

ELECTRONIC PROCUREMENT RULES

TITLE I

GENERAL PROVISIONS

Article 1

Purpose

These rules shall be applied to:

- 1.1 electronic procurement in order to select contracting partner – Supplying Party , for goods delivery, works performance and services provision for the company elektrárne, a.s., Bratislava (herein after only SE, a.s. or the Procuring Party).
- 1.2 these Rules nullify and replace any previous rules governing this subject-matter.

Article 2

Scope of application

These rules are valid for:

- 2.1 all tenders carried out in electronic form, performed by SE, a.s. as the Procuring Party, for their needs, delivery of goods, works and services by means of automated systems of the contractual partner selection.
- 2.2 the contract draft, submitted by tenderer to the Procuring Party for signing, based on the results of electronic procurement.

Article 3

Definitions

- 3.1 Following definitions are valid for the purposes of these rules:

Acceptance Form:

SE, a.s. shall send this form to potential tenderers for goods, services and works delivery, this form shall be signed by an authorised person of the tenderer and delivered to SE, a.s. It represents accepting and observing the rules of electronic procurement specified in this document;

Access Codes:

User ID and Password identified together as a whole. The Procuring Party sends these data and they serve for login to the Tender System;

Association of Entrepreneurs:

Association of entrepreneurs without legal personality established on the basis of a written contract (Article 829 of the Civil Code);

Authorised Users:

Persons who have access to the Tender System and may use relevant services after authorisation put by the Administrator;

Connexio:

The supplier management system operated by external supplier Achilles Information Slovakia s.r.o., Bratislava;

Contracts:

The works, supply and services bid contracts (purchase contract, contract for work, innominate contract, etc.

Electronic communication:

The electronic transfer of information between computer systems;

Electronic document:

Document kept, transmitted or processed through technical means in electronic, magnetic, optical or other form;

Electronic procurement:

Fully electronic procedure for choosing the contractor;

ENEL:

The majority shareholder, owner of 66 % shares in SE, a.s., who prepared and hand over the electronic procurement application to the company SE, a.s. for using;

Group of Suppliers:

A group of suppliers without any legal relation submitting joint offer in the electronic procurement;

Master user:

A person designated by the tenderer, who decides on the assignment of authorisation to authorised users for the access to the Tender System;

Password:

The secret code, along with the User ID, allows the server to identify the bidder;

Portal:

The Internet page of the company SE, a.s., www.seas.sk, which includes technical data, references to computer applications and instructions necessary use and participation in the electronic procurement;

Parties according to the electronic procurement rules, herein after only "Parties":

Common name for SE, a.s. and the tenderer.

Recordings:

Electronic files containing offers, data, documents and other information concerning computerized procurement procedures;

SE, a.s., or the Procuring Party:

Slovenské elektrárne, a. s., Bratislava;

System:

The solutions and the electronic tools that allow the computer applications described in these Rules to be utilized (herein after see Connexio, VMDS, Tender System);

Tender System:

System for the tender management "Ariba Spend Management", which serves for submitting required information or bids in the electronic procurement process;

Tenderer:

Every physical person or legal entity, who delivers goods, performs work or provides services and is interested in participation in the electronic procurement or participates in the electronic procurement;

User ID:

The identifier through which an authorized bidder can access the server using the HTTPS protocol without employing client-side Certificates;

VMDS:

System focused on management of the suppliers' database "Vendor Master Data System", using information related to suppliers form the system "Connexio" or information received on

the basis of market research. It includes also contact data used for sending the access codes;

Article 4

Technical Requirements

- 4.1 For the purposes of participation in electronic procurement, the bidder must be equipped, at the start of the process and at its own expense, with:
- a PC equipped with a browser,
 - an Internet connection,
 - Software for reading and creating of files in PDF format.
- The bidder can obtain details concerning the minimum technical requirements from the portal. Their content, subsequent modifications and additions are considered to be an integral part of these Rules.
- 4.2 For the purposes of electronic communication the bidder must employ the hardware and software tools necessary to ensure that data is exchanged properly, timely and surely, meeting necessary qualifications as described in more detail on the portal.
- 4.3 The "Parties" hereby agree that costs relating to obtaining the necessary hardware and software required by these rules, as well as the necessary equipment due to the evolution of the technological platform are to be borne by each "Party" of the procurement with regard to the performance of its obligations.

Article 5

Communication between the "Parties"

- 5.1 For purposes of communication, during the tenders, the contracting parties shall use e-mail addresses provided in acceptance form. All communications related to individual tenders shall be made by SE, a.s. through electronic messages published by the System and through messages sent to the bidder at the email address provided when registering. The bidder must keep such information up-to-date.
- 5.2 In cases specified by SE, a.s., defined in conditions of tender, the required documentation or offer must be submitted in writing, including submitting the draft of the contract to winning tenderers.
- 5.3 The bidder must timely notify SE, a.s. every change related to the registered data, organisational structure (transfer of the company, fusion or transfer of the company's part, changes in the ownership, replacement of the statutory representative, etc...) via e-mail to the address nakup.backoffice@seas.sk. In such cases SE, a.s. has right to check such information in order to confirm the validity of the previous acceptance sent by the bidder or it may withdraw. If the tenderer is registered in the system Connexio, they are obliged to enter this change into the system. SE, a.s. shall in justified cases ask the tenderer to submit a new Acceptance Form again.

Article 6

Authorisation Process

Authorisation and Access Codes

- 6.1 In order to obtain access to the System, SE, a.s. shall grant access codes required for authorization to the bidders, the bidder must change at first access to the system.
- 6.2 The bidder is responsible for keeping its access codes secret and safe and is solely liable for any use of access codes, whether or not the bidder authorized such use. In addition, the bidder assumes sole responsibility for any actions it performs within the Tender system and must indemnify and hold harmless SE, a.s. from any claim and demand related to or arising from the use or abuse of its participation in on-line transactions.
- 6.3 The authorized bidder is aware that a third-party's knowledge of its Access Codes will allow the latter to access the System and enter into legally binding instruments. Such access shall be directly attributable to the bidder.

- 6.4 With regard to the above, the bidder must immediately notify SE, a.s. by email, subsequently confirmed by fax, of any discovery of unauthorized use of its access codes by a third party or of any other security violation of which it is aware. In every case, the Company SE, a.s. is not responsible for the unauthorized use of the access codes including a claim for damages, directly or indirectly brought about and/or arising from such use or abuse by anyone.

TITLE II

TENDERS

Article 7

Rules governing the Tender

- 7.1 SE, a.s. activates an e-procurement on the basis of which bidders invited to take part in each tender, from the moment the bidding starts, may submit the relative documents electronically by entering the Tender System.
- 7.2 Each tender will start at the time stated in the tender announcement or the invitation. The valid official time will correspond with that of the Tender System. The winner shall be the bid taking first place after determined after evaluation of submitted bids on the basis of criteria for evaluation of offers stated in announcement and tender documents.
- 7.3 It is under the responsibility of a tenderer and SE, a.s. assumes that persons who access the System to create and submit a bid possess an appropriate power-of-attorney granted by the bidder for submitting bids. The acts done by these persons are fully binding for the tenderer.
- 7.4 In the event that SE, a.s. receives a bid during the tender that it seems to be incomprehensible or anomalous, it may request confirmation as to all the constituent elements of the bid in question, even after the tender or one of its phases has closed. SE, a.s. retains the right to reject anomalous bids or to cancel the tender or the phase in question, if it was seriously compromised by the submission of the anomalous bid. No bidder will have the right to make a claim for compensation or indemnification of any kind against it as a result.
- 7.5 The closing of one of the phases of the tender or of the tender itself will be simultaneously communicated to all competing bidders via a message published on the Tender System and through a message sent to the email address referred to in Art. 5.1.
- 7.6 SE, a.s. will select the bidders that have successfully completed each phase of the tender on the basis of the bids submitted and the criteria stated in the tender announcement, the invitation and tender documents and will notify them of the closing of the phase of the tender and of any invitation to advance to the next phase through a message published by the Tender System.
- 7.7 Suppliers who have been discovered by SE, a.s. by whatever means to have committed a breach of the e-procurement rules, will be excluded from the relevant tender and will not be allowed to participate on other tenders performed in SE, a.s. for one year and SE, a.s. will not conclude any contract with them for a year.

Article 8

Malfunction of the Internet Connection

- 8.1 The tenders may be postponed only in the event of difficulties in connection to the System due to malfunction of SE, a.s. server and infrastructure.
- 8.2 In any event, SE, a.s. does not assume any responsibility for failure to participate in the tender or for the impossibility of the bidder to participate for reasons other than those related to SE, a.s. server and infrastructure.

Article 9

Group of Suppliers and Association of Entrepreneurs

- 9.1 In the event that several bidders, interested in participating in tender, decide to form a group, they must grant a mandate for acting to one of them. The power of attorney signed by representatives of statutory bodies of other group members authorizing the mandate holder for the specific tender, to:
- o form bids;
 - o sign documents,
- must be provided to SE, a.s. by the group, in the manner indicated in the tender announcement or invitation letter.
- 9.2 In the event of a group of bidders, only the Mandate-holder will compete in the tender using its own access codes to enter the portal.
- 9.3 An association, which is interested in participation in a tender, can participate by using access codes of this association, which must be authorized in advance by association members as a subject, authorized to represent the association in contractual negotiation with SE, a.s.

TITLE III

FINAL PROVISIONS

Article 10

Failure, Exchange problems and Errors

- 10.1 The "Parties" mutually agree to provide timely information on problems encountered while connected (e.g. recognition of the sender, incomprehensibility of the contents of the document, etc.), including any termination of the relationship with the Internet providers.
- 10.2 If the bidder encounters problems in using, or is unable to use services covered by these rules, it must immediately notify SE, a.s. and must take steps to remove any obstacles.

Article 11

Contents and effectiveness of Recordings

- 11.1 The Tender System was constructed using solutions that bar changes of any kind to be made to the documents, to system recorded data and to other computerized representations of contracts and computerized transactions.
- 11.2 The Tender System allows SE, a.s. to control its main performance parameters and provides notice of any anomalies in the process.
- 11.3 The Tender System issues and records data in the day log, which constitute complete and exclusive proof between the parties of the content and the timing of electronic documents/messages exchanged, such as, but not limited to, bids submitted by the bidder, messages published on the System or received and sent email.

Article 12

Liability for Damages

- 12.1 SE, a.s. assumes no responsibility for malfunctions or problems in connecting to the server arising from reasons independent of its server.
- 12.2 SE, a.s. assumes no responsibility for any damages which could occur to a tenderer or third parties due to abusive, improper and harmful use of the access codes and the tenderer is obliged to indemnify SE, a.s. for all damages which could occur by these acts.
- 12.3 The bidder is liable for damages to SE, a.s. arising from any action, breach or omission due to the actions of third parties that the bidder uses to provide services for the purpose of executing these Rules.

Article 13

Handling of Personal Data

- 13.1 The "Parties" undertake to handle personal data exchanged in observance of the Act no. 428/2002 Coll. on personal data protection as amended and give their consent for such data to be handled and communicated to third parties only within the limits and for the purposes provided in these Rules.

Article 14

Competent Court

- 14.1 All disputes arising from the application of these Rules or that are related in any way to them which the "Parties" fail to amicably resolve within forty days from when they arise shall be settled solely by the respective court of the Slovak Republic.

Article 15

Concluding the Agreement

- 15.1 For concluding a contract on mutual accepting of these rules, except for signing Acceptance Form, will be also considered using of Tender System including participation on electronic procurement.
- 15.2 SE, a.s. reserves the right to modify these Rules at its sole discretion. In such event, the new version of the rules will be published on the portal and a message will be sent to the email address of the bidder.
- 15.3 The tender shall announce SE, a.s. accepting of a new version of rules to the e-mail address nakup.backoffice@seas.sk within one month from publishing the new version of rules and consequently by means of a written confirmation of the e-mail within 5 days. In case of not accepting a new version of rules within the specified deadline, SE, a.s. will not invite the tenderer for the electronic tenders organized by SE, a.s. any more.

Article 16

Applicable Law

- 16.1 Legal relationships established by this agreement shall be solved pursuant to law of the Slovak Republic.
- 16.2 Relationships between the contracting parties resulting from the agreement, not expressly regulated by it, are governed by respective provisions of the Commercial Code and other generally binding legal regulations valid in the Slovak Republic.