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VOLUME 1

SECTION 1:

INSTRUCTIONS TO TENDERERS

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In submitting a tender, the tenderer accepts in full and without restriction the special and general conditions governing the contract as the sole basis of this tendering procedure, whatever its own conditions of sale may be, which it hereby waives. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline will lead to rejection of the tender. No account can be taken of any reservation in the tender as regards the tender dossier; this may result in immediate rejection of the tender without further evaluation.

These instructions set out the rules for the submission, selection and implementation of contracts financed under this call for tenders, in conformity with the provisions of the practical guide, which is applicable to this call (available on the internet at this address: https://wikis.ec.europa.eu/display/ExactExternalWiki/ePRAG).

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GENERAL PART

1. GENERAL INSTRUCTIONS

1.1. Tenderers must tender for the whole of the works required by the dossier. Tenders will not be accepted for incomplete lots.

1.2. Timetable

	DATE	TIME
Clarification meeting (optional)	Not applicable	Not applicable
Site visit (optional)	Not applicable	Not applicable
Deadline for requesting any additional information from the contracting authority	24.10.2023	16:00
Last date on which additional information are issued by the contracting authority	06.11.2023	-
Deadline for submitting tenders	As indicated in the Contract notice (IV.2.2)	
Tender opening session	As indicated in the Contract notice (IV.2.7)	
Notification of award to the successful tenderer	13.02.2024 [1]	-
Signature of the contract	22.03.2024 [1]	-

[1] **Provisional data**

2. FINANCING

The project is financed by the European Union, in accordance with the rules of Multi-Annual Action Programme for Türkiye on Transport (MAAP-T), 2014/031-877 and the Regulation (EU) No 236/2014 programme.

The project is co-financed by the Republic of Türkiye.

3. PARTICIPATION

3.1. The eligibility requirements detailed in the Additional information about the contract notice (Annex A5f) apply to all members of a joint venture/consortium and all subcontractors, as well as to all entities upon whose capacity the tenderer relies for the selection criteria. Every tenderer, member of a joint venture/consortium, every capacity-providing entity, every subcontractor and every supplier must certify that they meet these conditions. They must prove their eligibility by a document dated less than one year earlier than the deadline for submitting tenders, drawn up in accordance with their national law or practice or by copies of the original documents stating the constitution and/or legal status and the place of registration and/or statutory seat and, if it is different, the place of central administration. The contracting authority may accept other satisfactory evidence that these conditions are met.

3.2. Natural persons, companies or undertakings falling into a situation set out in Section 2.4. (EU restrictive measures), 2.6.10.1. (exclusion criteria) or 2.6.10.1.2. (rejection from a procedure) of the practical guide (PRAG), are not entitled to participate in this tender procedure or be awarded a contract. Should they do so, their tender will be considered unsuitable or irregular respectively. Tenderers must provide declarations to the effect that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the practical guide. The declarations must cover all the members of a joint venture/consortium and must also be submitted by any sub-contractor or capacity providing entity. Tenderers guilty of making false declarations may also incur financial penalties up to 10% of the total value of the contract and exclusion, in accordance with the Financial Regulation in force.

The exclusion situations referred to in subclause 3.2 apply to all members of a joint venture/consortium, all subcontractors and all suppliers to tenderers, as well as to all entities upon whose capacity the tenderer relies for the selection criteria.

3.3. Subcontracting is allowed but the contractor will retain full liability towards the contracting authority for performance of the contract as a whole.

4. ONLY ONE TENDER PER TENDERER

A company may not tender for a given contract both individually and as a member of a joint venture/consortium. Participation by a tenderer in more than one tender for a contract will result in the disqualification of all those tenders for that contract in which the party is involved. The same company may only participate as subcontractor in different tenders if that is justified by the specific nature of the market and cleared by the contracting authority.

5. TENDER EXPENSES

5.1. The tenderer will bear all costs associated with preparing and submitting the tender. The contracting authority will not be responsible or liable for such costs, whatever the conduct or outcome of the procedure.

5.2. The contracting authority will neither be responsible for, nor cover, any expenses or losses incurred by the tenderer through site visits and inspections or any other aspect of its tender.

6. SITE VISIT AND CLARIFICATION MEETING

6.1. The tenderer is strongly advised to visit and inspect the site of the works and its surroundings for the purpose of assessing, at its own responsibility, expense and risk, the factors necessary for preparing its tender and signing the contract for the works (date, time and place, see the additional information about the contract notice.)

6.2. A clarification meeting and/or a site visit will not be held by the contracting authority (date, time and place, see the additional information about the contract notice).

7. CONTENT OF TENDER DOCUMENTS

The set of tender documents comprises the documents specified in the invitation letter.

Tenderers bear sole liability for examining with appropriate care the tender documents, including design documents available for inspection and any modification to the tender documents issued during the tendering period, and for obtaining reliable information on any conditions and obligations that may in any way affect the amount or nature of the tender or the execution of the

works. In the event that the tenderer is successful, no claim for altering the tender amount will be entertained on the grounds of errors or omissions in the obligations of the tenderer described above.

8. EXPLANATIONS CONCERNING TENDER DOCUMENTS

8.1. Tenderers may submit questions in writing to the following address up to 21 day before the deadline for submission of tenders, specifying the publication reference and the contract title:

Ms. Tijen İĞCİ, PhD
Ministry of Transport and Infrastructure
Directorate General for European Union Affairs and Foreign Relations
Department of European Union Investments
Hakkı Turayliç Caddesi No:5 B Blok Kat: 10
Emek, 06490 Ankara, TURKEY
Fax No: +90 312 203 1913
E-mail: euid@uab.gov.tr

The contracting authority must reply to all tenderers' questions at least 8 days before the deadline for receipt of tenders.

8.2. The questions and answers will be published on TED eTendering or https://ipa.uab.gov.tr. The website will be updated regularly and it is the tenderer's responsibility to check for updates and modifications during the submission period.

9. MODIFICATIONS TO TENDER DOCUMENTS

9.1. The contracting authority may amend the tender documents by publishing modifications up to 8 days before the deadline for submitting tenders.

9.2. Each modification published will constitute a part of the tender documents and will be published on TED eTendering accessible from the F&T portal at https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home and https://ipa.uab.gov.tr.

9.3. The contracting authority may, as necessary and in accordance with Clause 18, extend the deadline for submitting tenders to give tenderers sufficient time to take modifications into account when preparing their tenders.

TENDER PREPARATION

10. LANGUAGE OF TENDERS

10.1. The tender and all correspondence and documents related to the tender exchanged by the tenderer and the contracting authority must be written in the language of the procedure, which is English. All correspondence relating to payments, including invoices and interim and final payment certificates, must also be sent to the contracting authority in English.

10.2. If supporting documents are not written in one of the official languages of the European Union, a translation into the language of the call for tender must be attached. Where the documents are in an official language of the European Union other than English, it is strongly recommended to provide a translation into the language of the call for tenders, in order to facilitate the evaluation of the documents.

11. CONTENT AND PRESENTATION OF TENDER

11.1. Tenders must satisfy the following conditions:

11.1.1. Tenders must comprise the documents and information in Clause 12 below.

11.1.2. The tender must be signed on behalf of the tenderer/joint venture/consortium by a person or persons duly authorised to do so, empowered by power of attorney submitted in accordance with Form 4.3 in Volume 1, Section 4 of the tender dossier.

11.1.3. The relevant pages of the documents specified in Clause 12 must be signed as indicated.

11.1.4. The tenderer must provide all documents required by the tender dossier. All such documents, without exception, must comply strictly with these conditions and provisions and contain no amendments made by the tenderer. Tenders which do not comply with the requirements of the tender dossier may be rejected.

11.2. The works are not divided into lots. Tenders must be for all the quantities indicated.

12. INFORMATION/DOCUMENTS TO BE SUPPLIED BY THE TENDERER

12.1. All tenders must comprise the following information and duly completed documents:

12.1.1. Tender form, together with a signed Annex 1 "Declaration on honour on exclusion criteria and selection criteria"[1]

Signed originals of the Declaration on honour shall be submitted, using the form provided in Volume 1, Section 2;

12.1.2. Documentation as required in the questionnaire in Volume 1, Section 4, including all forms attached;

12.1.3. The forms provided in Volume 4:

Volume 4.3.2 — Bill of quantities;

Volume 4.3.4 — Daily work schedule.

12.1.3.1. The prices in Volume 4 are deemed to have been set on the basis of the conditions in force 30 days prior to the deadline for submitting tenders.

The detailed breakdown of prices must be used when required for any purpose under the contract, notably to provide the coefficients for applying the price revision formula referred to in Article 48.2 of the special conditions. The tenderer must provide clear arithmetical calculations for the proposed coefficients.

12.1.4. Cash flow statements as part of the financial statement form (Form 4.4).

12.1.5. Copies of the most recent documents showing the organisation chart, legal status and place of registration of the tenderer's headquarters, a power of attorney empowering the

[1] See PRAG 2.6.10.1.3 A)

person signing the tender and all related documentation. These documents must follow the forms in Volume 1, Section 4 of the tender dossier:

To be completed in accordance with the questionnaire in Volume 1, Section 4

- general information about the tenderer (Form 4.1)
- organisation chart (Form 4.2)
- power of attorney (Form 4.3).

12.1.6. Evidence showing that the liquid assets and access to credit facilities are adequate for this contract, confirmed by a financial statement for the last three years verified by a chartered accountant. This evidence must be provided using Form 4.4, Financial statement, in Volume 1, Section 4 of the tender documents.

12.1.7. Financial projections for the two years ahead. This information must follow Form 4.4, Financial statement, provided in accordance with Volume 1, Section 4 of the tender documents.

12.1.8. Financial identification form (Form 4.5a, Volume 1) and legal entity file (Form 4.5b, Volume 1). If the tenderer has already signed another contract financed by the European Union, it may provide instead of the forms and supporting documents either the file numbers received or copies of the forms provided on that occasion, unless a change occurred in the meantime.

12.1.9. Information about the tenderer's technical qualifications. This information must follow the forms in Volume 1, Section 4 of the tender documents and include:

- a presentation of the tenderer's organisation, including the total number of personnel employed (Form 4.6.1.1),
- a list of the personnel proposed for execution of the contract, with the CVs of key personnel (Forms 4.6.1.2 and 4.6.1.3),

Key Personnel	No	Minimum professional experience (in years)	Minimum experience in similar position (in years)
Contractor's Representative / Project Manager (Civil Engineer)	1	10	5
Site Manager (Civil Engineer)	1	5	3
Environmental Expert	1	5	3

- a list of plant for execution of the contract. The descriptions must demonstrate the tenderer's ability to complete the works and should include amongst others, the following elements:
  - Excavator;
  - Road roller;
  - Grader;
  - Other plant.

The tenderer must indicate whether this equipment is owned, hired or used by a subcontractor. Manufacturer's documents fully describing the equipment must be submitted with the tender (Form 4.6.2);

- a list of materials and any supplies intended for use in the works, stating their origin;
- a work plan with brief descriptions of the main tasks (Form 4.6.3), showing the sequence and proposed timetable for implementing the tasks. In particular, the proposal must detail the temporary and permanent works to be constructed. The tenderer must take account of weather conditions and the requirement to prepare designs and obtain building permits prior to carrying out construction works. The tenderer must also submit a comprehensive method statement, with drawings if necessary, showing the methods by which, it proposes to carry out the works. In particular, the tenderer must indicate the numbers, types and capacities of the plant and personnel it proposes to use on the main areas of work;
- a critical milestone bar chart showing times and duties allocated for employees for this contract (Form 4.6.3);
- data on subcontractors and the percentage of works to be subcontracted (Form 4.6.3);
- evidence of relevant experience in carrying out works of a similar nature, including the nature and value of the contracts, works in hand and contractually committed (Form 4.6.4). The evidence must include successful experience as the prime contractor, as indicated under 12.2, in construction of the same nature and complexity comparable to the works concerned by the tender during the last five years;
- information regarding the proposed main site office (Form 4.6.3);
- an outline of the quality assurance system(s) to be used (Form 4.6.7).
- if applicable, information on tenderers involved in a joint venture/consortium (Form 4.6.5);
- details of their litigation history over the last **five** years (Form 4.6.6);
- details of the accommodation and facilities to be provided for the Supervisor (Form 4.6.8);
- Eligibility statement (4.6.9);
- Cash flow forecast (4.6.10);
- any other information (Form 4.6.11).

12.1.10. Proof documents, declarations and undertakings according to Clauses 3.1-3.4 above. These documents should cover all members of a joint venture/consortium and all subcontractors as specified.

12.1.11. Unless otherwise provided in the contract, all goods purchased under the contract must originate in a Member State of the European Union or in a country or territory of the regions covered and/or authorised by the specific instruments applicable to the programme specified in the Additional information about the Contract Notice (Annex A5f).

For these purposes, "origin" means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the relevant international agreements (notably WTO agreements), which are reflected in EU legislation on rules of origin for customs purposes: the Customs

Code (Council Regulation (EEC) No 2913/92) in particular its Articles 22 to 26 thereof, and the Code's implementing provisions (Commission Regulation (EEC) No 2454/93

However, they may originate in any country when the amount value of the supplies and materials to be purchased is below EUR 100 000. For these purposes, "origin" means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the relevant international agreements (notably WTO agreements), which are reflected in EU legislation on rules of origin for customs purposes: the Customs Code (Council Regulation (EEC) No 2913/92) in particular its Articles 22 to 26 thereof, and the Code's implementing provisions (Commission Regulation (EEC) No 2454/93.

Through their tender submission form, tenderers must provide an undertaking signed by their representative certifying compliance with this requirement. The tenderer is obliged to verify that the provided information is correct. Otherwise, the tenderer risks to be excluded because of negligently misrepresenting information. For more details, see Section 2.3.5. of the practical guide.

12.1.13 Tender guarantee, using the form provided in Volume 1, Section 3;

12.1.14 Submission of the Excel version of Volume 4 in flash disk.

12.2. In order to be eligible for the award of the contract, tenderers must provide evidence that they meet the selection criteria. This must be provided by tenderers using the forms described in 12.1 above and any additional forms tenderers may wish to use.

If a tender is submitted by a consortium, unless specified, the selection criteria will be applied to the consortium as a whole.

The selection criteria for each tenderer are as follows:

Economic and financial capacity of candidate:

- The average annual turnover of the tenderer in the past 3 years must be at least EUR 1.000.000,00.
- The tenderer must have access to sufficient credit and other financial facilities to cover the required cash flow for the duration of the contract. In any case, the amount of credit available must be at least EUR 1.000.000,00.

Technical and professional capacity of candidate:

- At least 5 staff must currently work for the candidate in fields related to this contract.
- The tenderer must demonstrate that it is a legal person duly registered in accordance with its national law and/or accordingly authorized to carry out the specified works.
- The Tenderer must have successfully **completed** all of the below contracts with only Provisional Acceptance/Taking Over Certificate or Final Acceptance/Performance Certificate during the following period: 5 (five) years from the submission deadline. Previous experience of the tenderer must be proved by original or notary certified copies of certificates, signed by the supervisors (the Supervisor)/Contracting Authority of the contracts concerned. The abovementioned certificates shall clearly indicate the completion date:

    1. <u>at least one (1) works contract</u> with a budget of at least **EUR 1.000.000** or <u>two works contracts</u> with a budget of at least **EUR 500.000** each, including construction of bicycle or pedestrian or vehicle road with minimum 5 km;

If the similar past experience of a tenderer has been completed in a joint venture or consortium, the past similar experience in joint venture / consortium shall be completed by the specific tenderer. Should the submitted documents not provide clear information on the

works performed by the specific Tenderer, further documents shall be provided in order to clarify the fulfilment of the requirement.

The Contracting Authority reserves the right to ask for originals of the relevant certificates signed by the supervisors (the Supervisor)/Contracting Authority of the concerned contracts.

Regarding the calculation of the contract amounts for 12.2, the Euro equivalent of the contract amounts at the date of the Provisional/Taking Over or Final Acceptance will be considered. For purposes of converting another currency to Euro, the Conversion rates, published in the Official Journal of European Communities shall be used which can be found at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm

The Contracting Authority reserves the right to carry out any further inquiry on the tenderer's document as the Evaluation Committee may deem appropriate.

12.2.1. Capacity-providing entities:

An economic operator may, where appropriate and for a particular contract, rely on the capacity of other entities, regardless of the legal nature of the links which it has with them. If the tenderer relies on other entities, it must prove to the contracting authority that it will have at its disposal the resources necessary to perform the contract by producing a commitment on the part of those entities to place resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the tender should include a separate document providing data on this third entity for the relevant selection criterion. Proof of capacity must be provided at the request of the contracting authority.

With regard to technical and professional criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies, become jointly and severally liable for the performance of the contract.

12.3. Tenders submitted by companies in partnerships forming a joint venture/consortium must also fulfil the following requirements:

- The tender must include all the information required in 12.1 above for each member of the joint venture/consortium and summary data for execution of works by the tenderer.
- The tender must be signed in a way that legally binds all members. One member must be appointed lead member and that appointment confirmed by submission of powers of attorney signed by legally empowered signatories representing all members. See Form 4.6.5 in Volume 1 and the tender form.
- All members of the joint venture/consortium are bound to remain in the joint venture/consortium for the whole execution period of the contract. See the declaration in the tender form.

Documentary evidence of financial and economic standing and technical and professional capacity, referred to in 12.2 of these instructions to tenderers, is not obligatory for tenders below EUR 5 000 000. However, it is obligatory if a pre-financing payment is requested.

13. TENDER PRICES

13.1. The currency of the tender is the EUR.[2]

13.2. The tenderer must provide a bill of quantities and price schedule in euro. The tender price must cover all works as described in the tender documents. All sums in the bill of quantities and price schedule, the questionnaire and other documents must also be expressed in this currency, with the exception of originals of bank and annual financial statements.

13.3. Tenderers must quote all components of the bill of quantities and price schedule. No payment will be made for items which have not been costed; such items will be deemed to be covered by other items on the bill of quantities and price schedule.

13.4. If a discount is offered by the tenderer, it must be clearly specified in the bill of quantities and price schedule in Volume 4 and indicated in the tender form in Volume 1, Section 1.2. The discount must be quoted for all works.

13.5. If the tenderer offers a discount, the discount must be included on each interim payment certificate and calculated on the same basis as in the tender.

14. PERIOD OF VALIDITY OF TENDERS

14.1. Tenders must remain valid for a period of 90 days after the deadline for submitting tenders indicated in the contract notice, the invitation to tender or as amended in accordance with Clauses 9 and/or 18.

14.2. In exceptional circumstances, the contracting authority may, before the validity period expires, request that tenderers extend the validity of tenders for a specific period, which may not exceed 40 days. Such requests and the responses to them must be made in writing. A tenderer may refuse to comply with such a request without forfeiting its tender guarantee. If the tenderer decides to accept the request, it may not amend its tender and it is bound to extend the validity of its tender guarantee for the revised period of validity of the tender. In case the contracting authority is required to obtain the recommendation of the panel referred to in Section 2.6.10.1.1. of the practical guide, the contracting authority may request an extension of the validity of the tenders up to the adoption of that recommendation.

14.3. The successful tenderer must maintain its tender for a further 60 days. This period is in addition to the validity period, irrespective of the date of notification.

15. TENDER GUARANTEE

15.1. The tenderer must provide, as a part of its tender, a tender guarantee in the form set out in Volume 1, Section 3 of the tender dossier, or in another form acceptable to the contracting authority that meets the essential requirements set out therein. The tender guarantee must be for an amount of **EUR 20.000,00**. The original guarantee must be included in the original tender.

[2] The currency of tender will be the currency of the contract and of payment.

15.2. It may be provided in the form of a bank guarantee, a banker's draft, a certified cheque, a guarantee provided by an insurance and/or guarantee company or an irrevocable letter of credit made out to the contracting authority.

15.3. The tender guarantee must remain valid for 45 days beyond the period of validity of the tender, including any extensions, and be issued to the contracting authority for the requisite amount.

15.4. The tender guarantees of unsuccessful tenderers will be returned together with the information letter that the tenderer has been unsuccessful.

15.5. The tender guarantee of the successful tenderer must be released when the tenderer has signed the contract and provided the requisite performance guarantee.

16. VARIANT SOLUTIONS

Variant solutions will not be taken into consideration.

SUBMISSION OF TENDERS

17. SEALING, MARKING AND SUBMITTING TENDERS

17.1 The complete tender must be submitted in one original, clearly marked 'original' and 5 (five) copies, clearly marked 'copy'. In the event of any discrepancy between them, the original will prevail.

17.2 The technical and financial offers must be placed together in a sealed envelope. The envelopes should then be placed in another sealed envelope/package, unless their volume requires a separate submission for each lot. The electronic version of the technical offer must be included with the printed version in the separate envelope in which the technical offer is submitted. If there are any discrepancies between the electronic version and the original, printed version, the latter has precedence.

17.3 All tenders must be sent to the contracting authority before the deadline set in the contract notice.

Participants may choose to submit their tender :

(a) either by post or by courier service, in which case the evidence shall be constituted by the postmark or the date of the deposit slip[3]**.** In such case**,** the tender must be sent to the following address:

Ministry of Transport and Infrastructure
Directorate General for European Union Affairs and Foreign Relations
Department of European Union Investments
Hakkı Turayliç Caddesi No:5 B Blok
Emek / Çankaya / Ankara / TÜRKİYE

(b) or by hand-delivery to the premises of the contracting authority by the participant in person or by an agent, in which case the evidence shall be constituted by acknowledgment of receipt. If tenders are hand delivered they should be delivered to the following address:

[3] It is recommended to use registered mail in case the postmark would not be readable.

Ministry of Transport and Infrastructure
Directorate General for European Union Affairs and Foreign Relations
Department of European Union Investments
Hakkı Turayliç Caddesi No:5 B Blok
Emek / Çankaya / Ankara / TÜRKİYE
Opening hours of the Contracting Authority's office: 8:30 a.m. till 5:00 p.m.

The contracting authority may, for reasons of administrative efficiency, reject any application or tender submitted on time to the postal service but received, for any reason beyond the contracting authority's control, after the effective date of approval of the evaluation report, if accepting tenders that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

17.4 Tenders, including annexes and all supporting documents, must be submitted in a sealed envelope bearing only:

(a) the above address;

(b) the reference code of this tender procedure, (i.e., NEAR-PN-2023-000218);

(c) where applicable, the number of the lot(s) tendered for;

(d) the words 'Not to be opened before the tender opening session' in the language of the tender dossier and "Teklif Açılış Gün ve Saatinden Önce Açılamaz" in Turkish.

(e) the name of the tenderer.

18. EXTENSION OF THE DEADLINE FOR SUBMITTING TENDERS

The contracting authority may, on its own discretion, extend the deadline for submitting tenders by issuing an amendment in accordance with Clause 9. In such cases, all rights and obligations of the contracting authority and the tenderer regarding the original date specified in the contract notice will be subject to the new date.

19. LATE TENDERS

19.1 All tenders submitted after the deadline for submission specified in the contract notice or these instructions will be kept by the contracting authority. The guarantees will be returned to the tenderers.

19.2 No liability can be accepted for late delivery of tenders. Late tenders will be rejected and will not be evaluated.

20. ALTERING AND WITHDRAWING TENDERS

20.1 Tenderers may alter or withdraw their tenders by written notification prior to the above deadline. No tender may be altered after the deadline for submission. Withdrawals must be unconditional and will end all participation in the tender procedure

20.2 Any notification of alteration or withdrawal must be prepared and submitted in accordance with Clause 17, and the envelope must be marked 'alteration' or 'withdrawal', as appropriate.]

20.3 Withdrawal of a tender in the period between the deadline for submission and the date of expiry of the validity of the tender will result in forfeiture of the tender guarantee.

OPENING AND EVALUATING TENDERS

21. OPENING TENDERS

21.1 The purpose of opening and examining tenders is to check whether the tenders have been submitted in accordance with the submission requirements of the call for tenders.

21.2 The opening session should be held at least one week after the deadline for submission of tenders.

Tenders will be opened in public session by the appointed committee on the date and time and at the address specified in the contract notice (IV.2.7). The committee will draw up minutes of the meeting, which must be available to tenderers on request.

In the case that at the date of the opening session some tenders have not been delivered to the contracting authority but their representatives can show evidence that they have been sent on time, the contracting authority will allow them to participate in the first opening session and inform all representatives of the tenderers that a second opening session will be organised.

21.3 At the tender opening session, the tenderers' names, the tender prices, any discounts offered, written notifications of alteration and withdrawal, the presence of the tender guarantee (if required) and such other information the contracting authority may consider appropriate may be announced.

21.4 After the public opening of the tenders, no information relating to the examination, clarification, evaluation or comparison of tenders or recommendations concerning the award of contract can be disclosed until after the contract has been awarded.

Any attempt by a tenderer to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the contracting authority in its decision concerning the award of the contract will result in the immediate rejection of its tender.

22. EVALUATING TENDERS

The contracting authority reserves the right to ask a tenderer to clarify any part of its tender that the evaluation committee considers necessary to evaluate it. Such requests and the responses to them must be made in writing. They may in no circumstances alter or try to change the price or content of the tender, except to correct arithmetical errors discovered by the evaluation committee when analysing tenders.

The contracting authority reserves the right to check information submitted by the tenderer if the evaluation committee considers it necessary.

22.1 Examination of the administrative compliance of tenders

The aim at this stage is to check that tenders comply with the requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of the contracting authority or the tenderer's obligations under the contract or distort competition for tenderers whose tenders do comply. Decisions to the effect that a tender is not administratively compliant must be duly justified in the evaluation minutes.

The evaluation committee will check that each tender:

- has been properly signed;

- includes a correct tender guarantee (if required);
- meets the requirements as set out in the administrative compliance grid;
- has complete documentation and information;
- substantially complies with the requirements of these tender documents.

If a tender does not meet the requirements set out in the administrative compliance grid, it may be rejected by the evaluation committee when checking admissibility.

22.2 Technical evaluation

The evaluation committee must evaluate only those tenders considered substantially compliant in accordance with Clause 22.1.

At this step of the evaluation procedure, the committee will analyse the tenders' technical conformity in relation to the technical specifications, classifying them technically compliant or non-compliant.

22.3 Financial evaluation

Once the technical evaluation has been completed, the evaluation committee checks that the financial offers contain no arithmetical errors. If the tender procedure contains several lots, financial offers are compared for each lot. The financial evaluation will have to identify the best financial offer for each lot, taking due account of any discounts offered.

When analysing the tender, the evaluation committee will calculate the final tender price after adjusting it on the basis of Clause 23.

22.4 Documentary evidence for exclusion and selection criteria

At any time during the procurement procedure and before the award of the contract, the contracting authority may request documentary evidence on compliance with the exclusion criteria set out in these instructions.

23 CORRECTING ERRORS

23.1 Possible errors in the financial offer will be corrected by the evaluation committee as follows:

- where there is a discrepancy between amounts in figures and in words, the amount in words will prevail;
- except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will prevail.

23.2 The amount stated in the tender will be adjusted by the evaluation committee in the event of error, and the tenderer will be bound by that adjusted amount. If the tenderer does not accept the adjustment, its tender will be rejected and its tender guarantee forfeited.

CONTRACT AWARD

24. AWARD CRITERIA

The most economically advantageous tender is the technically compliant tender with the lowest price.

25. NOTIFICATION OF AWARD, CONTRACT CLARIFICATIONS

Prior to the expiry of the validity period of tenders, the contracting authority will notify the successful tenderer, in writing, that its tender has been selected and draw its attention to any arithmetical errors

corrected during the evaluation process. This notification may take the form of an invitation to clarify certain contractual questions raised therein, to which the tenderer must be prepared to reply. This clarification will be confined to issues that had no direct bearing on the choice of the successful tender. The outcome of such clarification will be set out in a memorandum of clarification, to be signed by both parties and incorporated into the contract.

The contracting authority will inform all tenderers simultaneously and individually of the award decision. The tender guarantee of the unsuccessful tenderers will be released once the contract is signed.

By submitting a tender, each tenderer accepts to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the contracting authority sends it to the electronic address referred to in the offer.

26. CONTRACT SIGNING AND PERFORMANCE GUARANTEE

26.1 Within 30 days of receipt of the contract already signed by the contracting authority, the selected tenderer must sign and date the contract and return it, with the performance guarantee (if applicable) to the contracting authority. On signing the contract, the successful tenderer will become the contractor and the contract will enter into force.

26.2 If it fails to sign and return the contract and any financial guarantee required within 30 days after receipt of notification, the contracting authority may consider the acceptance of the tender to be cancelled, without prejudice to the contracting authority's right to invoke the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the contracting authority.

26.3 The performance guarantee referred to in the general conditions is set at 10 % of the amount of the contract and must be presented in the form specified in the annex to the tender dossier, except where it takes the form of a certified cheque or a cash deposit. It will be released in accordance with the special conditions.

27. CANCELLATION OF THE TENDER PROCEDURE

In the event of cancellation of a tender procedure, tenderers will be notified by the contracting authority. In case of paper submission and, if the tender procedure is cancelled before the tender opening session, the sealed envelopes will be returned, unopened, to the tenderers.

Cancellation may occur, for example, where:

- the tender procedure has been unsuccessful, namely where no qualitatively or financially worthwhile tender has been received or there has been no valid response at all;
- the economic or technical parameters of the project have been fundamentally altered;
- exceptional circumstances or force majeure render normal execution of the project impossible;
- all technically compliant tenders exceed the financial resources available;
- there have been irregularities in the procedure, in particular where these have prevented fair competition;
- the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market.

In no event will the contracting authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if the contracting authority has been informed of the possibility of damage. Publication of a contract notice does not commit the contracting authority to implement the programme or project announced.

28. ETHICS CLAUSES AND CODE OF CONDUCT

28.1 Absence of conflict of interest

The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the project. Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or the contracting authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

28.2 Respect for human rights as well as environmental legislation and core labour standards

The tenderer and its personnel must comply with human rights and applicable data protection rules. In particular and in accordance with the applicable basic act, tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

Zero tolerance for sexual exploitation, abuse and harassment:

The European Commission applies a policy of 'zero tolerance' in relation to all wrongful conduct which has an impact on the professional credibility of the tenderer.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.

28.3 Anti-corruption and anti-bribery

The tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. The European Commission reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if the contracting authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, ‘corrupt practices’ are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with the contracting authority.

28.4 Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

Contractors found to have paid unusual commercial expenses on projects funded by the European Union are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving EU funds.

28.5 Breach of obligations, irregularities or fraud

The contracting authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, the contracting authority may refrain from concluding the contract.

29. APPEALS

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See Section 2.12. of the practical guide.

30. DATA PROTECTION

Processing of personal data related to this tender procedure by the contracting authority takes place in accordance with the national legislation of the state of the contracting authority and with the provisions of the respective financing agreement.

The tender procedure and the contract relate to an external action funded by the EU, represented by the European Commission. If processing your reply to the invitation to tender involves transfer of personal data (such as names, contact details and CVs) to the European Commission, they will be processed solely for the purposes of the monitoring of the procurement procedure and of the implementation of the contract by the Commission, for the latter to comply with its obligations under the applicable legislative framework and under the financing agreement concluded between the EU and the Partner Country without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law. For the part of the data transferred by the contracting authority to the European Commission, the controller for the processing of personal data carried out within the Commission is the head of contracts and finance unit R4 of DG Neighbourhood and Enlargement Negotiations.

Details concerning processing of your personal data by the Commission are available on the privacy statement at:

http://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A

In cases where you are processing personal data in the context of participation to a tender (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) you shall accordingly inform the data subjects of the possible transmission of their data to EU institutions and bodies and communicate the above mentioned privacy statement to them.

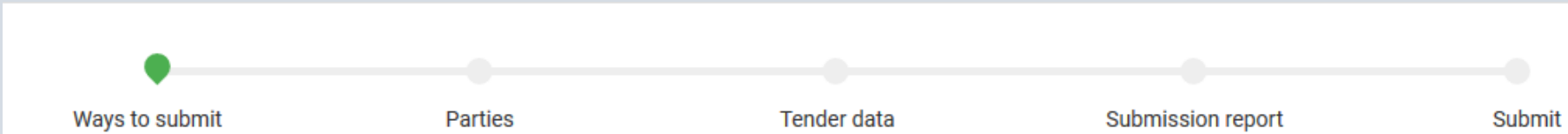
31. EARLY DETECTION AND EXCLUSION SYSTEM

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations of early detection or exclusion, their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the early detection and exclusion system (EDES) and communicated to the persons and entities concerned in relation to the award or the execution of a procurement contract.

* * *

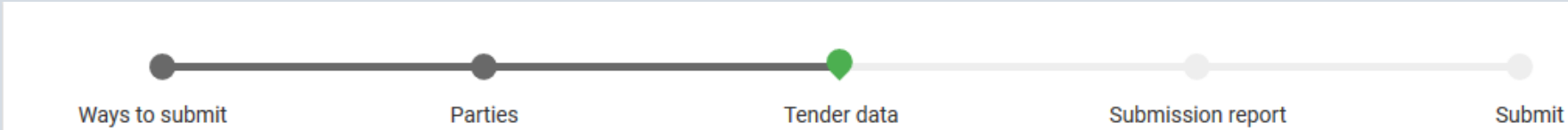
List of documents to be submitted with the tender

The purpose of this table is to help tenderers prepare their tenders and set out clearly what documents must be submitted, by which involved entities, when (with the tender or later on request of the Contracting authority) and where (eSubmission.).

Description	Sole tenderer/individual candidate	Consortium		Identified Subcontractor	Entity on whose capacity is being relied	When and where to submit the document?	Instructions for uploading in eSubmission (if applicable)	
		Group leader	Member of the group				How to name the file?	Where to upload?
1. Identification and information about the tenderer. *eSubmission view* 								
Tender form with declaration of tenderer	☒	☒				With the tender in eSubmission	'Tender form'	Select 'sole submission' or 'group submission'. Under 'parties' identify the participants. →Under 'Attachments'→ add tender submission form →'Other documents'.

Declaration on Honour on Exclusion and Selection Criteria	☒	☒	☒	☒	☒	With the in eSubmission	'Declaration on Honour'	Select the concerned entity under 'Parties' →'Identification tenderer' →'Attachments'→'Declaration on Honour'. For capacity providing entities who are not subcontractors, the document must be uploaded in the section of the Sole tenderer or Group leader: →'Identification tenderer' →'Attachments'→'Other documents'.
Financial Identification Form (FIF) **Forms 4.5 a) + b)**	☒	☒				With the tender in eSubmission	'Financial identification form'	Select 'sole submission' or 'group submission'. Under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.
Legal Entity File (LEF) and supporting documents	☒	☒				With the tender in eSubmission	'Legal entity file'	Select 'sole submission' or 'group submission'. Under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.
Power of attorney **(Form 4.3)**	☒	☒	☒			With the tender in eSubmission	'Power of attorney'	In the Group leader's section under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.

Copy of tender guarantee	☒	☒				With the tender in eSubmission	'Tender guarantee'	In the Group leader's section under 'Parties' →'Identification tenderer' →'Attachments'→'Other documents'.
Economic and financial capacity **Form 4.4**	☒	☒				With the tender in eSubmission	*'Name to reflect the nature of the document'*	With the Group leader or the sole tenderer under 'Parties' →'Identification tenderer' →'Attachments'→'Econo-mic and financial capacity'.
Technical and professional capacity **Form 4.1, Form 4.2, Form 4.6.1.1, Form 4.6.1.2, Form 4.6.1.3, Form 4.6.2, Form 4.6.3, Form 4.6.4, Form 4.6.5, Form 4.6.6, Form 4.6.7, Form 4.6.8, Form 4.6.9**	☒	☒				With the tender in eSubmission	*'Name to identify the form'*	With the Group leader or the sole tenderer under 'Parties' →'Identification tenderer' →'Attachments'→'Tech-nical and professional capacity'.
Other documents	**Documents deemed necessary (e.g. description of the warranty conditions, statement of origin, other documents as per nature of the call)**					With the tender in eSubmission	*'Name to reflect the nature of the document'*	In the Group leader's section under 'Parties' →'Identification tenderer'

								→'Attachments'→'Other documents'..
2. Tender data. *eSubmission view*  ***Failure to upload the following documents in eSubmission will lead to rejection of the tender.***								
Technical offer **(Volume 5)**	☒	☒				With the tender in eSubmission	'Technical offer'	Under section 'Tender Data' →'Technical offer'
Financial offer (budget) **(Volume 4)**	☒	☒				With the tender in eSubmission	'Financial offer'	Under 'Tender Data' →'Financial offer'