|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **TENDER DOSSIER***According to Article 27 of Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092***“SPECIAL SERVICES”*****OPEN PROCEDURE***

|  |
| --- |
| *“[insert date]”* |

Date of preparation of the Tender Dossier

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Procurement No [[1]](#footnote-1)**   |  |   |   |  |

**Title:**   **THIS TENDER DOSSIER IS COMPOSED OF THREE PARTS:****Part A:**  **Tendering procedures containing instructions how to prepare tenders****Part B:**  **Draft Contract containing the contractual terms which must be accepted**  **by the tenderer to whom the contract is awarded.** |

*"[insert your logo and name of the contracting authority]"*

**This Tender Dossier has been prepared in Albanian, Serbian**  **language.**

**In the event there is a discrepancy among the language versions, the** *[insert language]* **language version shall prevail.**

**SUBJECT: INVITATION TO TENDER for**

Thank you for your interest regarding the participation on the above-mentioned procurement activity.

Please find enclosed the documents, which constitute the Tender Dossier.

You are expected to examine carefully all parts and sections of this tender dossier and its annexes and to comply with all requirements, specifications and conditions contained therein.

We, as the Contracting Authority do not accept any changes.

Failure to submit a tender to the contracting authority within the deadline specified in this Tender Dossier and/or is not in compliance to all requirements set in this tender dossier shall be rejected and shall be considered as “*irresponsive tender”*

All costs related to the preparation and submission of the tender must be borne by the tenderer, while the contracting authority will have no obligation in case the procedure is canceled.

The present tender procedure is regulated by the Public Procurement Law (Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092) and procurement rules issued on its basis.

The PPL and the Procurement Rules may be downloaded from Public Procurement Regulatory Commission’s (PPRC’s) website: [**www.krpp.rks-gov.net**](http://www.krpp.rks-gov.net)**.**

Tenders shall be submitted at the address specified in the part A “Tendering Procedures”, before.

In submitting a tender, the tenderer accepts in full and without reservation the special and general conditions governing this proposed contract as the sole basis of this tendering procedure.

We look forward to receiving your tender.

If you decide not to submit a tender, we would be grateful if you could inform us in writing, stating the reasons for your decision.

Yours sincerely,

First and last name:

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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# PART A: TENDERING PROCEDURES

# Section I. Information to Tenderers

|  |  |
| --- | --- |
|  | GeNERAL |
| 1. Scope of Tender | 1.1 Contracting Authority as stated in the **Tender Data Sheet (TDS),** issues this Tender Dossier and invites you to tender for Consulting Services as specified in the Terms of Reference (TER), Annex 1.1.2 The contract title and identification number of this procurement activity are **indicated in the TDS**.1.3 Tenders shall be submitted in the address of the contracting authority **indicated in the TDS.**1.4 Throughout this Tender Dossier:a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt; b) if the context so requires, “singular” also means “plural” and vice versa;c) “day” means calendar day;d) you are referred as the “economic operator” or the “tenderer”; ande) the issuer of this tender dossier is referred to as the “contracting authority”.  |
| 2. Object of the contract | 2.1 The Classification of Common Procurement Vocabulary and the object of the contract are **indicated in the TDS.** |
| 3. Mandatory technical specifications | 3.1 Services must be in full compliance with the Terms of Reference set out in this Tender Dossier, see Annex 1, and in accordance with all other aspects and instructions.  |
| 4. Delivery Requirement and conditions | 4.1 The place of performance of the services **is listed in** **TDS.** 4.2 Time limits for start and/or completion of the contract **as indicated** **in the TDS.** |
|  | REQUIREMENTS which should be met by economic operators |
|  | Economic operators have to comply with all the following requirements. Any failure in any requirement will eliminate their tenders from the competition.  |
|  | **Eligibility requirements** |
| 5 Eligibility of the Economic Operators | **5.1 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator, or any employee, executive, manager or director thereof:**1. participated in the preparation of the concerned contract notice or tender dossier, or any part thereof, being used by the concerned contracting authority;
2. received assistance in preparation of its tender or requests to participate from a person or undertaking who or that participated in the preparation of the concerned contract notice or tender dossier, or any part thereof; or
3. being in any case in a conflict of interest, as described in Article 4, paragraph 1.75

**5.2 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator, or any executive, manager or director thereof, has, in the past ten (10) years:** a. **been determined by a court of competent** jurisdiction to have committed a criminal or civil offence involving corrupt practices, money laundering, bribery, kickbacks or activities described, or similar to those described, in Article 130.1 of the PPL under the laws or regulations applicable in Kosovo or any country, or under international treaties or conventions;b. **been declared ineligible**, where the contracting authority finds this to constitute grave professional misconduct, verified by a competent court;c. **been determined by a court of competent jurisdiction** to have committed a serious offence by participating in the activities of a criminal organization, defined as a structured association established over a period of time and operating in a concerted manner to achieve financial gain through activities that are criminal or otherwise illegal where they take place; ord. **been determined by a court of competent jurisdiction** to have committed an act of fraud or an act equivalent to fraud;e. **been determined** **to have engaged in unprofessional conduct by a court of competent jurisdiction**, administrative agency or organization responsible for enforcing standards of professional conduct; orf. **been determined by a court of competent jurisdiction** to have made serious misrepresentations to any public authority in Kosovo or elsewhere.**5.3 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator:**a. has, in the past two (2) years, been adjudged to be bankrupt or insolvent by a court of competent jurisdiction, or is currently the subject of proceedings: (i) for a declaration of bankruptcy, (ii) for an order for compulsory winding up or administration by the court or (iiii) of any other similar proceedings under the law of Kosovo or any other jurisdiction:b. by decision of a competent court is liquidated or placed under the supervision of the administrator;c. currently has in place an agreement or arrangement with its creditors providing for extended or reduced terms of payment if such terms were agreed to by such creditors because the economic operator had previously been unable to satisfy its obligations as they came due;d. is in any situation analogous to sub-paragraphs a, b, or c of this paragraph arising from a similar procedure under the laws of its place of establishment or of a place where it conducts business;e. is currently the subject of a judicial or administrative order suspending or reducing payments by or to such economic operator and resulting in the total or partial loss of the economic operator’s right to administer and/or dispose of its property;f. is currently the subject of legal or administrative proceedings that may result in a judicial or administrative order suspending or reducing payments by or to such economic operator if such proceedings may also result in the economic operator being adjudged bankrupt or insolvent;g. has, in the past three (3) years, been adjudged by a court of competent jurisdiction to have seriously breached a contract with any public entity, public authority or public undertaking in Kosovo or elsewhere;h. is currently delinquent in the payment of any social security or tax contributions in Kosovo or the economic operator’s country of establishment, except where such debt is deemed to be insignificant in Kosovo;i. is more than ninety (90) days’ delinquent in the payment of any wages owed to employees or in the payment of any amount owed to a public service operator in Kosovo;j. has not yet complied with an order issued by a court of Kosovo; k. has made false statements in relation to the procedure for the award of a public contract, if these are related to the lack of grounds for disqualification, or the fulfilment of the selection criteria; orl. has not been convicted by a final decision adopted in compliance with article 99.2 of the PPL.***Time limits set in this section, are related to the period that immediately precede publication date of the contract notice.***5.4 In order to prove that the economic operator is eligible to participate in the procurement procedure the economic operator should submit the documentary evidence **indicated in the TDS**.  |
|  | **Minimum qualification requirements** |
| 6. Professional suitability requirements | 6.1 The economic operator shall meet the professional suitability requirements **indicated in the TDS.**6.2 In order to prove that the economic operator is suitable to participate in the procurement procedure the economic operator should submit the documentary evidence **indicated in the TDS.** |
| 7. Technical and/or professional capability requirements | 7.1The economic operator shall meet the minimum economical and financial requirements **indicated in the TDS.**7.2 In order to prove that the economic operator meets the minimum economical and financial requirements the economic operator should submit the documentary evidence **indicated in the TDS.** |
| **8.Confidential business information** | 8.1 If the economic operator desires that any provided information relating to the economical /financial standing and technical/professional capability is treated as confidential business information a written request must be submitted by using the form set out in this tender dossier, see Annex 3.  |
|  | CONTENTS OF TENDER DOSSIER |
| 9. Sections of the Tender Dossier | .1 The Tender Dossier consists of Parts A and B, which include all the Sections presented below, and should be read in conjunction with any Appendices issued in accordance with Tender Information.**PART A Tendering Procedures*** Section I. Information to Tenderers
* Section II. Tendering Data Sheet (TDS)
* Annexes

**PART B Contract** * Section I. Draft Contract Form
* Section II. General Conditions of Contract (GCC)
* Section III. Special Conditions of Contract (SCC)
* Section V. Financial Identification
 |
| 10. Clarification of the Tender Dossier | 10.1 The tenderers are allowed to make a written request to the contracting authority for additional or clarifying information which they believe is needed to prepare or submit a responsive tender. Such a request may be made by use of the request form, see Annex 5, and submitted to the contracting authority by electronic means, letter or fax. The Contracting Authority will respond in writing to any request for clarification, provided that such request is received no later than the time limit **indicated in the TDS**. The Contracting Authority shall forward copies of its response to all those who have acquired the Tender Dossier including a description of the inquiry but without identifying its source. |
| 11. Amendment of the Tender Dossier  | 11.1 At any time prior to the deadline for submission of tenders, the Contracting Authority may amend the Tender Dossier by issuing an addendum. 17.2 Any addendum issued shall be part of the Tender Dossier and shall be communicated in writing to all economic operators. To give prospective tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Contracting Authority shall extend the deadline for the submission of tenders in accordance with Article 53 of the PPL. |
|  | PREPARATION OF TENDERS |
| 12. Language of Tender | 12.1 Economic operators may prepare and submit their tender and related documents in Albanian, Serbian or English language.  |
| 13. Documents Comprising the Tender | 13.1 The Tender shall comprise the following:a) Tender Form and Price Description which are generated by the electronic platform system,b) Documentary evidence in accordance with Information to Tenderers Section 5 evidencing the Tenderer’s eligibility;c) Documentary evidence in accordance with Information to Tenderers Section 6, evidencing the Tenderer’s professional suitability,d) Documentary evidence in accordance with Information to Tenderers Section 7, evidencing the Tenderer’s technical and professional capability;And e) Any other document **required in the TDS.** |
| 14. Currency and price Calculation | 14.1 1 All prices specified in tenders shall be stated in Euro **(€). The price** offered is allowed to be marked with a maximum of two (2) numbers after the decimal point. Any number listed after the second number (2) shall not be taken into account in the calculation of the value of the bid. The tender prices for the offered goods are fixed during the Tenderer’s **performance of the Contract** and not subject to revision. |
| 15. Tender Validity Period | 15.1 Tenders shall remain valid for the period as **indicated in the TDS.** Validity period of the tender shall begin on the date of the deadline for submission of tenders.A tender valid for a shorter period shall be rejected by the Contracting Authority as non-responsive.  |
|  | SUBMISSION AND OPENING OF TENDERS |
| 16. Deadline for Submission of tenders | 16.1 Tenders must be received by the Contracting Authority at the address and no later than the date and time **indicated** **in the** **TDS.** |
| 17. Tender Opening | 17.1 The Contracting Authority shall conduct the tender opening in public at the address, date and time **indicated in the** **TDS.** Every tenderer has the right to have a representative present to observe the opening of tenders.17.2 All bids will be read aloud: name and address of the tenderer, the total tender price specified in the Tender submission form and, whenever possible, the unit prices. When for unreasonable reasons the prices per unit cannot be read, such prices in any case should be made visible during the public opening to all representatives of the bidders, such as by posting them or using any other appropriate method which guarantees transparency. All this will be recorded in the minutes of the tender opening, which must be signed by the Procurement Officer and all participants in the tender opening process. Copies of the minutes in question will be uploaded on the electronic platform. |
|  | Evaluation and Comparison of Tenders |
| 18. Examination of tenders19. Evaluation of Technical Bids20. Evaluation of Financial bids | 18.1 Timely received tenders will be examined, evaluated and compared according to the requirements **set forth in TDS**. 19.1 The evaluation committee shall evaluate the Bids based on their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and the points system **listed in the** **TDS**. Each responsive bidl will receive a technical grade (Tg). The bid will be rejected at this stage if it does not respond to the important aspects of the tender dossier, and in particular the Terms of Reference or if it fails to reach the minimum technical grade **specified in the TDS**.20.1 The lowest Financial Bid (Fm) will have a financial grade (Fg) of 100 points Financial grades (Fg) of other Financial Bids will be calculated as **noted in the TDS**. 20.2 Bids will be sorted according to Nt and St combined using weights (T= the weight given to the Technical Proposal; P= weight given for the Financial Bid; T+ P = 1) listed in TDS: N = Nt x T% + Nf x P% |
| 21. Award Criteria | 21.1 The criterion for awarding the contract is the most economically advantageous responsive tender: Price (Financial Bid) plus Quality (Technical Bid).  |
| 22. Complains  | 22.1 Pursuant to Article 108/A of the Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and No. 05/L-092, a complaint may be submitted, free of charge, by an interested party at any stage of any procurement activity and with respect to any act or omission of the concerned contracting authority that is alleged to be in violation of the present law, or acts issued in its implementation.22.2 The Standard form of the complaint may be downloaded from the PPRC’s or PRB’s websites: **www.krpp.rks-gov.net or www.oshp.rks-gov.net.**22.3 Complaints must be submitted through the electronic platform at the address **listed in the TDS.*** Where the complaint relates to the contract notice or the tender documents within five (5) days prior to the deadline for submission of bids.
* Where the complaint relates to the decision to award a contract, within five (5) days after the date of notification of the contract award notice is sent to the complainant.
* Where the complaint relates to the decision to terminate the procurement procedure, within five (5) days from the date the procurement activity was formally terminated through a termination notice.

22.4 Against any decision taken by the contracting authority in accordance with Article 108A circumstances any interested party may lodge a complaint with the PRB. The complaint should be submitted only after a preliminary procedure for resolution of the dispute was conducted.Appeal to the PRB must be submitted within ten (10) days after the decision issued by the contracting authority in the preliminary procedure of dispute resolution in accordance with Article 108A of this Law.22.5 All complainants are required to pay a complaints fee of the amount of [*insert amount in Euro*] together with the filing of a complaint. Payment shall be made in cash or cash equivalent into the account established by the PRB. 22.6 Refer to the PPL and the Procurement Rules for further complaints procedures. |

# Section II. Tender Data Sheet (TDS)Listen

Read phonetically

Dictionary - [View detailed dictionary](http://www.google.com/dictionary?source=translation&hl=en&q=32.4%20The%20complaint%20should%20be%20submitted%20only%20within%20the%20ten%20(10)%20days%20period%20following%20the%20date%20of%20the%20contract%20award%20notice%20or%20design%20contest%20results%20notice%20is%20sent%20to%20the%20complainant.%20%20%2032.5%20All%20complainants%20are%20required%20to%20pay%20a%20complaints%20fee%20of%20the%20amount%20of%20500%20€%20together%20with%20the%20filing%20of%20a%20complaint.%20Payment%20shall%20be%20made%20in%20cash%20or%20cash%20equivalent%20into%20the%20account%20established%20by%20the%20PRB.%20%20%20&langpair=en|sq)

ListeRead phoneticall

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Information to Tenderers. Whenever there is a conflict, the provisions herein shall prevail over those in Information to Tenderers.

|  |  |
| --- | --- |
| Instructions to Tenderers | Amendment/Modification of relevant Section in the Information to Tenderers  |
| Sectiondescription | Sect.No. |  |
| Scope of Tender | 1.1 | The Contracting Authority (CA) is: **Name of CA**: *[insert**name of the CA]***Address of CA**: *[insert**address of the CA]***Town:** *[insert CA town]***Postal code**: *[insert CA city postal code]***Electronic address:** *(if applicable)*: *[insert* [*www.*](http://www.)*]***Contact person**: *[insert name of contact person]***E-mail:** *[insert email of contact person]***Telephone:** [*insert CA telephone number]***Fax:** *[insert CA fax number]* |
|  | 1.2 | The contract title and identification number of the procurement activity is: *[insert name and identification number]* |
|  | 1.3 | The tender must be submitted through the electronic platform |
| Object of the contract | 2.1 | Classification of Common Procurement Vocabulary (CPV): [*insert CPV number]* The object of the contract is the performance of the following services:*[insert General description of services]* |
| Estimated value | 2.4 | [*insert estimated contract value]* |
| Delivery Requirement and conditions | 4.1 | The place of performance of the services is: [*indicate the place of performance of the services*] |
|  | 4.2 | Time limits for start and/or completion of the contract: *[insert time limit]* |
| Eligibility of the Economic Operators | 5.4 | 1. A written declaration under Oath signed by the tenderer by using the form in Annex 2.

Proof regarding eligibility requirements shall be requested to be submitted by the tenderer whom the contracting authority intends to award the contract. These documents must be submitted by the tenderer prior to the contract award. Failure to submit such documents, its tender will be rejected. Documentary evidence which shall be required to be submitted as proof of eligibility requirement is the following: 1. For situations referred to point 6.2 [a, b, c, d, e and f] and point 6.3 [a, b and d], a proof issued by a competent judicial or administrative authority of the Tenderer’s country of establishment.
2. For situation referred to in point 6.3 [h (social security contribution), i and k] a certificate issued by the competent authority or public operator attesting that such situation does not exist.
3. For situation referred to in point 6.3 [h (taxes)] a proof issued by Tax administration of place of establishment of economic operator, that the mentioned economic operator is not delinquent in the payment of taxes at least until the last quarter of the year *[prior to the publication date of Contract Notice]*

As regards all other provisions set forth in Section 6 as well as in case where the issue of documents and certificates referred to above is not obtainable for objective reasons, or where these documents do not cover all cases for which the evidence has been produced, a declaration under oath made by the tenderer may be accepted as sufficient evidence. |
| Professional suitability requirements | 6.1 | *Insert the requirement.* |
|  | 6.2 | *insert the documentary evidence* |
| Technical and/or professional capability requirements | 7.1 | *[[If applicable, insert the minimum technical and/or professional capability requirements]*  |
|  | 7.2 | *[Enter proof of technical and / or professional possibilities]*  |
| Clarification of the Tender Dossier | 10.1 | *[insert date]* |
| Documents Comprising the Tender | 13.1  | *[If applicable, insert any other requirement]* |
| Tender Validity Period | 15.1 | Tender validity period shall be [*insert number]* days.  |
| Deadline for Submission of tenders | 16.1 | The deadline for submission is [*insert date and time and place of submission]* |
| Tender Opening | 17.1 | The tender opening is [*insert date and time and place of opening]* |
| Examination of tenders | 18.1 | The Evaluation Committee will evaluate the tenders based on the Terms of Reference, applying the evaluation criteria, sub-criteria and system specified here. The offer will be rejected and will be considered irresponsible if:1. The tender does not certify that it has met the minimum of the appropriate criteria required in the tender dossier;
2. The tender does not prove that it meets the minimum qualifications required in the tender dossier;
3. The technical offer does not reach the minimum technical grade.
 |
| Evaluation of Technical Bid | 19.1 | The criteria, sub-criteria, and scoring system for evaluating Technical Bids are:  **Points**

|  |  |
| --- | --- |
| Minimum Qualifications | Pass/Fail |
| Specific experience | 20-50 |
| Adaptation of the methodology / work plan to the ToR | 20-50 |
| Qualification | 20-40 |
| Knowledge transfer (optional) | 0-10 |
| **Total points** | 100 |

The minimum technical grade Tg required to pass is *[insert the number of points]* out of 100 possible points. |
| Evaluation of Financial Bid | 20.1 | The formula for determining financial grades is as follows:Nf = 100 x Fm / F, where Nf is the financial grade, Fm is the lowest price and F is the bid price under consideration. The weights given for Technical Bids and Financial Bids are:T = [*insert weight]*P = *[insert weight]* |
| Award Criteria | 22.1  | The most **economically advantageous** responsive tender Tenders will be ranked according to their combined technical (Nt) and financial (Nf) grades using the following formula:N = (Nt x [xx]%) + (Nf x [xx]%).where,*N* is the final grade determined in the Tender;*Nt* is the Technical Grade; and*Nf* is the Financial Grade.The tender that achieves the highest combined grade will be the selected tenderer and will be invited to execute the Contract.  |
| Complaints | 23.3 | *[insert CAs address]* |

# ANNEX 1 TERMS OF REFERENCE (ToR)

*[The Terms of Reference usually contain the following parts]*

*(a) Introduction;*

*(b) Objectives;*

*(c) Service Settings;*

*(d) Training (when applicable;*

*(e) Reports and Timeline; and*

 *(f) data, local services, personnel, and facilities to be provided by the Contracting Authority]*

# AnNeX 2 DECLARATION UNDER OATH

To: [name and address of the contracting authority]

(hereinafter “Contracting Authority”)

I, the undersigned, representing: [*the submitting economic operator*] declare under oath that I am eligible in accordance with Article 65, of Law on Public Procurement in Kosovo, Law No. 04/L-042 on Public Procurement of the Republic of Kosovo, amended and supplemented with the law No. 04/L-237, law No. 05/L-068 and law No. 05/L-092. I hereby acknowledge to have read the eligibility requirement in Article 65 of the PPL, respectively section 6 of the Information to Tenderers, and fulfil eligibility requirements to participate in this tender process.

I acknowledge the possibility of criminal and civil sanctions, penalties and damages if I intentionally or negligently submit any document, declaration or statement containing materially false or misleading information.

|  |
| --- |
| **Identification of the Economic Operator (EO)** |
| **Name of EO:** |  |
| **Full Address:** |  |
| **Represented by:** |
| **Name** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

# Annex 3 REQUEST FOR CONFIDENTIALITY

To: [name and address of contracting authority]

(Hereinafter “the Contracting Authority”)

WHEREAS *[insert name of economic operator]* (hereinafter “the Economic Operator”), meeting the requirements of the tender dossier under the above-mentioned Procurement No., Section 8 and 9 of the Information to tenderers, has furnished business confidential information as follows:

|  |
| --- |
| *Identification of the confidential information and reference to sections of furnished documents:* |

AND WHEREAS the said information hereby is declared (i) not to be in the public domain, and (ii) to be protected from intentional or negligent disclosure by the Economic Operator;

AND WHEREAS public access to the said information would result in material harm to the legitimate commercial interests of the Economic Operator from the following reasons:

|  |
| --- |
| *Statement of the nature of such material harm and the reasons why it would occur:* |

THEREFORE, I, the undersigned, representing the Economic Operator hereby express the desire that the Contracting Authority classify and maintain the said information as business confidential information.

|  |
| --- |
| **Economic Operator Identification (EO)** |
| **Company Name** |  |
| **Full Address** |  |
| **Represented by:** |
| **Name** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp:** |  |

#

# AnNEX 4 REQUEST FOR ADDITIONAL INFORMATION.

To: < name and address of the contracting authority >

AND WHEREAS *[the name of the economic operator]* (hereinafter “Economic Operator ”), after receiving the tender dossier under the above mentioned Procurement Number, believes that additional information or clarification information is needed as follows:

|  |
| --- |
| *Identification of additional information or explanatory information, including references to the part or parts of the tender dossier:* |

AND WHEREAS, I, the undersigned, representing Economic Operator, through this I seek to obtain the identified information.

|  |
| --- |
| **Economic Operator Identification (EO)** |
| **EO name:** |  |
| **Full address:** |  |
| **Represented by:** |
| **Name** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp:** |  |

**PART B:**  **Draft CONTRACT[[2]](#footnote-2) & SPECIAL CONDITIONS & RELATED ANNEXES**

**SECTION I OF THE CONTRACT: DRAFT CONTRACT**

*[Name of the Contracting Authority],* (hereinafter the "Contracting Authority "), in one side;

and

*[Name of Consultant],* (hereinafter the “Consultant”), on the other hand, have agreed to enter into a public contract for the services listed below:

*[insert title*] with identification number: [*insert Procurement Number*]

**Article 1 Subject**

1.1 The subject of the contract is the performance of the following services by the Consultant:

*[insert general description of consulting services].*

**Article 2 Price**

2.1 The total price of consulting services should be: *[insert the price of services in figures]* €; *[insert the price of services in words]* Euro.

2.2 The price referred to in Article 2.1 above shall be the only payment that the Contracting Authority owes to the Consultant under the contract. It must be cut and not subject to change.

2.3 Payments shall be made in accordance with the General and/or Special Conditions of the contract.

**Article 3 Order of precedence of contract documents**

3.1 The contract consists of the following documents:

1. This Contract Agreement;
2. Special Conditions of Contract;
3. General Conditions of Contract;
4. Consultant Tender, (Technical and Financial Bid).

3.2 The various documents that make up the contract are considered to explain each other; and in cases of ambiguity or divergence, they should be read in the order of precedence given above.

**Article 4 Communications**

4.1 All written communications relating to this Contract between the Contracting Authority, on the one hand, and the Consultant, on the other, shall state the title of the Contract and its identification number and must be sent by mail, fax, email or delivered in person.

4.2 If the person sending the communication requests proof of receipt, he must state this in his communication. Whenever there is a deadline for the receipt of the written communication, the sender must request proof of receipt of his communication. In all cases, the sender must take all necessary measures to ensure the receipt of his communication.

4.3 Wherever the contract provides for the issuance of any notice, consent, approval, certificate, or decision, unless otherwise specified in such notice, the consent, approval, certificate, or decision shall be in writing and the words "notify", "certify", "approve" or "decide" shall be construed accordingly. Any such approval, consent, certificate or decision shall not be held or delayed without reason.

4.4 This contract is drafted in [English][Albanian][Serbian][[3]](#footnote-3)] languages in three originals, two of which are for the Contracting Authority and one original for the Consultant.

|  |  |
| --- | --- |
| **For the Contracting Authority** |  |
| **Name:** |  |
| **Position:** | Procurement Officer in charge |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

***[in cases of high value contracts]***

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |  | **Name:** |  |
| **Position:** | *Chief Administrative Officer* | **Position:** | *[Minister or other public authority]* |
| **Signature:** |  | **Signature:** |  |
| **Date:** |  | **Date:** |  |
| **Stamp:** |  | **Stamp:** |  |

|  |  |
| --- | --- |
| **For the Consultant** |  |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

**CONTRACT SECTION II** **GENERAL CONDITION**

**Article 1 Definitions**

1.1 “**Contract"** means the agreement entered into between the Contracting Authority and the Consultant, as recorded in the Contract Form signed by the Parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

1.2 “**Services”** means the services to be executed by the Consultant as described in the ToR.

1.3 **“Consultant”** is a natural person, specified in the contract form, who is a party to the contract and is obliged to perform the duties under the agreement, and who for the performed duties will receive the amount agreed in the contract form.

1.4 **“Contract price”** means the amount stated in the Agreement representing the total amount payable for the provision of the Services.

**Article 2 Law applicable and language**

2.1 The SCC shall specify the law governing all matters not covered by the contract.

2.2 The contract and all written communications between the parties will be drafted in the language specified in the SCC.

**Article 3 Transfer**

3.1 The transfer is not allowed under any circumstances.

**Article 4 Subcontracting**

4.1 With the exception of administrative assistance functions, the Consultant is not permitted to subcontract any of its responsibilities.

**Article 5 Taxes and Customs**

5.1 The Consultant is responsible for all taxes and customs in accordance with the Law of the Republic of Kosovo.

**Article 6 Commencement and Completion of Services**

6.1 This contract enters into force on the date of its signing by both contracting parties or at another later date as may be specified in the SCC.

6.2 The Consultant will start services on the date specified in the SCC, which will be defined as “Effective Date”.

6.3 Unless terminated earlier under Articles 9 and 10, this Contract shall expire at the end of such period after the Effective Date specified in the SCC.

6.4 The place of performance of services is defined in the SCC.

**Article 7 Force majeure**

7.1. The term "force majeure" means the actions from God, strikes, closures of the facility or other industrial disturbances, actions of the public enemy, wars whether declared or not, blockades, rebellions, cases of violence, epidemics, landslides, earthquakes, thunderstorms, lightning, floods, erosions, civil unrest, explosions and any other similar unforeseen event that is beyond the control of the parties and cannot be handled even with proper care.

7.2. Neither party shall be deemed to have breached its obligations under the contract if the performance of such obligations is prevented by any event caused by a force majeure caused after the date of the contract award notice or when the contract enters into force, provided that the party affected by such cases has taken into account all possible avoidances and precautions as well as possible alternative measures, all for the purpose of fulfilling the terms and conditions of the contract.

7.3. The party affected by a force majeure event shall take all reasonable measures to eliminate the inability of such party to fulfill its obligations henceforth with a minimum delay.

7.4. A Party Affected by a Force Majeure shall notify the other Party of such event as soon as possible, and in any case no later than fourteen (14) days after the occurrence of such event, providing evidence of the nature and causes of such event, and similarly shall be notified in writing upon restoration of normal conditions as soon as possible.

7.5 Any period of time when services are not performed as a result of Force Majeure events, the completion of any activity or task, will extend the period as long as the Force Majeure situation has existed which has prevented the Party from carrying out the activities.

7.6 During the period of impossibility to perform services as a result of Force Majeure events, the Consultant, by instruction of the Contracting Authority, shall:

(i) demobilize, in which case the Consultant will be reimbursed for additional costs which they have reasonably incurred, and, if requested by the Contracting Authority, for the reactivation of the Services; or

(ii) will continue with the services as far as possible, in which case the Consultant will continue to be paid under the terms of this contract and be reimbursed for additional costs reasonably incurred.

7.7 In case of disagreement between the Parties on the existence or importance of Force Majeure, the matter shall be settled in accordance with Article 19.

**Article 8 Suspension**

8.1 The Contracting Authority, upon written notice of the Consultant's suspension, may suspend all payments to the Consultant if the Consultant fails to perform any of his/her obligations under this contract. including the performance of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) require the Consultant to rectify such failure within a period not exceeding thirty (30) days after receipt of such notice of suspension by the Consultant.

**Article 9 Termination of the Contract by the Contracting Authority.**

9.1 The contracting authority may, after giving the Consultant seven days’ notice, terminate the contract in any of the following cases:

(a) The Consultant fails to comply within a reasonable time with the notice given by the contracting authority which requires it to avoid any negligence or failure to fulfill its obligations under the contract, and which seriously affect the proper and timely performance of the contract. service;

(b) The Consultant refuses or is negligent in carrying out administrative orders issued by the contracting authority;

(c) The consultant gives the contract to someone;

(d) The consultant has been convicted of a misconduct related to professional conduct, through a trial having the force of *res judicata*;

(e) The Consultant has been found guilty of aggravated unprofessional misconduct proven by any means which the Contracting Authority can establish;

(f) The consultant is subject to a trial that has the force of res judicata for fraud, corruption, involvement in a criminal organization;

(g) As a result of Force Majeure, the Consultant is unable to perform key parts of the Service for a period of not less than sixty (60) days;

(h) The Contracting Authority, by its decision and for any reason, decides to terminate the contract.

**Article 10 Termination of the Contract by the Consultant**

10.1 The Consultant, after giving written notice to the Contracting Authority 30 days in advance, may terminate the contract if the Contracting Authority;

a. fails to pay the Consultant the amounts to be paid on any certificate issued by the authorized person after the expiry of the deadline;

b. or, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

**Article 11 Termination of rights and obligations by termination of the contract**

11.1 Upon termination of the contract under Article 6.5, Articles 9 and 10, or upon the expiration of this contract under Article 6.3, all rights and obligations of the Parties shall be terminated, except (i) such rights and obligations that may have accumulated on the day of termination or expiration, (ii) the obligation of confidentiality set forth in Article 13.6 (iii) the Obligation of the Consultant to allow the inspection, copying and auditing of their accounts or data specified in Articles 13.8 and 13.9, and (iv) any right which a Party may have under the Applicable Law.

11.2 Upon termination of the contract by notification of either party to the other pursuant to Article 9 and Article 10, the Consultant shall, immediately upon sending such notice, take all necessary steps to bring the services to a conclusion promptly and shall do what is possible to keep costs for this purpose to a minimum. In relation to the documents prepared by the Consultant and the equipment and materials supplied by the Contracting Authority, the Consultant shall proceed as provided, respectively, in Article 13.12.

**Article 12 Payment after Termination**

12.1 Upon termination of this contract pursuant to Articles 9 and 10, the Contracting Authority shall make the following payments to the Consultant:

a. Payment under Article 16 for services successfully performed before the effective date of termination; and

b. Except in cases of termination under paragraphs (a) to (j) of Article 9, compensation for any reasonable costs up to the termination of this Contract.

**Article 13 Obligations of the Consultant**

13.1 The Consultant will perform the Services and perform their duties, with due care, efficiency and economy, in accordance with generally accepted professional standards and practices, and will adhere to sound management practices, and use appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant must always act, in connection with any matter relating to this Contract or for the Services, as a loyal advisor to the Contracting Authority, and will at all times uphold and protect the legitimate interests of the Contracting Authority.

13.2 The Consultant must respect and abide by all laws and regulations in force in the Republic of Kosovo.

13.3 The Consultant shall prioritize the interests of the Contracting Authority, without any consideration for future work, and strictly avoiding conflicts with other tasks or their corporate interests.

13.4 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity related to the Consultant will be disqualified from supplying the goods, works or services (excluding consulting services), derived from or directly related to the Services.

13.5 The Consultant will not engage, either directly or indirectly, in the activities of any business or professional activities that would conflict with the activities specified under this Contract.

13.6 Except with the prior written consent of the contracting authority, the Consultant will not communicate at any time to any person or entity any confidential information obtained in the course of the Services, also the Consultant will not make public recommendations formulated during, or as a result of the Services.

13.7 The consultant must maintain accurate and systematic accounts and contract records in accordance with internationally accepted accounting principles and in a form and detail that will clearly identify relevant time and cost changes.

13.8 The Consultant shall allow the contracting authority to inspect all accounts and records relating to the implementation of the contract and the submission of the proposal to provide services, and to have the accounts and records audited by auditors.

13.19 The Consultant shall submit to the Contracting Authority the reports and documents specified within the time limits specified in the said Annex. Final reports will be submitted on CD-ROM.

13.10 All plans, drawings, specifications, designs, reports, other documents and software prepared by the Consultant to the contracting authority under this contract shall be made and remain the property of the contracting authority, and the Consultant must, no later than after the termination or expiration of this Contract, submit all such documents to the contracting authority, together with a detailed inventory thereof. The Consultant may maintain a copy of such documents and software, and use such software for their own use with the prior written approval of the contracting authority. If license agreements are necessary or appropriate between the Consultant and third parties for the purpose of developing any such software, the Consultant must obtain the prior written approval of the contracting authority for such agreements, and the contracting authority has the right in its discretion to claim the costs related to the development of the respective program (s). Other restrictions on the future use of these documents and software, if any, will be specified in the SCC.

**Article 14 Obligations of the Contracting Authority**

14.1 Unless otherwise specified in the SCC, the Contracting Authority shall provide the Consultant, with a work permit and other such documents as may be necessary to enable the Consultant to perform the Services.

14.2 If after the date of this Contract, there is no change in the applicable law regarding taxes and duties which increases or decreases the cost incurred by the Consultant in the performance of the Services, the payments to the Consultant under this contract will not be changed.

14.3 In consideration of the services performed by the Consultant under this contract, the Contracting Authority shall make such payments to the Consultant in the manner provided for in Article 16 of this contract.

14.4 The Contracting Authority shall make available to the Consultant free of charge such professional and support staff, to be appointed by the Contracting Authority on the advice of the Consultant.

**Article 15 Payment to the Consultant**

15.1 The total payment to be paid to the Consultant should not exceed the price of the Contract.

15.2 The total contract price is set in the SCC.

15.3 Payments will be made in euros. The Consultant's payments will be made according to the payment schedule set out in the SCC and against an invoice. Unless otherwise specified in the SCC, the first payment will be made against the provisions by the Consultants of a bank guarantee for the same amount, and will be valid for the period specified in the SCC. Any further payment will be made after the conditions set forth in the SCC for such payment have been met, and the Consultants have submitted an original invoice and any additional documentary information to the Contracting Authority setting the appropriate amount.

15.4 Payments to be made according to the invoice issued by the Consultant will be made to the bank account provided in Part V, Financial Identification, of this contract completed by the Service Provider. The same form attached to the payment request should be used to report changes to the bank account.

15.5 Amounts must be paid within no more than 30 calendar days from the date on which the eligible request for payment is registered by the relevant department. The payment date will be the date on which the institution's account is debited. A request for payment will not be accepted unless one or more of the essential requirements are met.

15.6 The 30-day period may be suspended by notifying the Consultant that the request for payment cannot be met because the amount will not be paid because the proper substantive documents have not been submitted or because there is evidence that the expenditure may not be legitimate. In the latter case an immediate inspection may be made for the purpose of further inspections. The Consultant will provide clarifications, modifications or other information within 15 days upon request. The payment period will be calculated from the date on which the duly prepared payment request is registered.

15.7 After the deadline given in Article 16.5 has passed, the Consultant may, within two months after the late payment, request the interest for late payment with a new discount rate applied by the Central Bank of Kosovo on the first day of the month in which the deadline expired, plus seven percentage points. Interest on late payment shall apply for the time elapsed between the due date of payment (not included) and the date on which the account of the Contracting Authority is debited (included).

15.8 All non-payments after 90 days from the expiration of the period given in Section 16.3 shall entitle the Consultant either to terminate the contract or to terminate it, with 30 days’ notice to the Contracting Authority.

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**Article 16 Amicable settlement of disputes**

16.1 The parties must make every effort to resolve amicably any disputes that may arise between them. As soon as a dispute arises, the parties will notify each other in writing of their positions on the dispute and of any settlement they consider possible. If either party deems it useful, the parties will meet and try to resolve the dispute. The party will respond to the request for amicable settlement within 15 days after the request. The maximum period given for reaching this solution will be 30 days from the beginning of the procedure. If the attempt to reach an amicable settlement fails or if the party fails to respond promptly to requests for settlement, both parties will be free to proceed to the next stage of the dispute settlement procedure by notifying the other.

16.2 If the amicable dispute settlement procedure fails, the parties may agree to try to reach an agreement through the institution specified in the SCC. If a settlement cannot be reached within 30 days of the commencement of the conciliation procedure, either party will have the right to proceed to the next stage of the dispute settlement procedure.

**Article 17 Settlement of disputes through court proceedings**

17.1 If no settlement can be reached within 30 days of the commencement of the amicable dispute settlement procedure, either party may request:

a) decision by the court; or

b) when the parties agree, an arbitration award in accordance with the SCC.

17.2 Dispute resolution model e.g., the court or arbitration will be decided by the parties before the contract is signed.

**Article 18 Indemnification**

18.1 The Consultant shall protect and indemnify the Contracting Authority and its current officers and former directors, employees, and agents and safeguard them against damages and against any costs, losses, damages, and misconduct incurred by the Contracting Authority, including but not limited to attorneys' fees and expenses in connection with any: negligence or intentional misuse by the service provider, alleged breach or breach of the Consultant's representations, a complaint from a third party that the provision of these services by the Consultant or use by or on behalf of the Contracting Authority, or of assets used or provided by the Consultant in connection with the performance of the services infringes the intellectual property rights of that third party.

**CONTRACT SECTION III SPECIAL CONDITIONS**

The following SCC shall supplement and / or amend the GCC. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

|  |  |
| --- | --- |
| General Conditions of Contract | Amendment/Modification of relevant Article in the GCC. |
| Articledescription | Art. No |  |
| Law applicable and language | 2.1 | Kosovo Laws that are in power shall apply in all matters not covered by the provisions of the contract. The jurisdiction shall be the relevant court in Prishtina. |
|  | 2.2  | The language used shall be [*insert language of the procedure*]. |
| Commencement and Completion of Services | 6.1 | *[insert one or the other]*This contract will enter into force on the date of its signing contract by both contracting parties. ORThis contract shall enter into force on *[insert date]* |
|  | 6.2 | Start Date of Services "Effective Date" is *[insert date].* |
|  | 6.3 | The Contract Expiration Date is *[insert date]*. |
|  | 6.4 | The place of performance of services is *[insert place]* |
| Obligations of the Consultant | 13.10 (c) | *[The Contracting Authority will declare here any additional activity for the Consultant that requires the prior approval of the Contracting Authority, if there are no additional activities on the part of the consultant that requires the prior approval of the Consultant enter N/A]* |
| Obligations of the Contracting Authority | 14.1 | *[The Contracting Authority will state here whether or not it will provide assistance to the Consultant]* |
| Payments to the Consultant | 15.2 | The total contract price is *insert amount* |
|  | 15.3 | *[if there is no advance payment insert]*There will be no advance payment. Payments for deliveries will be made according to the following schedule: *[insert the payment schedule]**[if advance payment will be made insert]*Payments for deliveries will be made according to the following schedule: * An advance payment of twenty (20) percent of the Contract Price will be made within 30 days from the signing of the contract in exchange for a bank guarantee for the equivalent amount until the advance payment is fully balanced. Such guarantee shall be made in the form set out in Annex E.
* *[Establish the remainder of the payment schedule]*
 |
| Amicable settlement of the dispute | 16.2 | *[Specify the department of the Commission responsible for compliance]*  |
| Settlement of dispute through court proceedings | 17.1 | *[insert both]*a) Any dispute between the parties which may arise during the execution of this contract and that it is not possible to resolve otherwise between the parties will be submitted *[specify the competent court] in accordance with the law of Kosovo*.orb) whenever the parties agree, any dispute between the parties which may arise during the execution of this contract and that it is not possible to resolve otherwise between the parties shall be submitted to arbitration. [specify the dispute resolution authority] in accordance with [*specify arbitration rules (rules of the International Chamber of Commerce, United Nations Commission on International Trade Law, or other internationally recognized arbitration procedures)].* |

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# CONTRACT SECTION IV: FINANCIAL IDENTIFICATION

|  |
| --- |
| **ACCOUNT HOLDER** |
| **Name** |  |
| **Address** |  |
| **City** |  |
| **Postal Code** |  |
| **Contact** |  |
| **Telephone** |  |
| **Fax** |  |
| **E-mail** |  |
| **VAT Number** |  |

|  |
| --- |
| **BANK** |
| **Name** |  |
| **Address** |  |
| **City** |  |
| **Postal Code** |  |
| **State** |  |
| **Bank account** |  |
| **IBAN (optional)** |  |
| **BIC (optional)** |  |

**NOTES:**

|  |  |  |
| --- | --- | --- |
| **BANK SEAL + SIGNATURE OF THE BANK REPRESENTATIVE (Both mandatory)** |  | **DATE + SIGNATURE OF THE ACCOUNT HOLDER: (mandatory)** |

1. Report on any document or request related to this procurement activity [↑](#footnote-ref-1)
2. Prior to signing the Contract “this Draft Contract” must be modified by the Contracting Authority according to the terms of the respective procurement activity [↑](#footnote-ref-2)
3. The language shall be the language used by the tenderers in this tender. [↑](#footnote-ref-3)