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EVROPSKA UNIJA
KOHEZIJSKI SKLAD
NALOŽBA V VAŠO PRIHODNOST

TENDER DOCUMENTATION

for the concessionaire selection for Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by The City of Ljubljana

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INSTRUCTIONS FOR APPLICATION PREPARATION

I. INSTRUCTIONS FOR APPLICATION PREPARATION AND ITS SUBMISSION

1. CONCESSION GRANTOR

The City of Ljubljana, Mestni trg 1, 1000 Ljubljana, Slovenia.

2. CODE OF PUBLIC TENDER

430-2110/2016-38

3. TITLE OF PUBLIC TENDER

The concessionaire selection for Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by The City of Ljubljana.

On the basis of Article 92 of the Public-Private Partnership Act (OG RS, No. 127/06; *hereinafter*: ZJZP) and in accordance with Article 6 of the Decree on Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by the City of Ljubljana (OG RS, Nos. 74/75 and 83/2016; *hereinafter*: Decree), the public-private partnership is performed in a form of a concession. The decision concerning the public-private partnership and the Act on Public-Private Partnership were adopted in the context of the Decree.

Summary of the project of public-private partnership

Subject of the concession relationship is a service of the construction, technological and energy retrofit of the buildings, contractual energy savings and introduction of energy management (*hereinafter*: energy performance contracting services) in buildings owned by the City of Ljubljana, as listed in Attachment 14.

Concession for construction works will be implemented according to the model DFBOT (design, finance, build, operate, transfer) and taking into account the provisions of the Public-Private Partnership Act (OG RS, No. 91/15). Implemented measures as performed by the DFBOT model will become a possession of the concession grantor after the contractual end of the concession period. The DFBOT model will be used by the concession grantor, especially in cases where the measures of energy retrofit will not be permanently attached to the property.

In cases where implementation of certain measures would not be economically feasible or would not be applicable to the model from the previous paragraph, yet it would be from a viewpoint of a deep energy retrofit rational to implement these measures together with other measures of energy retrofit, the DFBTO model (design, finance, build, transfer, operate) of public-private partnership in a form of the concession for construction works could be used by the concession grantor. Implemented measures according to the DFBTO model will become the concession grantor's possession immediately after the investment is concluded, and the concessionaire will be granted the right to implement the energy performance contracting service on the building for the full concession period. In the event that the DFBTO model will be chosen for the implementation of the public-private partnership, the concessionaire will pay the concession grantor a concession fee at the time of the concluded concession contract, thus providing the needed financial resources. The DFBTO model will be used mainly in cases when the measures of energy retrofit will be permanently attached to the property (buildings), according to the superficies solo cedit principle.

In the event that none of the models (neither DFBOT nor DFBTO) would fit the extent and type of anticipated measures of energy retrofit, the concession grantor will be able to use a combination of both above-explained models of the concession for construction works where the goals of economic feasibility and deep energy retrofit will be pursued.

The scope and manner of performance of energy retrofit measures as well as the distribution of costs of financing the implementation of these measures, as defined in the "INITIAL BID" form, Attachment 20, shall be the subject of agreement between the concession grantor and the concessionaire in the second phase of the tender, i.e. the competitive dialogue procedure, whereby the amount of co-financing by the concession grantor shall also be subject of agreement. The concession grantor's goal is to achieve as comprehensive performance of energy retrofit measures as possible on the maximum number of buildings and to fulfil the requirements of the Rules on efficient use of energy in buildings with a technical guideline (PURES).

The concession grantor will select and determine the most appropriate model of public-private partnership in the second phase of the public tender, i.e. the phase of the competitive dialogue, after a list of measures of energy retrofit is compiled for each building.

For the needs of the project realisation and implementation of the energy retrofit measures and energy management of the buildings, the concession grantor will enable the concessionaire the implementation of the construction and technological, investment, and other measures necessary to improve the energy efficiency of the building and achieving the savings in use and costs of the energy sources, in such an extent as agreed-upon with the concession contract in the second phase of the public tender implementation, i.e. the dialogue phase.

After the concluded implementation of the energy retrofit measures (*hereinafter*: measures) and a successful takeover of the implemented measures on individual buildings from Attachment 14, the concessionaire will implement the energy performance contracting in the contractually agreed-upon period, maintenance of the implemented measures to effect the energy savings, and the energy management services of the buildings (*hereinafter*: energy performance contracting services).

With the purpose of acquiring consents, construction and other administrative permits to implement the project and for the project implementation itself, the concession grantor will ensure appropriate authorisations to the concessionaire and grant it the necessary rights (e.g. easement, the right to implement the construction works, etc.).

The concession contract is concluded for a period of up to 15 years.

The concession period starts on the day of the validity of the concession contract and introduction of the concessionaire to business, and includes the period of the construction works and technological energy retrofit of all buildings from Attachment 14 of this tender documentation, as well as the period of implementation of energy performance contracting. Contractual liabilities are realised according to the time schedule specified in the contract.

Duration of the contract can be extended for maximum of half of the contractually defined period when there are reasonable grounds for it, especially if this is needed due to additional investments of the concessionaire as a consequence of the concession grantor's requirements or its measures in public interest. The extent of additional investments and the period of extension are specified in annex to the concluded concession contract.

In case of the contract extension, the concession grantor and the concessionaire, in the process of negotiations without previous announcement, coordinate the content of annex in which the

extension period, reasons and other provisions are specified, amending the original contract. Before concluding the annex, the concession grantor has to prepare the investment document which confirms the eligibility of the annex.

Duration of the concession relationship will be defined by the concession contract. The concession relationship is terminated for reasons that will be defined in the concession contract.

The concession grantor or its authorised users or managers of buildings assume, within the scope of the project, responsibility for regular payment of contractual savings provisions and energy management of buildings (energy performance contracting), but only to the amount of the resources that will be saved due to the implementation of measures. The concession grantor's payments depend on the actually realised agreed-upon energy savings or reduced costs of energy consumption.

The concession grantor has the right to co-participation on realised savings arising from the implemented measures. Attachment 18: "The method of calculating savings" lists the baselines of measurement and verification of energy savings.

For the needs of the contractual relationships implementation, the concession grantor provides the concessionaire the right of access to the buildings.

The concession grantor, if needed, participates in the preparation and confirmation of the project documentation and obtaining the necessary administration permits and consents, in so far as it is needed for the project realisation.

The concessionaire takes the responsibilities to implement all, with the concession contract agreed-upon investment and other measures, to achieve the guaranteed energy savings and the responsibility of energy management of the buildings, according to the valid administration permits and the time schedule, which will be agreed-upon in the procedure of the concessionaire selection.

The concessionaire is obliged to guarantee the actual energy savings or reduced energy use, which will be used as a basis for concession grantor's payments and it takes over a complete risk for success of implemented measures for assuring reduced energy consumption.

The concessionaire in the contractual period assumes all technical, technological, and financial risks for the implementation of the investment and other measures, and for the implementation of the energy retrofit contracting services and energy management of the buildings, including the risk of profitability of the implemented measures, with the exception from the fifth paragraph of Article 6 of the Decree on Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by the City of Ljubljana, where the concession grantor assumes the financial risk.

The concessionaire is obligated to provide the financing of implementation of the agreed-upon investment and other measures to achieve energy savings, except when the conditions from the fifth paragraph of Article 6 of the Decree are fulfilled, whereby the obligation of ensuring financial resources necessary to implement the individual measures of energy retrofit of individual buildings for justified reasons is assumed by the concession grantor.

The concessionaire has the responsibility of obtaining adequate administrative licences required for taking over and normal use of buildings (e.g. operating license).

Other key responsibilities of the concessionaire are:

- Performing concession with due diligence and diligence of a good expert and good businessman in accordance with the laws, other regulations and the concessionary contract;
- Ensuring users an equal and continual provision of public goods in the field of energy in buildings in which it is entitled to perform services of energy performance contracting, and high quality services in accordance with the regulations, the concession contract and in public interest;
- Take into account technical, health and other norms and standards linked to execution of tasks according to the concluded concession contract. Particularly, it is important to ensure reduced energy use at the unchanged quality standards for end users, with underlined comfort;
- Using and energy managing the buildings, devices and equipment with due diligence;
- Regularly maintain buildings, devices and equipment in the extent defined in the concession contract in a way that their value is maintained and their normal usage is ensured according to duration of the contractual relationship;
- According to the concession grantor's written authorisation and order, steering preparatory works and investments in buildings, devices and equipment (possible extensions);
- Ensuring undisturbed supervision over the contract implementation;
- After the expiry of the concession period, passing over all measures implemented, buildings, devices, and equipment to the concession grantor in a working condition that enables normal use, and ensuring a minimum one-year warranty for troubleshooting in given buildings, devices, and equipment.
- Keeping adequate records and preparing annual and semi-annual reports according to the Decree and the concession contract.
- Reporting to the concession grantor on concession implementation when demanded;
- Enabling the concession grantor a direct insight into the system of energy management of the buildings that are the subject of the concession contract.
- Keeping and updating records and regularly passing them on to the concession grantor.

4. TYPE OF PROCEDURE

On the basis of Article 12 of the Decree, this public tender will be implemented according to the competitive dialogue procedure and published on the public procurement portal of the Republic of Slovenia and Official Journal of the EU, taking into account the rules of the Public-Private Partnership Act, the Public Procurement Act, the Decree on Green Public Procurement, and other legislation from the public procurement and public-private partnership fields.

The purpose of this public tender is to select a concessionaire that will be able to take over the foreseeable risks in the scope and the content as defined by Decree and this tender documentation, as defined by the Decree on Public-Private Partnership for Implementation of Energy Performance Contracting with an aim of Energy Retrofitting of Public Buildings Owned by the City of Ljubljana and this tender documentation.

The concession grantor will implement the competitive dialogue procedure in three phases:

1. PHASE No. 1: QUALIFICATION – In the first phase, the concession grantor will, on the basis of the submitted applications, recognise the qualification of those candidates that will meet the qualification conditions for this tender. The concession grantor will include in the negotiation phase all the candidates that will be recognised as qualified.

2. PHASE No. 2: DIALOGUE – In the second phase, the concession grantor will invite each candidate that will be recognised as qualified to a separate dialogue, where in one or more rounds of the dialogue they will identify possible solutions according to the concession grantor’s needs and economic benefit, which the individual candidate will pursue. The concession grantor will implement the dialogue with candidates with recognised qualifications according to the order of the submitted applications. Within the dialogue, the wording of the concession contract will be adopted. The scope of energy retrofit measures performed within the project and the associated potential concession grantor’s co-financing share for the performance of energy retrofit measures shall be the subject of agreement between the concession grantor and the candidates. Draft time schedule of the implementation of energy retrofit measures will also be agreed upon. The concession grantor reserves the right to change the content and the scope of the project during the dialogue phase, according to information gained in the dialogue phase, with an aim to establish a balanced public-private partnership and to ensure as comprehensive energy retrofit as possible for the maximum number of buildings. The concession grantor may reduce the number of buildings in the event that their inclusion in the project is considered uneconomical from the perspective of the concession grantor or that a successfully awarded contract is unforeseeable for this reason. The concession grantor assures all invited candidates an equal treatment and the same information, which will be the basis for submission of their final tenders. The concession grantor reserves the right to reject the candidate who demonstrates, based on the implemented dialogue, that it is not capable of implementing the subject of the public-private partnership in a manner and under the conditions defined by the concession grantor.

3. PHASE No. 3: SUBMISSION OF THE FINAL BID – After the concluded phase of the dialogue, the concession grantor will form a final invitation to submit tenders, where the final conditions for the concessionaire selection and technical and other requirements in accordance with the contents of negotiations, implemented with the candidates, will be defined. Final invitation to submit tenders will also comprise an agreed-upon draft of the concession contract and a precise definition of the contents and scope of the project. Rights and obligations of both contractual parties, as specified in the dialogue phase, will also be part of the final invitation. The concession grantor will check each of the final tenders, if they meet the conditions from the invitation to submit final tenders. From those that meet these conditions, the concession grantor will, on the basis of the selection criterion of “most economically advantageous tender”, select the concessionaire.

The most economically favourable application shall be assessed with the following criteria:

- Extent and value of savings
- Ratio between extent of savings and value of investment
- Participation of the concession grantor in generated savings

Individual criteria will be defined in details in the dialogue phase and before the final submission of final written tenders.

The selection procedure will be completed with the Act of Selection. The concession grantor is entitled, in all phases of the procedure of public tender implementation, to make a decision to conclude the public tender without the selection, but its decision must be justified. After the finality of the Act of Selection, the concession grantor and the concessionaire will sign a concession contract. The concession relationship will be established by signing the concession contract.

5. ADDITIONAL EXPLANATIONS

Candidates have to submit their requests for additional explanations on tender documentation to the concession grantor through a special form at the Official Gazette – Public Tenders Portal (www.enarocanje.si), where the present invitation to tender is published. The concession grantor is not obligated to respond to questions submitted in any other manner.

Requests for additional explanations have to be submitted no later than **25 April 2017, 14:00 hrs.**

The concession grantor will publish additional explanations on the Public Tenders Portal (<http://www.enarocanje.si>), where the present invitation to tender is published.

6. DEADLINE TO RECEIVE THE TENDER

25 May 2017, 14:00 hrs.

Applications not submitted to the registry office on time will be rejected as overdue or treated as incorrectly submitted. Applications have to reach the registry office by the above-stated deadline (in person or by mail); otherwise, they will be treated as not received on time. The application that will be received too late will be returned unopened by the concession grantor to the sender.

The applications can be submitted in person every workday from 8:00 to 14:00 hrs.

Candidates can change or withdraw their applications by written notice, which has to arrive to the registry office before the deadline to submit the applications. In case of withdrawal, the application will be returned to the submitter unopened.

7. REGISTRY OFFICE

**The City of Ljubljana
City Administration
Public Procurement Office (Secretariat)
Dalmatinova 1
1000 Ljubljana, Slovenia**

8. PUBLIC OPENING OF THE TENDERS

Starting on **30 May 2017, 14:00 hrs** at: The City of Ljubljana, City Administration, Public Procurement Office, Dalmatinova 1 (second floor), 1000 Ljubljana, Slovenia.

Representatives of the candidates who are not their legal representatives have to, in order to have a valid representation of the candidate, submit this document, which is issued by the legal representative of the candidate, before the opening. Unauthorised representatives of the candidate cannot perform activities that are considered a legal representation of the legal entity.

9. APPLICATION COSTS AND CONCESSION GRANTOR'S CONDUCT

The candidate assumes total costs of application preparation, including the costs of financial guarantees and other eventual costs that may arise in the procedure of the concessionaire selection. By submitting an application, the candidate agrees to the method of implementation of the public tender as defined in tender documentation.

The concession grantor reserves the right to cancel the invitation to tender at any time or to refrain from concluding the contract after the final decision on selection is reached. With their

submission of their applications, the candidates acknowledge that in neither of the above-mentioned cases will they be eligible for reimbursement of costs for the application, tender guarantees, and/or any possible direct or indirect damage that could arise from the concession grantor's refusal to conclude the contract.

10. CO-FINANCING

In order to realise this project, the concession grantor shall endeavour to obtain the EU cohesion policy funding. Accordingly, the concession grantor introduces a reference about the envisaged project co-funding.

This operation has been co-financed by the "Operational Programme for the Implementation of the EU Cohesion Policy 2014-2020", priority axis 4 "Sustainable consumption and production of energy and smart grids", thematic objective " Supporting the shift towards a low-carbon economy in all sectors", investment priority 1 "Supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector", specific objective 1 "Improve energy efficiency in the public sector."

II. REQUIREMENTS AND CONDITIONS: RECOGNITION OF QUALIFICATIONS

A.) CONDITIONS AND ACKNOWLEDGEMENT OF BASIC QUALIFICATION – GROUNDS FOR EXCLUSION

1. First Condition

The concession grantor shall exclude any candidate from participation where it has established that that candidate or a person who is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control therein has been the subject of a conviction by final judgement containing elements of the following criminal offences defined in Article 75 ZJN-3.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition. In case of an application with subcontractors, each subcontractor also has to meet this condition.

Required evidence:

The candidate and each of the partners (in case of a joint application) confirms meeting this condition by signing the statement in the form "APPLICATION" and enclosing a filled-out and signed ESPD form. Subcontractor confirms meeting this condition by filling out and signing the statement in "SUBCONTRACTOR STATEMENT" form and enclosing a filled-out and signed ESPD form.

2. Second Condition

The concession grantor shall exclude any candidate where it has established that the candidate has not complied with its obligations relating to the payment of compulsory charges or other pecuniary non-tax liabilities under the law governing financial administration, collected by the tax authority in accordance with the regulations of the country in which it is established or with the regulations of the country of the public partner, where those unpaid overdue liabilities total EUR 50 or more as at the date of the submission of the tender or request. The candidate shall also be considered not to comply with its obligations as referred to in the preceding sentence if, by the date of the submission of the tender or request, it has not submitted all the withholding tax returns for income from the employment relationship for the period of five years preceding the date of the submission of the tender or request.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition. In case of an application with subcontractors, each subcontractor also has to meet this condition.

Required evidence:

The candidate and each of the partners (in case of a joint application) confirms meeting this condition by signing the statement in the form "APPLICATION" and enclosing a filled-out and signed ESPD form. Subcontractor confirms meeting this condition by filling out and signing the statement in "SUBCONTRACTOR STATEMENT" form and enclosing a filled-out and signed ESPD form.

3. Third Condition

The concession grantor shall exclude any candidate, where:

- a. On the deadline for the submission of bids, the candidate is excluded from the public award procedures due to being included in the record of entities with negative references.
- b. In the last three years prior to the expiry of the deadline for submitting the bids, the candidate has been fined twice for an offence related to the payment for work with a final decision of the competent authority of the Republic of Slovenia or another Member State or a third country.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition. In case of an application with subcontractors, each subcontractor also has to meet this condition.

Required evidence:

The candidate and each of the partners (in case of a joint application) confirms meeting this condition by signing the statement in the form "APPLICATION" and enclosing a filled-out and signed ESPD form. Subcontractor confirms meeting this condition by filling out and signing the statement in "SUBCONTRACTOR STATEMENT" form and enclosing a filled-out and signed ESPD form.

4. Fourth Condition

The concession grantor shall exclude any candidate if it is established that a procedure had been initiated against it due to insolvency or compulsory dissolution under the law regulating the insolvency or compulsory dissolution procedures, or liquidation under the law, regulating companies; if its assets or business are managed by a receiver or court; if its business activities have been suspended; if a procedure has been initiated against it under the provisions of another country and a situation has arisen with the same legal consequences.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition. In case of an application with subcontractors, each subcontractor also has to meet this condition.

Required evidence:

The candidate and each of the partners (in case of a joint application) confirms meeting this condition by signing the statement in the form "APPLICATION" and enclosing a filled-out and signed ESPD form. Subcontractor confirms meeting this condition by filling out and signing the statement in "SUBCONTRACTOR STATEMENT" form and enclosing a filled-out and signed ESPD form.

5. Fifth Condition

The concession grantor shall exclude any candidate if it is established that it is present in the register of business entities referred to in Article 35 on restrictions on business activities due to conflict of interest of the Integrity and Prevention of Corruption Act (OG RS, No. 69/2011 ZintPK-UPB2).

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition. In case of an application with subcontractors, each subcontractor also has to meet this condition.

Required evidence:

The candidate and each of the partners (in case of a joint application) confirms meeting this condition by signing the statement in the form "APPLICATION" and enclosing a filled-out and signed ESPD form. Subcontractor confirms meeting this condition by filling out and signing the statement in "SUBCONTRACTOR STATEMENT" form and enclosing a filled-out and signed ESPD form.

6. Sixth Condition

The concession grantor shall exclude any candidate if it is established that the candidate has undertaken to unduly influence the decision-making process of the contracting authority, to obtain confidential information that may confer upon it undue advantages in the procurement procedure, or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or awarding.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition. In case of an application with subcontractors, each subcontractor also has to meet this condition.

Required evidence:

The candidate and each of the partners (in case of a joint application) confirms meeting this condition by signing the statement in the form "APPLICATION" and enclosing a filled-out and signed ESPD form. Subcontractor confirms meeting this condition by filling out and signing the statement in "SUBCONTRACTOR STATEMENT" form and enclosing a filled-out and signed ESPD form.

7. Seventh Condition

A candidate is registered to perform the activity that is the subject of the tender invitation.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition.

Required evidence:

The candidate and each of the partners (in case of a joint application) confirms meeting this condition by signing the statement in the form "APPLICATION" and enclosing a filled-out and signed ESPD form.

B.) CONDITIONS FOR DEMONSTRATING THE ECONOMIC AND FINANCIAL CAPABILITIES

1. First Condition

A candidate has had no blocked business accounts in the last 12 months prior to the issuance of the evidence.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, each of the partners has to meet the condition.

Required evidence:

A candidate demonstrates compliance with the condition by submitting certificates of solvency of all banks where it has an open bank account or an appropriate credit rating report indicating the fulfilment of the condition that the bank account of the candidate is not blocked (e.g. BON credit rating according to Basel II rules). Certificate or credit rating report must be issued in no more than thirty days before the cut-off date for the submission of applications.

2. Second Condition

The average of its revenue realisation in the last three years (2013, 2014, and 2015) amounted to at least 1.2 times the level of the offered value of energy retrofit measures. In case the bidder did not exist in one of those three years, the revenue realisation is considered EUR 0. In joint tenders, revenue realisation is calculated and corrected in the following way:

- In case of partnered tender of two partners the two income realisations are summed and multiplied by coefficient 0,9;
- In case of partnered tender of three partners three income realisations are summed and multiplied by coefficient 0,8;
- In case of partnered tender of four or more partners income realisations of all partners are summed and multiplied by coefficient 0,7.

Method of fulfilling the condition:

A candidate has to meet the condition. In case of a joint application, each partner has to meet the condition.

Required evidence:

A candidate demonstrates compliance with the condition by providing appropriate credit rating information or other documents showing fulfilment of the condition.

3. Third Condition

A candidate submits a financial plan, which includes all costs of implementation of measures of energy retrofit of buildings and all costs of implementation of the concession activities and financial resources to cover the foreseeable costs, establishing that it has the financial resources necessary for realisation of the implementation of measures of energy retrofit of buildings. A candidate has to establish that it has guaranteed access to financial resources or its own financial resources allocated for the realisation of the proposed measures, i.e., in the amount of at least EUR 3,000,000.00 (VAT not included).

Method of fulfilling the condition:

A candidate has to meet the condition. In case of a joint application, each partner has to meet the condition.

Required evidence:

A candidate affirms meeting this condition by submitting a financial plan that also includes the indicative time schedule. In a financial plan, the candidate has to state the value of all

calculative elements (structure of the price) on the basis of which the candidate has prepared the financial plan and made the initial cost estimate. A financial plan has to comply with the contents of the technical documentation.

A candidate proves that it has guaranteed access to financial resources or its own financial resources allocated for the realisation of the measures by submitting a binding bank certificate of solvency. The bank certificate of solvency has to be binding and has to comply with the contents of the sample of the statement in the tender documentation. The bank certificate of solvency has to be valid for at least 270 days from the cut-off date for the submission of applications and must not be issued more than 15 days before the cut-off date for the submission of initial bids.

The financial plan has to comply with the description of the technological solution of implementation of measures of energy retrofit. Time schedule of the project realisation has to be feasible and realistic and in accordance with the technical attachments.

The public partner reserves the right to require from the candidate in the assessment phase additional explanations and/or evidences regarding the indications from the financial plan.

C.) CONDITIONS FOR DEMONSTRATING THE TECHNICAL AND PERSONNEL CAPABILITIES

1. First Condition

A candidate has the relevant experience and references in carrying out the subject of this invitation to tender. The concession grantor will consider the candidate as having the relevant experience and references in carrying out the subject of this invitation to tender if in the last five years before the publication of this invitation it had implemented energy performing contracting services and energy management for at least 15 buildings in a continuous duration for at least 24 months.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, at least one of the partners has to meet the condition.

Required evidence:

A candidate specifies its reference transactions in the “APPLICATION” form. The reference works have to be approved by relevant contracting authorities. As proof, the candidate must also enclose a copy of the contracts concluded for the reference works. In the event of any doubts, the concession grantor reserves the right to demand other evidence from the candidate (e.g.: project implementation work plan, invoices, statement informing about payment, etc.).

2. Second Condition

A candidate commits to take out the liability insurance for damage caused in the course of or in connection with the concession implementation to the concession grantor or a third party by the candidate or another party who will be working on its behalf, and for the normal risks arising out of or associated with the implementation of the foreseeable individual measures of energy retrofit which will be the subject of public-private partnership.

Method of fulfilling the condition:

The condition has to be met by the candidate. In case of a joint application, at least one of the partners has to meet the condition or all of them cumulatively.

Required evidence:

A candidate demonstrates compliance with the condition by providing a filled-out “APPLICATION” form, which includes statement on fulfilling the condition.

3. Third Condition

A candidate will, in case that it is selected, accept all the obligations laid down by the Decree on Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by the City of Ljubljana (OG RS, Nos. 74/2015 and 83/2016), the tender documentation, and the concession contract.

A candidate has to demonstrate that it is able to ensure the implementation of the concession in a continuous and high-quality manner, taking into account the Decree, regulations, norms and standards, and the local customs.

A candidate is equipped with the appropriate technical equipment and personnel that enable quality performance of the undertaken obligations.

Method of fulfilling the condition:

In case of a joint application, at least one of the partners has to meet the condition or all of them cumulatively.

Required evidence:

A candidate demonstrates compliance with the condition by providing a filled-out "APPLICATION" form, which includes statement on fulfilling the condition.

4. Fourth Condition

A candidate submits a description of proposed solutions that comply with the requirements of the concession grantor, as defined in the tender documentation, establishing that it will use modern technologies and materials that meet the modern standards in the market.

Method of fulfilling the condition:

In case of a joint application, at least one of the partners has to meet the condition or all of them together, cumulatively.

Required evidence:

A candidate confirms meeting this condition by submitting a description of proposed solutions, wherein the candidate lists and describes a proposal of its solutions, which have to comply with the requirements of the public partner.

Coordination of proposed solutions will be the subject of the second phase of the competitive dialogue.

D.) BIDS OF CANDIDATES WITH HEADQUARTERS OUTSIDE OF THE REPUBLIC OF SLOVENIA

In case that the state in which the candidate is established does not issue any of the required documents, the candidate may submit its own sworn statement, certifying compliance with the condition set, or the ESPD form. The ESPD shall consist of a formal statement by the economic operator that the relevant grounds for exclusion do not apply and that the relevant selection criteria are fulfilled and shall provide the relevant information as required by the concession grantor. The ESPD shall further identify the public authority or third party responsible for establishing the supporting documents and contain a formal statement to the effect that the economic operator will be able, upon request and without delay, to provide such supporting documents.

E.) THE MINIMUM AND MAXIMUM NUMBER OF CANDIDATES

The minimum and maximum number of candidates who will be admitted to the dialogue phase is not limited. All candidates who will be recognised as qualified will participate in the dialogue phase.

F.) ESPD FORM SUBMISSION

The candidates should enclose an ESPD form. An economic operator can import the concession grantor's ESPD form (XML file) through the public procurement portal/ESPD website: http://www.enarocanje.si/_ESPD/. The candidate enters the required data online, prints the form out and signs it, before enclosing it with the application.

ESPD form is also available at <http://ejn.gov.si/espd>. Instructions about importing the ESPD form can be found at http://www.enarocanje.si/Dokumenti/Navodila_za_uporabo_ESPD.pdf.

Notwithstanding the previous paragraph, the candidate may, in this procedure, reuse the ESPD form that it has used in a past public tendering procedure insofar as the information stated on the ESPD form are accurate, adequate and relevant, and in accordance with the concession grantor's requirements for this public tender.

G.) CONTRACT AWARD CRITERIA

Final written tenders, made after the competitive dialogue phase, shall be judged against the criterion of "the most economically advantageous tender" for the selection of the concessionaire. Under this criterion, the total rating of the candidate is calculated as a sum of points acquired on grounds of the following subcriteria (A + B + C):

The most economically favourable application shall be assessed with the following criteria:

- A) Extent and value of savings
- B) Ratio between extent of savings and value of investment
- C) Participation of the concession grantor in generated savings

The proposed amount of the concession grantor's share of savings is entered into the "FINAL WRITTEN BID" form.

ADDITIONAL CRITERION IN THE EVENT OF EQUIVALENT TENDERS

In the event that the concession grantor receives several equivalent tenders with the same number of points, expressed to two decimal places, it shall select the tender with the most points in the subcriterion C (Participation of the concession grantor in generated savings).

H.) FINANCIAL INSTRUMENTS FOR GUARANTEES

A candidate will have to submit to the concession grantor a bank guarantee or the appropriate suretyship insurance with the insurance company in order to secure its performance of obligations. Bank guarantees and suretyship insurance with the insurance company have to be unconditional and payable on first demand and have to be issued according to the samples from the tender documentation. The currency used is EUR. The financial guarantees that the applicant does not submit using the samples from the tender documentation must not deviate significantly from the sample bank guarantee of the tender documentation and may not include additional conditions for payment, shorter deadlines, and lower amount as set by the concession grantor, or changes in the territorial jurisdiction to settle disputes between the beneficiary and the bank.

Tender guarantees (in third phase, with the final tender)

A candidate may provide, as a tender guarantee:

1. A bank guarantee for tender
2. A suretyship insurance for tender
3. A security for tender

Candidates are obligated to submit a tender guarantee when submitting the final tender. If the candidate selected does not conclude a contract with the public partner, the public partner shall execute/hold the tender guarantee. The tender guarantee submitted shall amount to: EUR 300,000.00 and be valid until and including the day of tender validity. If the candidate defines a later validity deadline than required by the tender, it must be covered by the tender guarantee. The tender guarantee becomes valid on the day of public opening of tenders.

If providing a security, the candidate shall transfer the security to the bank account of EZR of the City of Ljubljana – implementation of the budget, No. SI56 0126 1010 0000 114, opened at Banka Slovenije, **public tender** reference number: 16-620046.

The purpose of payment must list the reference JR 16-620046.

REQUIRED EVIDENCE:

Evidence of tender guarantees must be submitted by candidates in the tenders, as follows:

Attachment 11: Bank guarantee for tender, or Suretyship insurance with an insurance company, or Receipt for the payment of security for tender.

RETURN OF TENDER GUARANTEE

Non-executed bank guarantees or suretyship insurances are released to candidates that were not selected after the procedure for awarding a contract is concluded, and to the candidate selected when the candidate selected issues a performance guarantee.

In the event of a security, the concession grantor shall return securities to all candidates that were not selected after the procedure for awarding a contract, and to the candidate selected when the candidate selected issues a performance guarantee. No interest shall be applied to securities.

EXECUTION OF TENDER GUARANTEE:

The public partner shall execute the tender guarantee or withhold the security in any of the following cases:

- If the candidate withdraws the tender after the cut-off date for submission of tenders; or
- If the candidate rejects the contract; or
- If the candidate does not issue a performance guarantee after concluding the contract.

Performance guarantee

The candidate selected shall submit a performance guarantee in the form of a bank guarantee or suretyship insurance (Attachment 12) to the public partner no later than 15 days after signing the concession contract, in accordance with the harmonised model of the concession contract which will take place in the second phase of the tender, i.e. the competitive dialogue. The value of the performance guarantee is 10% (ten percent) of the total investment value of the energy retrofit measures in EUR, VAT included. The performance guarantee is irrevocable, unconditional and payable on first call.

I.) OTHER PROVISIONS

1. WORKING LANGUAGE

The entire tender application and all enclosed documents must be prepared in Slovene or English language.

2. CURSORY INSPECTIONS

The concession grantor will ensure a cursory inspection of the buildings. Cursory inspection is possible by a prior arrangement, via e-mail to petra.seme@ljubljana.si. Date and time of cursory inspection will be agreed upon with Petra Šeme, who is the contact person of the concession grantor.

Any additional information provided at cursory inspections that might influence the preparation and submission of bids shall be published on the Public procurement portal.

3. JOINT TENDER APPLICATION

A group of business entities can submit a joint (group) application. In such case, the group has to attach to their application a contract on joint implementation of the subject of the public tender, where the leading partner and other partners have to be defined, as well as their shares of project implementation, and the manner of billing and settling issued invoices. This contract has to stipulate that all partners are jointly and severally liable for the entire obligation and each part thereof. The contract has to be signed by all partners. Under each condition it is defined whether, in case of a joint application, each of the partners or all partners together has/have to meet the individual conditions.

THE LEADING PARTNER is a business entity in the joint application who will, if awarded the concession contract, receive from the public partner obligations, instructions, and payments on behalf and on account of all partners, unless stated otherwise in their partnership contract. The leading partner, as well as other partners, assume their responsibility towards the public partner to implement all obligations in full.

PARTNERS, who are not the leading partner at the same time, are the business entities who, if awarded the concession contract, implement their obligations from the concession contract indirectly in accordance with instructions of the leading partner, unless stated otherwise in their partnership contract.

4. PARTICIPATION OF SUBCONTRACTORS

In accordance with ZJN-3, the subcontractor shall be an economic operator – a legal or natural person – which supplies goods or services or performs works that are directly linked to the subject-matter of the contract for the tenderer with which the concession grantor has concluded a contract or a framework agreement under this ZJN-3.

Where a tenderer intends to perform a public works or service contract by using subcontractors, it shall indicate in its tender the following:

- All the subcontractors it intends to involve and the parts of the contract which it intends to subcontract;
- Contact details and legal representatives of the proposed subcontractors;
- Filled-out and signed “SUBCONTRACTOR STATEMENT” form and completed ESPD form in respect of these subcontractors;
- A subcontractor’s request for direct payment where the subcontractor so requires.

Deadlines for payments to the primary contractor and its subcontractors, if they demand direct payment, are the same.

5. RESTRICTIONS ON COOPERATION

Each candidate can submit or apply as partner in one application. A candidate who applies in more than one application, regardless of whether it is individually or as a partner, disqualifies all applications in which it applies, except in the event when the review establishes that the applications were formed independently and do not adversely affects its competitors.

6. REVIEW AND ASSESSMENT OF APPLICATION

Reviewing and evaluating the submitted bids, explanations and additional (material) evidence on meeting individual requirements and conditions from tender documentation can be required from the bidder.

Where information or documentation to be submitted by economic operators is or appears to be incomplete or erroneous, or where specific documents are missing, the concession grantor may request the candidates concerned to submit the missing documents or to supplement, correct or clarify the relevant information or documentation within an appropriate time limit, provided that such requests are made in full compliance with the principles of equal treatment and transparency. In such cases, the concession grantor shall act in accordance with Article 89 ZJN-3.

When reviewing the fulfilment of conditions of candidates, the concession grantor may demand additional authorisations required to enable the verification of data from official records.

In the event that a candidate does not provide the required clarifications, additional evidence, or authorisations upon the concession grantor's request, the candidate's tender shall be rejected as inadmissible.

7. OBLIGATION TO SUBMIT INFORMATION BEFORE CONCLUDING THE CONTRACT

Before concluding the contract and upon the concession grantor's request, the selected candidate must, within 8 day from its receipt, provide a statement containing the following information:

- Its founders, partners, including silent partners, shareholders, limited partners or other owners, and information on the ownership interests of those persons;
- Economic operators that are considered, according to the provisions of the Companies Act, associated companies.

8. LEGAL PROTECTION IN PUBLIC TENDER PROCEDURES

In the process of the tender implementation, the legal protection is provided under the Legal Protection in Public Procurement Procedures Act (ZPVPJN, OG RS, Nos. 43/11, 60/11 – ZTP-D, 63/13, and 90/14 – ZDU-1).

The application for a review, which relates to the content of the publication and/or tender documents, may be filed within 8 working days from the date of publication of the tender notice or the notice of additional information, information on incomplete procedure or correction, provided that this notice changes or supplements the requirements or criteria for selecting the most favourable bidder in the tender documentation or previously published contract notice. An application for a review under this paragraph shall in no case be filed after the deadline, set for submission of applications. The applicant files a request for a review with the concession grantor, with a copy of the review claim also informing the Ministry of Public Administration. The request for a review shall be filed in writing directly to the grantor, by registered mail or by registered mail with return receipt or in electronic form, if certified with a qualified certificate. An applicant for a review of application has to pay a fee of EUR 7,000.00.

The request for a review shall be filed in writing directly to the grantor, by registered mail or by registered mail with return receipt, or in electronic form, if certified with a qualified certificate. A copy of the request for a review shall be sent to the ministry responsible for finance.

The applicant must also enclose and specify the following:

- Name and address of the person submitting the request for a review (*hereinafter*: applicant) and a contact person
- Name of concession grantor
- Code of public tender
- Title of public tender
- Contested infringement
- Facts and evidence to prove the infringement
- The power to represent in the appeal procedure if the claimant acts with an authorised representative;
- Proof of payment of the fee in the amount of EUR 3,500.00 to the bank account No. SI56 0110 0100 0358 802 (reference: 16110-7111290-00XXXX1, whereby XXXX is the number of the notification of the public tender procedure on the Public procurement portal in the form of JNXXXX/2016).
- After expiry of the time limit for submitting tenders, the claimant may not allege infringements that were or should have been known to him prior to expiry, unless proved that the alleged infringement could not have been objectively detected before expiry of the time limit.

The request for legal protection, which refers to the content of the publication, the invitation to tender or tender documentation is not admissible if the applicant or any other candidate had the possibility of alerting the concession grantor of the alleged infringement through the Public procurement portal, but failed to do so. It is deemed that the applicant or any other candidate could point out the alleged violation through the Public procurement portal, if the public tendering procedure included a published notification about the procedure on the Public procurement portal, on the basis of which the candidates submit their bids.

J.) REQUIRED CONTENTS OF TENDER DOCUMENTATION

CANDIDATES HAVE TO SUBMIT THE FOLLOWING DOCUMENTS:

Mandatory attachments to be submitted by candidates: Attachments 1–14 and 19–20.

1. Filled-out form “Envelope”, attached to the envelope
2. Form “Application”, filled-out and signed by all partners in one copy
3. Filled-out and signed ESPD form for all partners in joint application and for all participating subcontractors
4. Filled-out form “Subcontractor statement” for each participating subcontractor (if present)
5. Bank certificate of solvency signed by the candidate’s bank
6. A candidate demonstrates compliance with the condition by submitting certificates of solvency of all banks where it has an open bank account or an appropriate credit rating report indicating the fulfilment of the condition that the bank account of the candidate is not blocked (e.g. BON-2 credit rating according to Basel II rules)
7. Description of the proposed solution

8. Financial plan
9. Time schedule of the project realisation
10. If submitting a joint application, the candidate has to submit a contract for the joint implementation of the subject of the public tender (Partnership Contract)
11. Tender Guarantee
12. Performance guarantee
13. References by other contracting authority

The following attachments are available on the Portal, at www.ljubljana.si.

14. List of buildings
15. Simplified energy audits (no input needed)
16. Comfort standards and implementation of measures with a focus on kindergarten facilities – Requirements and recommendations (no input needed)
17. Energy management system (no input needed)
18. Calculation of energy savings (no input needed)
19. Contractual energy savings
20. “Initial bid” form

Scan of the entire tender documentation in a PDF form on CD, DVD or USB key. The schedule of implementing the concession should also be provided in XLS format. In case of mismatch between the hard and e-version of the document, the hard (paper) version is applicable.

It is desirable that all the documents in the bid be bound together, the forms marked and stacked in the order indicated above.

ENVELOPE

SENDER (candidate):	RECEIPT OF APPLICATION: PERSONALLY BY POST Date: Time: Number: 430-2110/2016- Serial number of bid:
----------------------------	---

RECIPIENT: THE CITY OF LJUBLJANA City Administration, Public Procurement Office Dalmatinova 1, II. floor 1000 Ljubljana, Slovenia
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“DO NOT OPEN”

Bid submission for the project:
Public-Private Partnership for Implementation of Energy Performance Contracting with an
Aim of Energy Retrofitting of Public Buildings Owned by The City of Ljubljana

Fill in this form “ENVELOPE” and stick it on the envelope!

I. INFORMATION ABOUT THE APPLICANT AND POTENTIAL PARTNERS

LEADING PARTNER

FULL COMPANY NAME _____

ADDRESS _____

TAX NUMBER _____

REGISTERED FOR VAT YES NO

IDENTIFICATION NO. _____

TELEPHONE _____

FAX _____

E-MAIL _____

WEBSITE _____

CONTACT PERSON OF THE APPLICANT

TITLE _____

EMPLOYED BY _____

E-MAIL _____

TELEPHONE _____

PARTNERS (IF ANY)

FULL COMPANY NAME AND ADDRESS OF EACH PARTNER _____

(copy and paste additional lines, if necessary) _____

II. INFORMATION ABOUT SUBCONTRACTORS

Information about subcontractor (name, address, identification no., tax no., bank account no.:)	Associated company	Type, subject matter and description of works taken over by the subcontractor	Quantity	Value in EUR (VAT excluded)	Delivery date
	<input type="checkbox"/> YES				
	<input type="checkbox"/> NO				
	<input type="checkbox"/> YES				
	<input type="checkbox"/> NO				
	<input type="checkbox"/> YES				
	<input type="checkbox"/> NO				
	<input type="checkbox"/> YES				
	<input type="checkbox"/> NO				
	<input type="checkbox"/> YES				
	<input type="checkbox"/> NO				
	<input type="checkbox"/> YES				
	<input type="checkbox"/> NO				

If the table is left empty, it shall be considered that the applicant implements the project alone, without any subcontractors. Copy and paste additional lines, if necessary.

III. STATEMENT

We declare the following:

1. We are fully aware of the tender documentations and all its amendments and clarifications, that we agree with the content and accept it as such.
2. We authorise the leading partner to sign and conclude the concession contract and to accept the obligations, instructions, and payments from the concession grantor.
3. We, or a person who is a member of the administrative, management or supervisory body or has powers of representation, decision or control therein, have not been the subject of a conviction by final judgement containing elements of the following criminal offences defined in Article 75 ZJN-3.
4. We have complied with our obligations relating to the payment of compulsory charges and other pecuniary non-tax liabilities under the law governing financial administration, collected by the tax authority in accordance with the regulations of the country in which our company is established or with the regulations of the country of the public partner; we do not have any unpaid overdue liabilities in total of EUR 50 or more as at the date of the submission of the tender or request.
5. We have complied with our obligations as referred to in the preceding sentence; by the date of the submission of the tender or request, we have submitted all the withholding tax returns for income from the employment relationship for the period of five years preceding the date of the submission of the tender or request.
6. We are not listed in the evidence in business entities with negative references.
7. In the last three years prior to the expiry of the deadline for submitting the bids, we have not been fined twice for an offence related to the payment for work with a final decision of the competent authority of the Republic of Slovenia or another Member State or a third country.
8. No procedure had been initiated against us due to insolvency or compulsory dissolution under the law regulating the insolvency or compulsory dissolution procedures, or liquidation under the law, regulating companies; our assets or business are not managed by a receiver or court; our business activities have not been suspended; no procedure has been initiated against us under the provisions of another country and no situation has arisen with the same legal consequences.
9. We are not in the register of business entities referred to in Article 35 of the Integrity and Prevention of Corruption Act (OG RS, No. 69/2011 ZintPK-UPB2).
10. We have not undertaken to unduly influence the decision-making process of the contracting authority, nor tried to obtain confidential information that may confer undue advantages in the procurement procedure.
11. We have not negligently provided any misleading information that could have a material influence on decisions concerning exclusion, selection or awarding.
12. We are registered for conducting the business activity that is the subject of the invitation to tender.
13. We accept all the obligations set by the Decree on public-private partnership for implementation of energy performance contracting with an aim of energy retrofitting of public buildings owned by The City of Ljubljana.
14. The concession grantor can, for the purpose of implementing the invitation to tender, ask the competent national authorities at any time to confirm the entries listed in the tender documentation, and can obtain in the name of the candidate the relevant evidence from the official records, which proves the fulfilment of conditions stipulated in the tender documentation.

15. We undertake to provide, upon the concession grantor's request, any additional authorisations required to enable the verification of data from official records.

16. During the bidding phase, the concession grantor can request additional explanations or evidence that demonstrates compliance with the conditions imposed for the recognition of qualifications.

17. We shall, upon the concession grantor's request and within 8 day from its receipt, provide a statement containing the information about:

- Our founders, partners, including silent partners, shareholders, limited partners or other owners, and information on the ownership interests of those persons;
- Economic operators that are considered, according to the provisions of the Companies Act, associated companies of the candidate.

18. Our initial offer is valid for at least 270 days from the cut-off date for the submission of applications.

19. We will promptly notify the concession grantor about the changes of all relevant information from the bid that may occur at any stage of realisation of the tender transaction for which we are applying.

20. We hereby agree that the concession grantor may at any time suspend the contract award procedure, reject all tenders submitted, or after the decision on the contract award becomes final decides not to conclude a contract. In none of these cases shall we claim reimbursement of costs for the application, tender guarantees, loss of profit, and/or any possible direct or indirect damage that could arise from the concession grantor's refusal to conclude the contract.

21. We commit to take out the liability insurance for damage caused in the course of or in connection with the concession implementation to the concession grantor or a third party by us or another party who will be working on our behalf, and for the normal risks arising out of or associated with the implementation of the foreseeable individual measures of energy retrofit which will be the subject of public-private partnership.

22. We confirm that we possess adequate expertise, technical and personnel capabilities to provide smooth and quality implementation of services.

23. We are familiar with the existing documentation, the provided location of the works, the established means of implementation, and that we have inspected the existing situation of the building(s).

APPLICANT	STAMP AND SIGNATURE
LEADING PARTNER FULL NAME OF SIGNATORY	
PARTNER FULL NAME OF SIGNATORY	
PARTNER FULL NAME OF SIGNATORY	

In case of more partners, candidates add new lines to the table, accordingly.

ESPD Form

**filled-out and signed for all partners in joint application and for all
subcontractors**

PARTICIPATION OF SUBCONTRACTORS

Relating to the public tender documentation for the concessionaire selection for “Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by The City of Ljubljana”, we hereby declare that we will participate together with the following Subcontractors:

Subcontractor _____ (title and name)
shall perform _____ (type of works)
in quantity of _____
in value of _____ EUR excluding VAT
place of works _____ date of delivery _____

Subcontractor _____ (title and name)
shall perform _____ (type of works)
in quantity of _____
in value of _____ EUR excluding VAT
place of works _____ date of delivery _____

Subcontractor _____ (title and name)
shall perform _____ (type of works)
in quantity of _____
in value of _____ EUR excluding VAT
place of works _____ date of delivery _____

Place and date: _____ Applicant: _____
Stamp and signature: _____

SUBCONTRACTOR: _____

SUBCONTRACTOR STATEMENT

Relating to the public tender documentation for the concessionaire selection for “Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by The City of Ljubljana”, and within the scope of works that we have taken over as the Subcontractor, we herewith declare, under penal and material responsibility, that:

- We, or a person who is a member of the administrative, management or supervisory body or has powers of representation, decision or control therein, have not been the subject of a conviction by final judgement containing elements of the following criminal offences defined in Article 75 ZJN-3.
- We have complied with our obligations relating to the payment of compulsory charges and other pecuniary non-tax liabilities under the law governing financial administration, collected by the tax authority in accordance with the regulations of the country in which our company is established or with the regulations of the country of the public partner; we do not have any unpaid overdue liabilities in total of EUR 50 or more as at the date of the submission of the tender or request.
- We have complied with our obligations as referred to in the preceding sentence; by the date of the submission of the tender or request, we have submitted all the withholding tax returns for income from the employment relationship for the period of five years preceding the date of the submission of the tender or request.
- We are not listed in the evidence in business entities with negative references.
- In the last three years prior to the expiry of the deadline for submitting the bids, we have not been fined twice for an offence related to the payment for work with a final decision of the competent authority of the Republic of Slovenia or another Member State or a third country.
- No procedure had been initiated against us due to insolvency or compulsory dissolution under the law regulating the insolvency or compulsory dissolution procedures, or liquidation under the law, regulating companies; our assets or business are not managed by a receiver or court; our business activities have not been suspended; no procedure has been initiated against us under the provisions of another country and no situation has arisen with the same legal consequences.
- We are not in the register of business entities referred to in Article 35 of the Integrity and Prevention of Corruption Act (OG RS, No. 69/2011 ZintPK-UPB2).
- We have not undertaken to unduly influence the decision-making process of the contracting authority, nor tried to obtain confidential information that may confer undue advantages in the procurement procedure.
- We have not negligently provided any misleading information that could have a material influence on decisions concerning exclusion, selection or awarding.

Date:

Stamp:

Signature:

SUBCONTRACTOR'S REQUEST FOR DIRECT PAYMENT

The subcontractor of the economic operator

(name and registered office: of the economic operator that has listed the subcontractor in its application) expressly demand that in the relation to the public tender ».....« the public partner makes direct payment for the works we have performed in the scope of this public tender to our bank account with prior confirmation of the invoice by the contractor.

Date: _____

Stamp:

Subcontractor's signature:

ATTACHMENT 5

Name of the bank:

Name of the candidate:

BANK CERTIFICATE OF SOLVENCY

(hereinafter “Bank”) confirms that it is aware of the intention of company (*hereinafter*: “Candidate”), to submit an application for the project PUBLIC-PRIVATE PARTNERSHIP FOR IMPLEMENTATION OF ENERGY PERFORMANCE CONTRACTING WITH AN AIM OF ENERGY RETROFITTING OF PUBLIC BUILDINGS OWNED BY THE CITY OF LJUBLJANA, PPP EPC 2, No. of publication from .

The bank attests that the Candidate, in compliance with the Bank’s business policy and rules, is creditworthy to obtain a loan in the amount of the proposed measures: EUR_____ or for minimum EUR 3,000,000.00, and that according to the information available to the Bank, the Bank attests that the Candidate possesses its own resources or deposits necessary for the realisation of the project, in the amount of the proposed measures: EUR_____ or for minimum EUR 3,000,000.00.

The Bank hereby issues a binding statement on the basis of an evaluation of Candidate’s credit rating and financial capacity.

Validity of the Bank’s binding statement: at least 270 days from the issue date.

Date:

Signature and stamp:

Certificates of solvency of all banks where the applicant has an open bank account or an appropriate credit rating report indicating the fulfilment of the condition that the bank account of the candidate is not blocked (e.g. BON-2 credit rating according to Basel II rules)

(enclosed)

Description of proposed solution
(enclosed)

Financial plan
(enclosed)

Time schedule of the project realisation

**In case of joint application, the candidate has to submit a contract
for the joint implementation of the subject of the public tender
(Partnership Contract)**

TENDER GUARANTEE AS PER URDG 758

Guarantor letterhead (insurance company/bank) or SWIFT code

For: (beneficiary, i.e. awarding authority in public tender procedure)

Date: (date of issue)

TYPE OF GUARANTEE: (type of financial guarantee: suretyship insurance/bank guarantee for tender)

NUMBER OF GUARANTEE: (number of guarantee)

GUARANTOR: (name and address of the insurance company/bank in the place of issue)

APPLICANT FOR THE GUARANTEE: (name and address of the applicant, i.e. the candidate or applicant in the tender procedure)

BENEFICIARY: (awarding authority in public procurement procedure)

UNDERLYING TRANSACTION: The obligation of the application arising from its tender, submitted in the public tender procedure No. (publication No. or internal code of the tender procedure) from (date of publication), the subject of which is

AMOUNT AND CURRENCY OF GUARANTEE: (maximum amount in figures and words, and currency)

DOCUMENTS TO BE ATTACHED TO PAYMENT REQUEST AND EXPLICITLY REQUIRED BELOW: (empty or indicated as none)

LANGUAGE OF SUBMISSION: Slovene

FORM OF SUBMISSION: On paper by registered mail or any other form of express mail, or electronically by SWIFT system to the following address (SWIFT guarantor's address).

PLACE OF SUBMISSION: (guarantor's registered address of the branch where submission of paper documents is done or electronic address for submission in electronic form, such as guarantor's SWIFT address)

Notwithstanding the above, submission of paper documents can be done in any of guarantor's branches in the Republic of Slovenia.

EXPIRY DATE: DD. MM. YYYY (date which is stated in the tender documentation as the date of tender submission)

PARTY LIABLE FOR PAYMENT OF CHARGES: (name of the applicant, i.e. the candidate or the applicant in the tender procedure)

As Guarantor, we hereby irrevocably and unconditionally undertake to pay the Beneficiary any amount up to the guaranteed amount in 5 (five) days, upon Beneficiary's

presentation of complying demand in the above-listed form, signed by an authorised signatory or signatories, together with other documents if listed above, and in any case together with the Beneficiary's statement, which is either included in the text of the demand or on a separately signed document attached to the demand or refers to it, and which states in what respect the applicant is in breach of its obligations under the underlying transaction.

The Guarantee may be executed for any of the following reasons, which have to be stated in the Beneficiary's complying demand:

1. The Applicant has withdrawn its tender after the cut-off date for the submission of tenders or has inadmissibly updated the tender within its validity period; or
2. The Applicant selected failed to sign the contract at the behest of the Beneficiary; or
3. The Applicant selected failed to submit a performance guarantee in accordance with the terms and conditions of the contract.

Any demand for payment under this guarantee must be received by us on or before the expiry date at the above stated place of presentation.

Eventual disputes concerning this guarantee shall be settled by the competent court in Ljubljana under Slovenian law.

This insurance shall be subject to Uniform Rules for Demand Guarantees (URDG), 2010 revision, issued by the ICC under No. 758.

Guarantor
(stamp and signature)

PERFORMANCE GUARANTEE AS PER URDG 758

Guarantor letterhead (insurance company/bank) or SWIFT code

For: (beneficiary, i.e. awarding authority in public tender procedure)

Date: (date of issue)

TYPE OF GUARANTEE: (type of financial guarantee: suretyship insurance/bank guarantee for tender)

NUMBER OF GUARANTEE: (number of guarantee)

GUARANTOR: (name and address of the insurance company/bank in the place of issue)

APPLICANT FOR THE GUARANTEE: (name and address of the applicant, i.e. the candidate or the applicant in tender procedure)

BENEFICIARY: (awarding authority in public procurement procedures)

UNDERLYING TRANSACTION: The obligation of the application arising from tender No. , file No. , on (contract no. or file code and the date of the contract for the performance of tender, concluded on the basis of the procedure No. XXXXXX) for (subject of public tender) between Beneficiary and Applicant.

AMOUNT AND CURRENCY OF GUARANTEE: (maximum amount in figures and words, and currency)

DOCUMENTS TO BE ATTACHED TO PAYMENT REQUEST AND EXPLICITLY REQUIRED BELOW: (empty or indicated as none)

LANGUAGE OF SUBMISSION: Slovene

FORM OF SUBMISSION: On paper by registered mail or any other form of express mail, or electronically by SWIFT system to the following address (SWIFT guarantor's address).

PLACE OF SUBMISSION: (guarantor's registered address of the branch where submission of paper documents is done or electronic address for submission in electronic form, such as guarantor's SWIFT address)

Notwithstanding the above, submission of paper documents can be done in any of guarantor's branches in the Republic of Slovenia.

EXPIRY DATE: DD. MM. YYYY (date of maturity of financial guarantee)

PARTY LIABLE FOR PAYMENT OF CHARGES: (name the guarantee client, i.e. the applicant selected in the tender procedure)

As Guarantor, we hereby irrevocably and unconditionally undertake to pay the Beneficiary any amount up to the guaranteed amount in 5 (five) days, upon Beneficiary's presentation of complying demand in the above-listed form, signed by an authorised signatory or signatories, together with other documents if listed above, and in any case

together with the Beneficiary's statement, which is either included in the text of the demand or on a separately signed document attached to the demand or refers to it, and which states in what respect the applicant is in breach of its obligations under the underlying transaction.

Any demand for payment under this guarantee must be received by us on or before the expiry date at the above stated place of presentation.

Eventual disputes concerning this guarantee shall be settled by the competent court in Ljubljana under Slovenian law.

This insurance shall be subject to Uniform Rules for Demand Guarantees (URDG), 2010 revision, issued by the ICC under No. 758.

Guarantor
(stamp and signature)

CONFIRMATION OF REFERENCES BY A CONTRACTING AUTHORITY

At the request of the applicant (name and address of the applicant) :

for call for tenders: “Public-Private Partnership for Implementation of Energy Performance Contracting with an Aim of Energy Retrofitting of Public Buildings Owned by The City of Ljubljana”,

WE ACKNOWLEDGE

that the applicant has, in the 5 years before the publication of this tender, successfully and with high quality carried out the services of contractual energy savings and energy management for a continuous period of at least 24 months.

Was the business carried out as a PPP (public-private partnership)? YES NO

Name and number of buildings: _____

Building location(s): _____

Investment value (EUR, VAT excl.): _____

Start of the contractual energy savings
and energy management: _____

End of the contractual energy savings
and energy management: _____

Name and address of the contracting authority:

E-mail and telephone number of the contracting authority’s contact person:

This certificate is issued at the request of the (above mentioned) applicant and will be used only for the validation of references for the (above mentioned) tender.

Signature of the contracting authority’s
responsible person:

This form may be photocopied, if necessary.
