
Project „Investment in Increasing of Production Capacity in Company A.S. TEKS“ is co-financed by the European Regional Development Fund

Zagreb, October 5th 2017.

TENDER DOCUMENTATION

Pursuant to Annex 4 "Procurement procedures for persons not subject to the Public Procurement Act" (version 2.0), which is integral part of the Grant Contract No. KK.03.2.1.02.0056, and Common National Rules No. 05 (as Annex 03.), which entered into force on April 25th 2016.

Procurement number: 04/2017

**A ONE-PHASE PUBLIC PROCUREMENT
for the purchase of equipment and machinery for the production facility of
ASTEKS d.o.o.**

Project: „Investment in Increasing of Production Capacity in Company A.S. TEKS Ltd“

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1. General information

Company ASTEKS d.o.o. is implementing " **Investment in Increasing of Production Capacity in Company A.S. TEKS Ltd**" project, in accordance with the project application submitted for the Call for Proposals "Investments in Production Technology of SMEs" (ref.: KK.03.2.1.02), which is approved for funding under the Grant Agreement number: KK.03.2.1.02.0056 implemented by the Croatian Small Business, Innovation and Investment Agency; HAMAG BICRO and the Ministry of Economy, Entrepreneurship and Crafts.

The project is co-financed by the European Regional Development Fund under the Operational Program Competitiveness and Cohesion 2014 - 2020.

Project Investment refers to the improvement of business and production technology of ASTEKS d.o.o. by investing in tangible and intangible assets.

The total value of the project is 7.444.885,25 HRK, eligible costs amount to 5.951.108,20 HRK, and the expected aid is 2.719.098,69 HRK. The estimated duration of the project is 19 months.

1.1. Contracting entity details

Contracting entity's name and address:	ASTEKS d.o.o., Makarska 5, 10 040 Zagreb, Republic of Croatia
VAT No.:	94474069945
Telephone:	+385 1 2915 728
Fax:	+385 1 2915 800
Website:	http://www.asteks.hr/
E-mail:	asteks@asteks.hr

1.2. Person or office responsible for communication with tenderers

First and last name:	Matea Softa
E-mail:	matea@asteks.hr
Address:	Makarska 5, 10 040 Zagreb, Republic of Croatia
Telephone:	+385 1 2915 728

1.3. Availability of tender documentation

Procurement notice and complete tender documentation, any questions and answers to potential tenderers, as well as all information on the amendments to the tender documentation will be made available to potential tenderers at <http://www.asteks.hr/>.



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1.4. Clarifications of and amendments to the tender documentation

For the duration of the tender submission deadline economic operators may ask questions and request clarifications regarding the tender documentation. All questions arising from ambiguities in the content of the tender documentation, if any, an economic operator wishes to ask the Contracting entity, as well as any other communication between the Contracting entity and the economic operators shall be made entirely in writing by e-mail. The Contracting entity shall respond to all requests for clarifications and additional information related to the tender documentation only if the requests have been timely submitted to the contact person's e-mail at asteks@asteks.hr. A request shall be deemed timely submitted if received on the seventh (7th) day preceding the tender submission deadline at the latest.

All answers and clarifications will be made available by the Contracting entity on the same website where the original tender documentation has been made available (link: <http://www.asteks.hr/>) on the fifth (5th) day preceding the tender submission deadline at the latest, without specifying applicant details.

The Contracting entity reserves the right to amend the tender documentation during the tender submission deadline. Any amendments thereto shall be made available on the same websites where the procurement notice and the tender documentation have been made available (link: <http://www.asteks.hr/>). In case of significant amendments to the tender documentation, the Contracting entity shall extend the tender submission deadline. The extension of the tender submission deadline shall be relative to the importance of change, but not less than five (5) days.

If for any reason the tender documentation, information on amendments to the tender documentation and answers to tenderers' questions are not made available in a timely manner, the Contracting entity shall extend the tender submission deadline accordingly so that all interested tenderers can make themselves familiar with all information necessary to draw up the tender. The extension of the tender submission deadline shall not be less than five (5) days.

1.5. Procurement number:

04/2017

1.6. Conflict of interest

The list of economic operators with whom the Contracting entity is in conflict of interest (based on the description of conflict of interest in the applicable Public Procurement Act and the principle of avoiding conflicts of interest as defined in Annex 4 "Procurement procedures for persons not subject to the Public Procurement Act" (version 2.0), which is integral part of



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the Grant Contract No. KK.03.2.1.02.0056, and Common National Rules No. 05 (as Annex 03.), which entered into force on April 25th 2016.

The Contracting entity may not enter into public procurement contracts with the following economic operators:

I. SUBLITEX d.o.o., Zagrebačka 9, 47 250 Duga Resa, Republic of Croatia; VAT No.: 16030981972

1.7.Type of procurement procedure

A one-phase public procurement pursuant, the procedure provided for in Section 5. (Procurement notice) of Annex 4 "Procurement procedures for persons not subject to the Public Procurement Act" (version 2.0), which is integral part of the Grant Contract No. KK.03.2.1.02.0056, and Common National Rules No. 05 (as Annex 03.), which entered into force on April 25th 2016. Annex 4 is available at: <http://www.strukturnifondovi.hr/vazni-dokumenti>.

In this public procurement procedure any interested party may submit a tender.

1.8.Consortium

In this public procurement procedure joint tenders of two or more tenderers in a consortium are not allowed.

1.9.Subcontractors

The tenderers in this public procurement are not allowed to subcontract part of the contract to subcontractors.

2. Information about the subject-matter of procurement

2.1.Contract type (goods, works, services)

Goods

2.2.Description of the subject-matter of procurement

The subject-matter of procurement is the purchase of equipment and machinery for the production facility of ASTEKS d.o.o.

Group 1 – Procurement of weaving machine and training for employees

Group 2 – Procurement of machine for cutting and folding labels and training for employees

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Technical specifications of individual groups of the subject-matter of procurement are defined in Annex IV hereof. Quantities of individual groups of the subject-matter of procurement are defined in Annex III hereof.

2.3.Groups of the subject-matter of procurement

The procurement has been divided into two (2) groups:

Group 1 – Procurement of weaving machine and training for employees

Group 2 – Procurement of machine for cutting and folding labels and training for employees

A tenderer may submit a tender for one or all groups of the subject-matter of procurement. A separate tender in a sealed envelope shall be submitted for each group. The tender shall include all items within a group as defined in Annex IV – Technical specifications. **A tenderer may submit a single tender for each group.**

All tenders of a tenderer submitting or participating in multiple tenders within a group **shall be rejected.**

2.4.Quantities and technical description of the subject-matter of procurement

Quantities of individual groups of the subject-matter of procurement are defined in Annex III - Cost Estimate of the tender documentation.

Detailed technical specifications of the subject-matter of procurement are contained in Annex IV– Technical specifications of the tender documentation.

The requirements defined by the technical specifications shall be the minimum technical characteristics with which offered goods must comply and **they shall not be modified by a tenderer.**

The tenderer shall fill in column "Offered specifications" as required by defining detailed technical specifications of offered goods (note: the tenderer fills in the technical specifications by entering exact characteristics of the offered goods, while avoiding filling the column only with words such as "complies with", "YES", "equivalent with the required specifications" or "corresponds with the required specifications").

The tenderer may fill in column "Notes or references to the technical documentation" if considered necessary.

The **tenderer shall not fill in** column "Evaluation YES/NO" for such column is reserved for the Contracting entity's evaluation.

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In order for the tender to be considered valid, the offered subject-matter of procurement shall comply with all requirements in Annex IV – Technical specifications.

2.5.Place of delivery

The place of delivery of all groups of the subject-matter of procurement is the Contracting entity's production facility at the address: **ASTEKS d.o.o., Zagrebačka 9, 47 250 Duga Resa, Republic of Croatia.**

The successful tenderer for each group of the subject-matter of procurement shall deliver the goods in accordance with Incoterms 2010 delivery terms DDP (delivery duty paid) of the International Chamber of Commerce.

2.6.Delivery deadline and method of the subject-matter of procurement

The successful tenderer for each group of the subject-matter of delivery shall deliver the goods not later than 20 calendar days after entering into a public procurement contract.

3. Grounds for exclusion of a tenderer

3.1.Mandatory grounds for exclusion of a tenderer and evidence of non-existence of grounds for exclusion of the tenderer

The tenderer shall be allowed to submit originals and either certified or uncertified copies of the required documents.

Evidence of non-existence of grounds for exclusion shall be in Croatian or English and in Latin script. If a tenderer is not registered in Croatia or a document is in a foreign language (neither Croatian nor English), when submitting such documents, the tenderer shall also submit their certified translation into either Croatian or English.

The Contracting entity shall exclude a tenderer from the procedure if:

3.1.1. The tenderer or a person legally authorised to represent the tenderer have been convicted of any of the following felonies, or of corresponding felonies under the regulations of the country of an economic operator's registration office, or the country of nationality of the person authorised to represent the economic operator:

participation in a criminal organization, corruption, fraud, terrorism, financing of terrorism, money laundering, child labour or other forms of trafficking.



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3.1.2. The tenderer has been convicted of a felony or an offence concerning professional conduct by a judgement which has the force of res judicata, or of a corresponding felony or offence under the regulations of the country of the economic operator's registration.

3.1.3. The tenderer has not fulfilled the obligation to pay outstanding tax liabilities and liabilities for pension and health insurance, unless such payment is not approved under provisions of a special law or deferred (for example, in pre-bankruptcy settlement proceedings).

3.1.4. The tenderer has misrepresented or provided false information regarding the conditions the Contracting entity had stated as grounds for exclusion or eligibility criteria.

3.1.5. The tenderer is bankrupt, insolvent or being wound up, is having its affairs administered by a bankruptcy manager or courts, has entered into a settlement with creditors, has suspended business activities or is in any similar situation arising from a similar procedure under national laws or regulations.

or

3.1.6. The tenderer has committed grave professional misconduct in the last two years from the public procurement opening date, which the Contracting entity may prove by any means.

3.2. The tenderer shall prove non-existence of the grounds for exclusion referred to in item 3.1. hereof by submitting a signed declaration together with the tender. Such declaration is contained in Annex II hereof.

3.3. The Contracting entity reserves the right to invite a tenderer to submit additional evidence in order to determine non-existence of the grounds for exclusion referred to in items 3.1.3. and 3.1.5. hereof, at any moment until the decision on the selection is reached, namely:

- in order to determine non-existence of the circumstances referred to in item 3.1.3. hereof:
 - a. A tax clearance certificate which shall not be older than 30 days from the public procurement opening date; or
 - b. A valid equivalent document of the competent authority of the country of the tenderer's registration if the certificate referred to in item a. is not issued; or
 - c. A statement under oath or a corresponding statement of the person legally authorized to represent a tenderer in front of a competent judicial or administrative authority, or a notary, or a competent professional or trade authority in the country of an economic operator's registration; or a statement certified by a notary, which shall not be older than 30 days from



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the public procurement opening date, if the certificate referred to in item a. or the equivalent document referred to in item b. is not issued in the country of the tenderer's registration.

– in order to determine non-existence of the circumstances referred to in item 3.1.5. hereof:

- a. An excerpt from a court, crafts or other similar register of the country of the tenderer's registration, which shall not be older than 3 months from the public procurement opening date, or
- b. A valid equivalent document issued by a competent judicial or administrative authority in the country of the tenderer's registration in case the excerpt referred to in item a. is not issued or if it does not contain all necessary information to determine such circumstances, or
- c. A statement under oath or a corresponding statement of the person legally authorized to represent a tenderer in front of a competent judicial or administrative authority, or a notary, or a competent professional or trade authority in the country of the tenderer's registration; or a statement certified by a notary, which shall not be older than 3 months from the public procurement opening date, if the excerpt referred to in item a. or the document referred to in item b. is not issued or if they do not contain all necessary information to determine such circumstances.

Grave professional misconduct within the meaning of item 3.1.6. means the tenderer's performance of professional activities which is contrary to relevant regulations, collective agreements, professional rules or concluded public procurement contracts and of such nature which makes the tenderer unsuitable and unreliable party to the procurement contract the Contracting entity intends to conclude. Grave professional misconduct in performing public procurement contracts means the tenderer's performance resulting in significant and/or repeated failures to perform material contractual requirements leading to their premature termination, damage or other similar results. The Contracting entity shall prove the existence of grave professional misconduct based on an objective assessment of individual cases.

4. Conditions and evidence of the tenderer's capacity

4.1. Legal and business capacity

The tenderer shall present evidence of inscription in a court, crafts, structural or other similar register and evidence of registration for performing business activities related to a particular group of the subject-matter of procurement in the country of its registration, namely:

- a) An appropriate excerpt from the court, crafts, professional or other similar register in the country of an economic operator's registration, or
- b) In case the document referred to in item a. is not issued in the country of the economic operator's registration, a statement certified by a competent authority.



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Evidence of legal and business capacity shall not be older than six (6) months from the public procurement opening date.

If a tenderer is not registered in Croatia or a document is in a foreign language (neither Croatian nor English), when submitting such documents, the tenderer shall also submit their certified translation into either Croatian or English.

5. Tender contents, drawing up method and submission method

When drawing up a tender a tenderer shall comply with the requirements and conditions set herein.

5.1 Tender contents

The tender shall include:

- Completed and verified Tender submission form (Annex I hereof)
- Completed and verified Statement containing evidence of non-existence of the grounds for exclusion referred to in item 3.1. of the tender documentation (Annex II hereof)
- Completed and verified technical specifications (Annex IV hereof)
- Completed and verified cost estimate (Annex V hereof)
- Evidence of legal and business, as well as technical and professional capacity of a tenderer referred to in item 4 hereof (Annex III and evidence referred to in item 4.1 hereof)
- Optional: catalogs, brochures and similar if necessary

5.2 Tender drawing up method

5.2.2. A tender shall be drawn up in paper form, printed or written in indelible ink, bounded in irreversible whole and its original shall be submitted in one copy.

The tender shall be drawn up in Croatian or English and in Latin script. If a tenderer is not registered in Croatia or a document is in a foreign language (neither Croatian nor English), when submitting such documents, the tenderer shall also submit their certified translation into either Croatian or English.

When drawing up the tender the tenderer shall comply with the requirements and conditions set herein and shall not modify nor amend the wording of the tender documentation.

The tender shall be made in a way that makes irreversible whole. If, for the sake of scope or other objective circumstances, the tender cannot be made in a way that it is a whole, then it shall be made in two or more parts, and the tenderer must specify in the content of the tender how many parts it consists of.



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All corrections in the tender shall be made in such a way that the corrected text remains visible (legible) or provable (for example, the use of erasers or correction pens is not allowed). The corrections shall be accompanied by a date and the tenderer's signature.

Tenders and documentation enclosed with tenders will not be returned to tenderers.

All costs of drawing up the tender shall be borne by the tenderers. The tenderers shall not be entitled to any compensation of the costs of drawing up the tender.

5.2.1 The tender price shall be denominated in Croatian kuna (HRK) or Euro (EUR). If the tender price is denominated in EUR, it shall be converted into HRK according to the mean exchange rate of the Croatian National Bank as on the day (date) set out in Annex I - Tender submission form.

(link: <http://hnb.hr/temeljne-funkcije/monetarna-politika/tecajna-lista/tecajna-lista.>)

The tender price shall be fixed during the term of the public procurement contract. The tender price (excluding VAT) shall include all costs and discounts (for example, the costs of transport, delivery, unloading, installation and other requirements). The goods shall be delivered in accordance with Incoterms 2010 delivery terms DDP (delivery duty paid) of the International Chamber of Commerce.

The tenderer may submit uncertified copies of the evidence of non-existence of grounds for exclusion or the evidence of capacity requested herein. Uncertified print of an electronic document shall also be considered an uncertified copy. Before reaching a decision on the selection, the Contracting entity may invite the most favourable tenderer to submit originals or certified copies of all requested evidence (such as certificates, documents, statements, authorisations, etc.) issued by competent authorities, unless the most favourable tenderer has already submitted such originals or certified copies in their tender.

The tenderer is expected to review the tender documentation, including all instructions, forms, conditions and specifications. A tender not complying with the provisions hereof and containing errors, omissions or ambiguities, if such errors, omissions or ambiguities cannot be eliminated or if the tender clarifications or amendments still contain such errors, omissions or ambiguities, is considered to be a risk for the tenderer and shall be rejected.

A tenderer submitting a tender for multiple groups of the subject-matter of procurement shall submit all required evidence for each individual group, including the evidence of non-existence of the grounds for exclusion and the evidence of capacity which are common to multiple groups, in a sealed envelope.



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5.3 Tender submission method

A tender shall be submitted in a sealed envelope until the tender submission deadline to the address of the Contracting entity:

The Contracting entity: **ASTEKS d.o.o.; (attn. Matea Softa)**

Address: **Makarska 5, 10 040 Zagreb, Republic of Croatia**

Procurement number: **04/2017**

Subject-matter of procurement: **Procurement for the purchase of equipment and machinery for the production facility fo ASTEKS**

The wording on the front of the envelope: **"NOT TO BE OPENED"**

On the back of the envelope: **<The name and address of the tenderer>**

If the envelope is not marked according to the requirements herein, the Contracting entity shall not accept any liability in case of loss or premature opening of the tender.

The tenderer shall decide on the tender submission method of their own accord and bear any risks of possible loss or untimely submission of the tender.

The tenders and accompanying evidence shall not be returned to the tenderers.

Alternative tenders shall not be allowed.

5.3.1 The tenderer may submit modifications and/or amendments to the tender before the tender submission date. A modification and/or amendment to the tender shall be submitted in the same manner as the original tender and bear a mandatory indication of modification and/or amendment. In that case, the tenders shall be opened in the reverse order of receipt, whereby the receipt of the last version of the modified tender shall be considered time of receipt.

5.3.2 The tenderer may submit a statement on withdrawing the tender before the tender submission date. A written statement shall be submitted in the same manner as the original tender and bear a mandatory indication of withdrawal of the tender. In that case the tender shall be returned to the tenderer unopened.

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6. Tender submission date, time and place

The tender must be received by the Contracting entity at the address referred to in item 5.3 hereof **not later than 26.10.2017. until 15:00 p.m.**

Tenders received after the tender submission deadline shall not be considered and shall be returned to senders unopened.

All timely submitted tenders, modifications and/or amendments shall be entered into the register of received tenders and assigned a serial number according to the order of receipt. The register is an integral part of the minutes of the tender opening session.

A tender received after the tender submission deadline shall not be entered into the register of received tenders, but shall be registered and marked as late and immediately returned to the sender.

6.1. Tender validity period

The tender shall remain valid for 45 days from the tender submission deadline. The tenders with shorter validity period shall be rejected.

If the tender validity period expires, the Contracting entity may request the tenderer to extend the tender validity period accordingly.

6.2. Selection criterion

The selection criterion for each group of the subject-matter of procurement shall be the lowest price of a valid tender.

7. Tender review and evaluation

The tender review and evaluation shall be performed by the Procurement Committee.

During the tender review and evaluation the Contracting entity may invite the tenderers to submit clarifications or amendments regarding the evidence as required in items 3 and 4 hereof, in order to eliminate errors, omissions or ambiguities which can be eliminated.

Documents which are or appear unclear, incomplete, incorrect or contain errors shall be considered errors, omissions or ambiguities.

The Contracting entity shall invite the tenderers within a reasonable period, which shall not be less than five (5) nor more than fifteen (15) days, to clarify or amend the evidence submitted

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pursuant to items 3 and 4 hereof, and shall not consider such clarifications or amendments modifications to the tender.

The Contracting entity may invite the tenderers within a reasonable period, which shall not be less than five (5) nor more than ten (10) days, to clarify certain elements of the tender in the part related to the tendered subject-matter of procurement. The clarification shall not result in modification to the tender.

Requesting clarifications or amendments shall not have the effect of discrimination, unequal treatment of the tenderers or of favouring a particular tenderer or economic operator.

The Contracting entity shall reject the following tenders based on the tender review and evaluation:

- Incomplete tenders;
- Tenders not complying with the provisions of the tender documentation;
- Tenders containing errors, omissions or ambiguities which cannot be eliminated;
- Tenders in which the tender price is not expressed in absolute amounts;
- Tenders in which errors, omissions or ambiguities have not been eliminated by clarifications or amendments;
- Tenders not complying with the requirements related to the characteristics of the subject-matter of procurement;
- Tenders for which tenderer did not accept a correction of accounting error in writing
- Tenders by a tenderer submitting two or more tenders as a tenderer and/or a consortium member;
- Alternative tenders;
- Tenders containing harmful provisions;
- Tenders by tenderers in conflict of interest:

After the tender review and evaluation, valid tenders shall be ranked according to the selection criterion. In case two or more valid tenders are equally ranked according to the selection criterion, the Contracting entity shall select the tender which has been received earlier.

The tender complying with all conditions and with the lowest price shall be considered the best tender.

8. Decision on the selection

Based on the results of the tender review and evaluation, as well as on the tender selection criterion, the Contracting entity shall reach a Decision on the selection of the most favourable

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tender for the subject-matter of procurement, or of the tenderer with whom to enter into the public procurement contract respectively.

The Decision on the selection shall at least contain:

- Name and address of the selected tenderer
- The total value of the selected tender (VAT excluded and VAT included)
- Date and signature

The Decision on the selection shall be sent on demonstrable way to tenderers.

The period for reaching the Decision on the selection shall be twenty (20) days from the expiration of the tender submission deadline.

After ranking the tenders according to the selection criterion and before reaching the Decision on the selection, the Contracting entity may invite the most favourable tenderer with whom they intend to enter into the procurement contract, to submit originals or certified copies of one or more documents required herein. If the tenderer has already submitted originals or certified copies of such documents, they shall not resubmit them.

Originals or certified copies of the documents submitted for the purpose of verifying the tenderer may not correspond to the previously submitted uncertified copies of the documents, for example in terms of date of issue or validity, but they must serve as evidence that the tenderer still complies with the requirements the Contracting entity has set out herein.

If the most favourable tenderer fails to submit all requested originals or certified copies and/or fails to prove that they still comply with the requirements set out by the Contracting entity, the Contracting entity shall exclude such tenderer, or reject their tender respectively. Then the Contracting entity shall re-rank the tenders according to the selection criterion, without taking into account the the tender of the excluded tenderer, or the rejected tender and invite a new most favourable tenderer to submit the requested documents.

The Contracting entity shall make a report on the tender review and evaluation during a tender evaluation meeting and notify all tenderers of the selection of provider/supplier by sending either a decision on the selection or a decision on non-acceptance in accordance with Annex 4 "Procurement procedures for persons not subject to the Public Procurement Act" (version 2.0), which is integral part of the Grant Contract No. KK.03.2.1.02.0056, and Common National Rules No. 05 (as Annex 03.), which entered into force on April 25th 2016.

The Exclusion Decision / The decision on the Refusal of the Tender will at least include:

- The name and address of the tenderer whose tender is refused
- Reason for refusal of the tender



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- Date and signature

The Exclusion Decision / The decision on the Refusal of the Proposal shall be sent on demonstrable way to tenderers.

In case no tender or no valid tender is submitted, the Contracting entity shall cancel the public procurement procedure. In that case a decision on the cancellation shall be without delay delivered to all tenderers submitting tenders under this public procurement procedure. In addition, the Decision on Cancellation will be published on the Contracting entity's website (link: <http://www.asteks.hr/>). The decision on the cancellation shall at least contain the subject matter of the Procurement which is to be the subject of a decision on the cancellation, the reasons for the cancellation, the time frame in which the same of similar procurement will be published, if applicable, and, the date and signature of the responsible person.

9. Conclusion of the procurement contract

Contracting entity shall after reaching the Decision on the selection enter into procurement contract.

The procurement contract shall be in accordance with the conditions set out in this procurement procedure and the most favorable offer.

Procurement contract shall contain at least the following information:

- Name and address, phone No., fax and e-mail of the Contracting entity,
- Name, address and other necessary information about the selected tenderer,
- The subject subject-matter of procurement,
- Price data with and without value added tax (VAT)
- Subject- matter delivery deadline

Procurement contract shall enter into force on the day it is signed by both parties.

10. Other provisions

10.1. Payment deadline, method and terms

- 100% of the contract price shall be paid after signing the contract

Such payment method shall apply to all groups of the subject-matter of procurement.

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All service providers not registered in the Republic of Croatia shall receive payments in EUR. All service providers registered in the Republic of Croatia shall receive payments in HRK. Payments in EUR shall be effected according to the mean exchange rate of the Croatian National Bank as on the payment date.

10.2. Confidentiality of economic operators' documents

If an economic operator considers certain information in a tender confidential, they shall indicate the legal basis for such confidentiality in the tender. Economic operators shall not consider unit prices, prices of individual items or the total tender price confidential.

10.3. Warranties

Warranty obligation for proper functioning of sold good is defined in Annex IV – Technical specification.

Other warranties shall not be required.

11. Complaints

Each tenderer may file a complaint if they consider that their tender should have been selected as the most favourable one, but such outcome has been prevented due to the Contracting entity's non-compliance with Annex 4 "Procurement procedures for persons not subject to the Public Procurement Act" (version 2.0), which is integral part of the Grant Contract No. KK.03.2.1.02.0056, and Common National Rules No. 05 (as Annex 03.), which entered into force on April 25th 2016. due to which:

- They have been unjustifiably excluded from the procurement procedure;
- Their tender has been unjustifiably rejected; or
- The tender evaluation has been conducted contrary to the conditions and criteria set out herein and the provisions of Annex 4 "Procurement procedures for persons not subject to the Public Procurement Act" (version 2.0), which is integral part of the Grant Contract No. KK.03.2.1.02.0056, and Common National Rules No. 05 (as Annex 03.), which entered into force on April 25th 2016.

The complaint shall be submitted in writing to Intermediary Body Level 2 to:

Hrvatska agencija za malo gospodarstvo, inovacije i investicije
Ksaver 208
10 000 Zagreb, Republic of Croatia
hamagbicro@hamagbicro.hr

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while its copy shall be submitted to the same address to which the original tender has been submitted within 8 days of the receipt of the Decision on the selection or the Decision on cancellation.

The applicant shall explain their allegations in the complaint.

Submitting the complaint shall not delay the conclusion of the procurement contract, but if the Contracting entity considers the complaint to be justified and if the contract has not yet been concluded, the Contracting entity may correct irregularities and reach a new decision, while notifying the Intermediary Body Level 2 thereof.

The Intermediary Body Level 2 shall consider the complaint in terms of verifying the reimbursement claim and may request additional information from the applicant and the Contracting entity. If the Intermediary Body Level 2 determines that the complaint is justified, they shall notify the applicant of their findings and refer them to seek judicial protection.

The applicant suffering damage due to violations of Annex 4 "Procurement procedures for persons not subject to the Public Procurement Act" (version 2.0), which is integral part of the Grant Contract No. KK.03.2.1.02.0056, and Common National Rules No. 05 (as Annex 03.), which entered into force on April 25th 2016. may seek an indemnity before a competent court pursuant to general provisions on indemnity.