**The tenderers shall send their tenders to the following e-mail address:**  
[application@regionaldialogue.org](mailto:application@regionaldialogue.org)

In response to the e-mail sent, tenderers will receive an automated message confirming only that the e-mail has been received by the contracting authority.

The tender **must be submitted in "zip" format and must not exceed 25MB**. If the tenderer's tender exceeds the required format, the tenderer may submit the tender in several parts, clearly indicating that the tenderer is submitting the tender in several parts to the Contracting Authority.

Before submitting their tender, **tenderers must encrypt it with a password of their choice**. In this way, the Contracting Authority ensures equal treatment of tenders and prevents the possibility of abuse resulting from the premature opening of tenders.

The Contracting Authority shall not be liable for any damage caused to a tenderer as a result of the tenderer's failure to encrypt its tender in the manner specified in this point of the tender documentation. Tenders received will be opened after the deadline for submission of tenders.

After the deadline for the submission of tenders has expired, tenderers may send the Contracting Authority the password to access the tender themselves, to the same e-mail address used to submit their tender. If the tenderers do not send the password to the contracting authority on their own initiative, the contracting authority will invite them to do so after the deadline for the submission of tenders. The

invitation will be sent by the Contracting Authority to the e-mail address through which the tenderer submitted its tender. If the tenderer does not provide the password even after the request of the Contracting Authority, the Contracting Authority will exclude the tender from the public procurement procedure.

Once a tender has been submitted, it is binding for the period stated in the tender, unless the tenderer withdraws or modifies it before the deadline for submission of tenders.

If the tenderer withdraws its tender, the tender shall be deemed not to have been submitted. If the tenderer modifies its tender, the Contracting Authority shall take into account the last tender submitted.

## 5. OPENING OF THE TENDERS

The opening of tenders is public. The opening of tenders will be conducted by the evaluation committee of the Contracting Authority.

After the opening of tenders, the evaluation committee of the Contracting Authority will announce the names of the tenderers, the tender prices and any other details it deems appropriate.

The Contracting Authority will keep a record of the opening, which will be sent to all tenderers who have submitted a tender in time. The Contracting Authority will send the record of the opening of tenders to the tenderers to the same e-mail address from which their tender was sent to the Contracting Authority.

## 6. LEGAL BASIS

**The contracting authority carries out the procurement procedure on the basis of the applicable law and the regulatory acts governing public procurement and the area which is the subject of the procurement, i.e. the Republic of Slovenia.**

**The Contracting Authority undertakes to treat tenderers fairly and equally throughout the procurement process.**

**The Contracting Authority also undertakes to comply with the principles of transparency, cost-effectiveness, open competition, non-discrimination and confidentiality throughout the whole public procurement process:**

The **principle of transparency** requires open, clearly comprehensible and verifiable procurement behaviour. Compliance with transparent procedures helps, for instance, to prevent corruption and other undesirable behaviour.

The **principle of cost-effectiveness** aims to ensure that the resources available to the Contracting Authority and to tenderers are used economically, efficiently and effectively, thereby ensuring the most advantageous cost-benefit ratio.

The **principle of competition** ensures effective competition by enabling those who are eligible to tender for the provision of goods, construction works, advisory services or standard general services.

The **principle of non-discrimination** requires that all tenderers taking part in a tender procedure are always be treated equally and that equal competition must be ensured. Terms of reference and specifications must not be tailored to individual tenderers or products. If some tenderers know more about a particular tender procedure than other potential tenderers, the Contracting Authority must ensure that the knowledge gaps on the part of the latter are closed.

The principle of confidentiality obliges all parties to protect confidential information. It applies in particular to confidential information contained in the tender and to other business and commercial secrets. Confidentiality makes it possible to organise a competitive procedure that is fair and transparent.

**The investment is co-financed by Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ) from the funds of German Federal Ministry for Economic Cooperation and Development (BMZ) and The European Commission.**

## **7. BASIC RULES FOR ACCESS, NOTICES AND EXPLANATIONS CONCERNING THE TENDER DOCUMENTS**

### **7.1 ACCESS TO THE TENDER DOCUMENTATION**

Tenderers can obtain the tender documentation on the website of the Contracting Authority (<https://regionaldialogue.org>) and on the Facebook (<https://www.facebook.com/regionaldialogue.org/>) and LinkedIn (<https://www.linkedin.com/company/regionaldialogue/>) pages.

Access to the tender documentation is free of charge.

### **7.2 NOTICES AND EXPLANATIONS CONCERNING THE TENDER DOCUMENTATION**

Communication with tenderers on questions relating to the subject-matter of the contract and the preparation of the tender shall be in writing only. Tenderers may address their questions to the Contracting Authority by e-mail to [info@regionaldialogue.org](mailto:info@regionaldialogue.org).

The Contracting Authority will consider a request for clarification of the tender documentation or any other question relating to the contract to be timely if it is submitted via e-mail no later than **30 November 2024** at the latest by 11.00 a.m. CET to the Contracting Authority.

The Contracting Authority will not respond to requests for clarification or other questions relating to the contract made after this deadline.

The Contracting Authority will publish the answers to the tenderers' questions on its website <https://regionaldialogue.org>.

The Contracting Authority may amend or supplement the tender documentation. Such amendments and supplements will be issued by the Contracting Authority in the form of addenda to the tender documentation. Each addendum to the tender documentation shall become an integral part of the tender documentation. The questions and answers published on the Contracting Authority's website shall also be considered as part of the Tender dossier.

## **8. ELIGIBILITY**

### **8.1 DETERMINATION OF ELIGIBILITY TO PARTICIPATE IN THE PROCUREMENT PROCEDURE AND SUPPORTING DOCUMENTS**

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

Before awarding the tender, the contracting authority shall require the tenderer to whom it has decided to award the tender to provide supporting documents (certificates, declarations) to prove that the grounds for exclusion referred to in point 8.1.1 of these tender documentation do not exist and that the conditions for participation referred to in points 8.1.2 to 8.1.4 of these tender documentation are fulfilled, if the contracting authority has any doubts as to the veracity of the tenderer's declarations.

The economic operator may also provide its own evidence that the grounds for exclusion referred to in point 8.1.1 of this tender documentation do not exist and that the conditions for participation referred to in points 8.1.2 to 8.1.4 of this tender documentation are fulfilled. The contracting authority reserves the right to verify the authenticity of the documents submitted with the signatory.

If the tenderer is not established in the Republic of Slovenia and is unable to obtain and submit the required documents because the country in which the tenderer is established does not issue such documents, they may be replaced by a sworn declaration, or, if the country in which the tenderer is established does not provide for such a declaration, by a declaration of a specific person made before a competent judicial or administrative authority, a notary or a competent professional or trade organisation in the person's country of origin or in the country in which the tenderer is established.

For joint tenders and tenders with subcontractors, it is also necessary to comply with points 10.3.1 (Joint tender) and 10.3.2 (Participation of subcontractors) of these Instructions.

### **8.1.1 Grounds for exclusion**

- 1. The economic operator or a person who is a member of the administrative, management or supervisory body of the economic operator or who has the power of representation, decision-making or control therein has not been the subject of a final judgment for criminal offences under the Criminal Code (Official Gazette of the Republic of Slovenia, No. 50/12 - officially consolidated text, 6/16 - rev, 54/15, 38/16, 27/17, 23/20, 91/20, 95/21, 186/21 and 105/22 - ZZNŠPP; hereinafter referred to as: KZ-1) or for comparable offences handed down by foreign courts.**

If the economic operator is in the situation referred to in the above paragraph, it may provide the contracting authority, no later than the deadline for the submission of tenders, with evidence that it has taken sufficient measures to prove its reliability despite the existence of grounds for exclusion.

#### **PROOF REQUIRED:**

- The completed form "Declaration for the economic operator" for all economic operators in the tender (including subcontractors and operators whose capacity the tenderer intends to use).**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

- 2. The economic operator must comply with the compulsory levies and other non-monetary obligations in accordance with the law governing the financial administration, which are collected by the tax authority in accordance with the rules of the country in which it is established or with the rules of the country of the contracting authority. An economic operator shall be deemed to have fulfilled the obligation referred to in the preceding sentence if, at the time of the deadline for the submission of tenders or applications, it has unpaid outstanding obligations amounting to EUR 50 or more. The economic operator must have submitted, by the closing date for the submission of applications or tenders, all withholding tax returns in respect of income from employment for the five years preceding the closing date for the submission of applications or tenders.**

#### **PROOF REQUIRED:**

- The completed form "Declaration for the economic operator" for all economic operators in the tender (including subcontractors and operators whose capacity the tenderer intends to use).**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

3. **On the date of the deadline for the submission of tenders, the economic operator must not be entered in the register of economic operators with secondary sanctions of exclusion from public procurement procedures in the Republic of Slovenia.**

**PROOF REQUIRED:**

- **The completed form "Declaration for the economic operator" for all economic operators in the tender (including subcontractors and operators whose capacity the tenderer intends to use).**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

4. **The economic operator has not been found by a competent authority of the Republic of Slovenia or of another Member State or of a third country, during the last three years before the expiry of the time-limit for the submission of tenders or applications, to have committed at least two infringements relating to remuneration for work, working time, rest periods, the performance of work on the basis of contracts governed by civil law, despite the existence of the elements of an employment relationship, or the employment of undeclared workers, for which it has been fined for an offence in one or more decisions which have become final and binding.**

If the economic operator is in the situation referred to in the preceding paragraph, it may provide the contracting authority, no later than the time limit for the submission of tenders, with evidence that it has taken sufficient measures to prove its reliability, despite the existence of grounds for exclusion.

**PROOF REQUIRED:**

- **The completed form "Declaration for the economic operator" for all economic operators in the tender (including subcontractors and operators whose capacity the tenderer intends to use).**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

#### **8.1.2 Conditions of eligibility for professional activities**

1. **The tenderer must be entered in one of the professional or trade registers kept in the country in which the economic operator is established.**

**PROOF REQUIRED:**

- **The completed form " Declaration of eligibility to pursue a professional activity" for all economic operators in the tender (including subcontractors and operators whose capacity the tenderer intends to use).**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

#### **8.1.3 Conditions for participation as regards technical and professional competence**

1. **The tenderer and the staff nominated<sup>1</sup> in the tender have successfully carried out (meaning in terms of quantity and quality in accordance with the contract) at least one (1) reference during the last eight (8) years, before the date of publication of this tender invitation, which included (all of the following):**

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<sup>1</sup> A Personnel nominated under the condition set out in point 8.1.4.2 of the tender invitation.

- the implementation of "Linux administration", namely: setting up and managing Debian and Ubuntu Linux systems, setting up web (Nginx or Apache) and data servers (PostgreSQL or similar), setting up and configuring the Docker environment; and
- knowledge of programming languages Python, SQL, JavaScript, Typescript, CSS, Angular; and
- knowledge of databases PostgreSQL version 10 or higher and SQL programming language; and
- knowledge of 'Docker technology', namely the creation and management of Docker containers and the integration of Docker applications into the server environment; and
- knowledge of 'ElasticSearch technology', i.e. importing data, setting up indexes, performing data queries; and
- consulting on the development and implementation of IT solutions, in the areas of data analysis and visualisation and real-time processing of large volumes of data; and
- the development of machine learning and artificial intelligence technologies, and
- the development of 'data science systems' (data science is understood as a combination of mathematics, statistics, artificial intelligence and machine learning, programming and analytics), in particular in the field of social and econometric data analytics; and
- 'Big Data' analysis, namely numerical data analysis and text analysis; and
- participation in an EU research project in the field of informatics or information technology; and
- the development of 'data visualisation systems', namely the integration of web-based data visualisation technologies with back-end data systems; and
- GIT versioning of the source code; and
- REST calls to a remote server and the implementation of a "REST web service"; and
- software in several languages (separate language files from the software code).

The requirements referred to in the above bullet points may have been carried out in the context of one or more reference and by one or more of the personnel named in the tender.

Compliance with the above condition must be proven both for the tenderer (or other entities participating in the tender) and for the personnel named in the tender.

Economic operators in a tender may jointly fulfil the condition. The economic operator providing the reference will have to have actually participated in the performance of the public contract, to the extent that it provides the reference. The personnel nominated in the tender will have to actually participate in the performance of the public contract, to the extent that it provides the reference of the nominated personnel.

**PROOF REQUIRED:**

## Instructions to tenderers

- **Completed "Certificate of Reference" form, validated by the certifier of reference (for all entities in the tender that provide a reference and for each nominated personnel in the tender that provides a reference);**
- **Completed "Certificate of Reference of personnel" form, validated by the certifier of reference (for each nominated personnel in the tender that provides a reference).**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

#### **8.1.4 Personnel requirements or capability**

- 1. The tenderer must nominate in the tender at least 1 staff member who has attained a Master's degree, or other comparable level of qualification, in the field of informatics or computer science.**

Economic operators in a tender may jointly fulfil the condition. An economic operator may use the facilities of other entities, irrespective of the legal relationship between it and those entities, only if the latter will provide the services for which those facilities are required.

The nominated personnel must be employed by or have another contractual relationship with one of the entities participating in the tender.

**PROOF REQUIRED:**

- **The completed form "Nominated personnel data".**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

- 2. All staff nominated in the tender must have at least a C1 level of English at all three levels (understanding, speaking, writing) according to the Common European Framework of Reference for Languages (CEFR).<sup>2</sup>**

The tenderers may jointly fulfil this condition. An economic operator may use the facilities of other entities, irrespective of the legal relationship between it and these entities, only if the latter will provide the services for which these facilities are required.

**PROOF REQUIRED:**

- **The completed form "Nominated personnel data".**

The Contracting Authority reserves the right to request additional supporting evidence from tenderers for the purpose of verifying this condition.

## **9. CRITERIA FOR THE SELECTION**

The criterion for selecting the most advantageous tenderer is **the economically most advantageous tender** that meets all the requirements of this invitation to tender.

**The economically most advantageous tender will be the tender which obtains the highest number of points according to the criteria set out below:**

- **Criterion 1: 'Total tender price in EUR including VAT' (maximum 90 points),**
- **Criterion 2: 'Extended guarantee' (maximum 10 points).**

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<sup>2</sup> <http://europass.cedefop.europa.eu/sl/resources/european-language-levels-cefr>

In the event of equal number of tenders, the awarding authority will decide on the basis of an additional criterion.

### **Explanation of criterion 1:**

The number of points for criterion 1 is calculated as follows:

Number of points per tender = (the lowest total tender price in EUR incl. VAT of the tenders received / total tender price in EUR incl. VAT of the tender evaluated)\*90.

*\*The total tender price in EUR incl. VAT shall be taken as the “ Total Price (in EUR incl. VAT)” as derived from the tender (form 'Invoice') of each tenderer.*

### **Explanation of criterion 2:**

The warranty period for good performance shall be at least 1 year after successful handover of the Information System.

A tenderer who offers in its tender a warranty period that is 6 months longer than the one required (i.e. 1 year and 6 months after successful handover of the Information System) shall be awarded 3 points under this criterion.

A tenderer whose tender offers a warranty period of 12 months longer than the one required (i.e. 2 years after successful handover of the Information System) shall be awarded 5 points under this criterion.

A tenderer whose tender offers a warranty period of 18 months longer than the one required (i.e. 2 years and 6 months after successful handover of the Information System) shall be awarded 10 points under this criterion.

**The tenderer shall indicate the warranty period offered in the 'Invoice' form by ticking one of the options provided, i.e. option a), b), c) or d). If the tenderer does not tick any of the options provided, the tenderer shall be deemed to have offered option a), i.e. that the warranty period offered is 1 year after successful handover of the Information System.** In this case, the tenderer shall be awarded 0 points under criterion 2.

**A tender that does not comply with the technical requirements and/or conditions set out in this Tender Invitation cannot be selected as the most economically advantageous tender.**

### **Additional criterion in the case of tenders with the same number of points:**

If the Contracting Authority receives two or more tenders with the same number of points, the Contracting Authority will decide by lot.

In this case, the tenderer(s) will be informed in writing by the Contracting Authority of the lot and invited to attend the lot. The draw will take place at the premises of the Contracting Authority. The first tenderer to be drawn in the lot shall be the successful tenderer. If any of the tenderers is not present at the drawing of lots, the Contracting Authority will send him a record of the drawing of lots within three (3) working days at the latest. The Contracting Authority reserves the right to further specify the protocol of the draw of lots, if necessary.

## **10. TENDER**

### **10.1 TENDER DOCUMENTATION**

The tender documentation consists of the following documents:

1. Completed form »**Tender offer**«
2. Completed form »**Invoice**«
3. Completed form »**Declaration for Economic Operator**«
4. Completed form »**Declaration of eligibility to pursue a professional activity**«
5. Completed form »**Consent of subcontractor**« (in case the tenderer is subcontracting and the subcontractors request so)
6. Completed form » **Certificate of Reference**«
7. Completed form » **Certificate of Reference of personnel**«
8. Completed form »**Qualifications of personnel**«
9. **Authorisation to sign the tender** (in case of a joint tender) - the tenderer encloses its own form

**All forms submitted must be completed, stamped and signed (where required) by an authorised person. The documents prepared in this way shall be scanned and submitted by the tenderer in pdf. format.**

**Documents may be electronically signed with a qualified electronic signature.**

The tenderer shall only enclose in the tender the documents referred to in this point. After examination of the tenders, if there is any doubt as to the veracity of the tenderer's declarations, the contracting authority shall ask the successful tenderer to provide supporting evidence as indicated in the individual conditions required or the grounds for exclusion.

The tenderer submitting a tender guarantee, under criminal and material liability, that all the information and documents provided in the tender are true and that the documents annexed to the tender correspond to the original. Failing this, the tenderer shall be liable to the contracting authority for any damage suffered.

Tenderers shall bear all costs relating to the preparation, submission and presentation of their tender, including the cost of any financial collateral and any other costs which they may incur in connection with the procedure for selecting the economically most advantageous tenderer.

## **10.2 PREPARATION OF THE OFFER**

### **10.2.1 Proof of compliance with the requirements of the technical specifications**

The subject of the tender must meet at least the minimum technical requirements set out in the technical specifications which form an integral part of these tender documentation.

### **10.2.2 Form »Invoice«**

The tenderer must indicate the final tender price (with VAT) in the Form »Invoice«, as only this price will be considered in the ranking of the tender evaluation criteria.

The tenderer must offer all the positions in the Invoice, taking into account the technical specifications set out in this tender documentation.

Tender prices must be expressed in euro (EUR) and must include all the elements of which they are composed, including taxes and possible discounts. Value of the added tax must be shown separately. Any increase in the tax rate shall be borne by the selected tenderer (contractor) and shall not affect the gross prices.

The tenderer shall fill in all positions in the Invoice to no more than two decimal places.

If the tenderer does not enter a price for a particular position, it shall be deemed not to have offered the position in question and thus not to have complied with all the requirements of the tender documentation.

If the tenderer enters a price of EUR zero (0), he shall be deemed to be offering that particular position free of charge.

The tenderer may not modify the content of the invoice.

The price quoted, including VAT, must include all discounts and costs. If the tenderer gives a discount, it must be included in the final tender price and not shown separately. Discounts not indicated in the prescribed manner will not be taken into account.

In the event that the Contracting Authority, in the course of the examination and evaluation of tenders, finds that there are manifest errors of calculation, the Contracting Authority shall request the tenderer to agree to the correction of the error of calculation. The contracting authority may also, with the written agreement of the tenderer, correct the incorrect VAT rate to the correct one.

### **10.2.3 Financial collateral for remedying faults/defects within the warranty period**

The selected tenderer will be required to provide the contracting authority with a financial collateral for the remedying of faults/defects within the warranty period at the date of hand-over of the works as specified in the contract, in the form of bank guarantee/ deposit insurance in accordance with the Uniform Rules for Demand Guarantees (URDG, 2010 audit) and form set out in this tender documentation.

The financial collateral must be redeemable in the Republic of Slovenia.

The financial collateral shall be in the amount of five per cent (5%) of the total contract value, inclusive of VAT. The period of validity of the financial collateral for the remedying of faults/defects within the guarantee period shall be 30 days longer than the warranty period laid down in the contract. If the warranty period is extended, the duration of the financial guarantee for the remedying of faults/defects during the warranty period shall be extended by the same amount of time.

The financial collateral will be redeemed by the contracting authority in the event that the selected tenderer fails to comply with the guarantee obligations within the time limits and in the manner specified in the contract.

## **10.3 OTHER PROVISIONS FOR THE PREPARATION OF THE TENDER**

### **10.3.1 Joint tender**

If the tender is submitted by a group of tenderers, the required information on the joint tender, as set out in the 'Tender offer' form, must be provided in the tender.

In the event that a group of tenderers submits a joint tender, each tenderer must meet all the conditions set out in point 8.1.1. and 8.1.2. All tenderers in the joint tender must individually submit the documents relating to the proof of the abovementioned conditions.

The conditions set out in points 8.1.3. and 8.1.4. may be fulfilled by the tenderers cumulatively. The documents relating to the proof of these conditions shall be submitted by any tenderer in the joint tender.

All tenderers in a joint tender must complete the 'Declaration for an economic operator' form for each tenderer individually, giving all the information requested.

The 'Invoice' form shall be submitted by all the tenderers acting jointly (one form signed by at least one of the tenderers acting jointly). The financial guarantees may be submitted by the tenderers in such a way that they are submitted by only one of the joint tenderers or by each of the tenderers individually. If they are submitted by each of the tenderers, the sum of the amounts of the securities must be at least equal to the amount requested.

In the event that such a group of tenderers is selected to perform the contract in question, the contracting authority may require the submission of a joint performance act (for example, a cooperation agreement) specifying the tasks and responsibilities of the individual tenderers for the performance of the contract.

Nevertheless, the tenderers shall be jointly and severally liable to the contracting authority.

### **10.3.2 Participation of subcontractors**

In the event that the tenderer will subcontract the performance of the contract, the tenderer must provide the required information on subcontractors in the "Tender offer" form.

All subcontractors must complete the 'Declaration for the economic operator' form individually and provide all the information requested.

If the subcontractor has grounds for exclusion or does not fulfil the relevant conditions for participation set out in point 8.1.1. and 8.1.2. of these instructions, the contracting authority shall reject the subcontractor and require its replacement.

The conditions set out in points 8.1.3. and 8.1.4. may be fulfilled by the tenderers cumulatively.

The tenderer must provide, for each subcontractor, the same evidence of compliance with the conditions set out in the preceding sentence as that which it must provide for itself, except in the case of conditions which already require proof to be provided by the subcontractor.

If the tenderer is going to subcontract the public contract, the tender must:

- identify all subcontractors and each part of the public contract that it intends to subcontract,
- the contact details and legal representatives of the proposed subcontractors,
- a completed 'Declaration for the economic operator' form for each of the subcontractors; and
- attach the subcontractor's request for direct payment, if the subcontractor so request.

During the performance of the contract, the successful contractor will be required to notify the contracting authority of any changes to the information referred to in the preceding paragraph and to send information on any new subcontractors that it subsequently intends to include in the performance of the contract within a maximum of five days of the change. In the event of the inclusion of new subcontractors, the main contractor will be required to forward, together with the notification, the information and documents referred to in the second, third and fourth indents of the preceding paragraph.

The Contracting Authority will reject any subsequently nominated subcontractor:

- if it has grounds for exclusion as set out in Section 9.1 of these Tender documentation, and require a replacement,
- if this could affect the performance of the contract,
- if the new subcontractor does not fulfil the conditions set out in this Tender documentation (for subcontractors).

Only if the subcontractor requests direct payment shall direct payment to the subcontractor be considered mandatory and the obligation shall be binding on both the contracting authority and the main contractor. Where a tenderer intends to carry out a public contract with a subcontractor requiring direct payment in accordance with this Article, it shall:

#### Instructions to tenderers

- the main contractor shall authorise the contracting authority in the contract to pay the subcontractor directly, on the basis of an invoice or situation certified by the main contractor,
- the subcontractor shall provide an agreement whereby the contracting authority, in place of the tenderer, shall pay the subcontractor's claim against the tenderer,
- the main contractor shall attach to its invoice or statement the invoice or statement of the subcontractor which it has previously approved.

For those nominated subcontractors who do not request direct payment, the Contracting Authority shall require the main contractor to send to it, not later than 60 days after payment of the final invoice or invoice, a written declaration by the main contractor and a written declaration by the subcontractor that the subcontractor has received payment for the work carried out.

The successful tenderer shall be fully responsible to the contracting authority for the performance of the contract.

#### **10.3.3 Variant tenders**

Variation tenders are not allowed.

#### **10.3.4 The language of the tender**

The tenderer shall submit the documents constituting the tender documentation in English. The Contracting authority reserves the right to require the submission of translations certified by a court interpreter. In any event, the costs of translation shall be borne by the tenderer.

#### **10.3.5 Preparation and submission of the tender**

The tenderer shall submit the tender documentation in the manner specified in point 4 of this tender documentation.

#### **10.3.6 Validity of the tender**

The offer must be valid for at least 60 days from the deadline for submission of tenders.

In exceptional circumstances, the Contracting Authority may require tenderers to extend the period of validity of their tenders for a specified additional period.

#### **10.3.7 Tender costs**

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

#### **10.3.8 Confidentiality**

The contracting authority may not disclose information provided to it by an economic operator and marked as a business secret, except in the case of information which is specified in this tender invitation as being public, or in the case of information which the contracting authority is required to disclose by public authorities, law enforcement authorities, the project financier, etc., and which the contracting authority is obliged to disclose for legitimate reasons. The Contracting Authority will inform the tenderer of any request made by the aforementioned authorities.

The Contracting Authority will ensure the protection of information which, in accordance with the provisions of the law governing the protection of personal data and the protection of classified information in the Republic of Slovenia, is considered to be personal or classified information.

#### **10.3.9 Anti-corruption provision**

During the procurement procedure, the contracting authority and the tenderers may not initiate or carry out any action which would prejudice the selection of a particular tender or which would result in the contract not entering into force or not being performed.

Lobbying of any kind in public procurement procedures shall be prohibited.

## 11. NOTIFICATION OF THE AWARD DECISION

The contracting authority will publish the signed award decision on its website. The decision shall be deemed to have been served on the date of its publication on the website.

All tenderers who submit a tender will also be informed in writing of the outcome of the public procurement procedure.

## 12. WITHDRAWAL FROM THE PERFORMANCE OF THE PROCUREMENT PROCEDURE/CONTRACT

After the award decision has been reached and published, the contracting authority may, until the contract has been signed, withdraw from the performance of the public procurement procedure on the grounds that the subject of the public procurement procedure is no longer needed or that the contracting authority no longer has the means to provide it, or that the contracting authority has reasonable grounds to suspect that the subject of the contract has been or may be the result of a criminal offence, or that other exceptional circumstances have arisen which were beyond the contracting authority's control and foreseeable, and which have made it impossible to carry out the public procurement procedure with the successful tenderer. In this case, the contracting authority will inform the tenderers in writing of its decision and of the reasons for which it is withdrawing from the performance of the public procurement procedure.

## 13. CONTRACT

Pursuant to Article 14(6) of the Act on the Protection of Competition,<sup>3</sup> the selected tenderer is obliged to submit, at the request of the contracting authority, before signing the contract, a declaration or information on the participation of natural and legal persons in the ownership of the selected tenderer, as well as on the economic entities which, in accordance with the provisions of the Companies Act,<sup>4</sup> are deemed to be related companies to the selected tenderer. If the tenderer makes a false declaration or provides false information concerning the above-mentioned facts, the contract shall be null and void.

If the contracting authority so requests, the successful tenderer will be required, during the procurement procedure or in the performance of the contract, to provide information within eight (8) days (unless agreed otherwise) of receipt of the request, on:

- its founders, partners, shareholders, limited partners or other owners and the ownership interests of those persons;
- the economic entities which, in accordance with the provisions of the Companies Act, are deemed to be related companies.

The successful tenderer must sign and return the contract to the contracting authority within eight (8) working days (unless agreed otherwise) of receipt of the signed contract by the contracting authority.

Before signature, the contract will be adjusted in substance depending on whether the successful tenderer submits a joint tender, declares the participation of subcontractors, etc.

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<sup>3</sup> *Integrity and Prevention of Corruption Act (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 69/11 – official consolidated version, 158/20, 3/22 and 16/23).*

<sup>4</sup> *Companies Act – ZGD-1 (Official Gazette of the Republic of Slovenia [Uradni list RS], No. 65/09 – official consolidated version, 33/11, 91/11, 32/12, 57/12, 44/13, 82/13, 55/15, 15/17, 22/19, 158/20, 18/21, 18/23 and 75/23).*