

MINUTES – Contract type – Goods

ON REASONING AND ADOPTION OF THE TECHNICAL SPECIFICATIONS AND QUALIFICATION CRITERIA

(These minutes are intended to be published together with the tender documents)

SCOPE OF PROCEDURE: Purchase of garbage compactor truck

CORRESPONDING CODE IN THE COMMON PROCUREMENT VOCABULARY (CPV):
39713300-6

LIMIT FUND VALUE: 61.331.250 (sixty-one million, three hundred thirty-one thousand, two hundred fifty) Albanian Lek without VAT, equivalent to 625.000 (six hundred twenty-five thousand) Euro, with exchange rate of 98.13 (referred to the Bank of Albania on November 11, 2024).

Pursuant to Article 21, paragraph 2, of law no. 162/2020 "On Public Procurement", Article 2, paragraph 2 / c and Article 78, paragraph 2, of Decision of Council of Ministers (DoCM) no. 285, dated 19.05.2021 "On the Adoption of Public Procurement Rules", the contracting authority / entity Eco Tirana has developed the minutes on reasoning and adoption of the technical specifications and qualification criteria for the above procedure, with the following content:

I. SPECIAL QUALIFICATION CRITERIA

1. The candidate /bidder should submit:

a. Summary Self – Declaration form, as per Appendix 9

b. Bid insurance, as per Annex 4

Reasoning: The above requirements are based on articles 76, 82 and 83 of the PPL, article 26, of the DoCM no. 285, dated 19.05.2021 "On the Adoption of the Public Procurement Rules".

The above requirements are obligatory and serve the Contracting Authority to create its conviction that the participating economic operators carries out their activity in accordance with the requirements of the legislation in force, fulfill the legal criteria to participate in procurement procedures and have paid off all obligations according to the provisions of the relevant legislation.

Likewise, the submission of bid insurance is a legal obligation defined by the legislation in force, as a guarantee for the Contracting Authority in case of withdrawal of the bid after the deadline for submission of bids; refusal to sign the procurement contract or non-presentation of the contract security, when the bid has been declared the winner, or non-fulfillment of any other condition before signing the contract defined in the tender documents.

2. The candidate /bidder shall submit:

2.1. Suitability to perform the professional activity (if applicable):

2.1.1. The economic operator must electronically submit the Summary Self-Declaration Form, according to Appendix 9.

2.1.2. The economic operator must have registered in his activity in the National Business Center the object for the sale and purchase of motor vehicles and/or trailers, new or used.

Referring to Law no. 9573 dated 03.07.2006, amended by Law no. 106/2018 date 20.12.2018, article 29 point 1. The object of the activity of sale, mediation, auto repair for motor vehicles and trailers, authorized by their manufacturer, is carried out by legal entities, in accordance with the provisions of this Law, which are registered in the Commercial Register, as the object of their activity, carries out these activities.

Reasoning: The above requirement is based on Article 77, paragraph 1/a and 2 of the PPL. Referring to Law no. 9573 dated 03.07.2006, amended by Law no. 106/2018 date 20.12.2018, article 29 point 1.

(Note: indicate, *if applicable*, the specific legal or sub-legal act which foresees the fulfilment of any specific requirement on the exercise of the professional activity related to the procurement object).

2.2. Economic and financial capacity:

2.2.1. To establish the financial and economic capacities, the economic operators must submit a certificate of annual turnover for the financial years of 2022 and 2023 where the value of turnover for at least one of the years of the required period must be not less than the limit value of the contract that is procured.

Reasoning: The above requirement is determined based on the limit fund value of this procedure, as well as based on article 77, paragraph 3, of the PPL, as well as article 43, paragraph 1 , 2 letter a and 3 of DoCM no. 285, dated 19.05.2021 "On the Adoption of Public Procurement Rules".

The determination of the required value is reasoned as follows:

The value required is determined based on article 43, point 2 letter a) of VKM no. 285, dated 19.05.2021 "On the approval of public procurement rules".

Note: Given that the legal and sub-legal acts provide a margin for the turnover value that may be required, the contracting authorities / entities should reason the required turnover value within this margin.

The determination of the required years for the submission of the annual turnover certificate is based on article 77, point 3, of the LPP, as well as article 43, point 1 of DCM no. 285, dated 19.05.2021 "On the approval of public procurement rules" and based on Law no. 8438, dated 28.12.1998 "On income tax", amended, Instruction of the Minister of Finance no. 5, dated 30.01.2006, "On income tax", amended, DCM no. 922 dated 29.12.2014 "On the mandatory declaration of tax declarations and other tax documents, only through electronic form".

(Note: cite the relevant provision of the tax legislation, where the deadlines for the submission of the annual declaration by the taxpayers to the tax authorities).

2.2.2. Economic operators must present the certified annual balance sheets presented to the relevant tax authorities, for the financial years 2022 and 2023, accompanied by the Expertise Act of the Authorized Accounting Expert only in the case where they are in the conditions of the provisions of the Law on Accounting and Financial Reporting, where the balance sheets of two consecutive years must not have a negative ratio between assets and liabilities.

(Note: this criterion is set only in cases when it is deemed necessary by the contracting authority / entity)

Reasoning: The above requirement is defined in article 77, paragraph 3, of the PPL, as well as article 43, paragraph 4, of DoCM no. 285, dated 19.05.2021 "On the Adoption of Public Procurement Rules".

The determination of the years required for the presentation of balance sheets is made based on reference to the legislation of the field, specifically, article 29, point 1 of Law no. 8438, dated 28.12.1998 "On income tax" as amended and the requirements of Law no. 25/2018 "On accounting and financial statements".

(Note: cite the relevant provision of tax legislation, which defines the instances where the legal entities have the obligation to conduct a statutory audit of annual financial statements, by accounting experts or auditing companies, before their publication).

2.3 Technical and professional capacities:

2.3.1. The economic operator must submit evidence for previous similar supplies, carried out during the last three years from the date of publication of the contract notice, at a value of no less than 39% of the limit fund value of this contract.

To establish the previous similar experience, economic operators must provide the following evidence:

- a) for the previous experience realized with the public sector, the economic operator must present certificates issued by a public entity on the successful accomplishment of the contract, where the values, the contract completion timeline and / or the sales tax invoices, are indicated, completed according to the requirements of the legislation in force, indicating the dates, amounts and quantities of supplied goods,
- b) for previous experience with the private sector, the economic operator must submit sales tax invoices, completed according to the requirements of applicable law, and declared to the tax authorities, indicating the dates, amounts and quantities of supplied goods.

Reasoning: The above requirement is determined based on article 77 point 3 of law no. 162, dated 23.12.2020 "On Public Procurement" and article 40, paragraph 4 of DoCM no. 285, dated 19.05.2021 "On the Adoption of the Public Procurement Rules". This criterion requires economic operators to prove that they have the necessary experience to implement the contract, therefore it is required that previous similar supplies be at the amount of no less than 39% of the limit fund value, which is within the limit value specified in the aforementioned article.

The determination of the required value for similar contracts is reasoned as follows:

Referred DCM no. 285 dated 19.05.2021 "On the approval of Public Procurement Rules" article 40, point 4 in order to prove the technical capabilities of the EO in order to fulfill the needs of the Contracting Authority.

Note: Given that the legal and sub-legal acts provide a margin for the similar contracts value that may be required, the contracting authorities / entities should reason the required value of similar contracts within this margin.

2.4. Other special qualification requirements

2.4.1. The economic operator must submit an authorization from the authorized manufacturer or distributor for the offered products, specifying the contacts of the authorized manufacturer or distributor. In case an authorization is submitted by the authorized distributor, the connection, cooperation of the contract / supply, between the authorized distributor and the manufacturer must be presented with the relevant documentation.

2.4.2. The economic operator must be equipped with the SSH/EN/ ISO 9001: 2015 certificate regarding the quality management system, or equivalent. The certificate must be valid.

2.4.3. The economic operator must declare that will deliver the waste containers at the Operating Headquarters of Eco Tirana Sh.a. ex bus park, Don Bosko Street, Tirana, according to the goods delivery schedule and that it offers a 24-month warranty for the new trucks object of the procurement.

Argument: Referring to article 77 point 4 of Law no. 162, dated 23.12.2020 “On Public Procurement” , referring to point 6 letter c and 8 of article 40, of DCM no. 285, dated 19.05.2021, "On the approval of the Public Procurement Rules" and point 1 of article 44 of DCM no. 285, dated 19.05.2021, "On the approval of the Public Procurement Rules"

(Note: The contracting authority / entity, depending on the nature of the procurement object, may determine other specific criteria, which it deems necessary for the successful execution of the contract, arguing each criterion technically and legally, specifying, as the case may be, the legal / sub-legal act that provides for the necessity of the criterion in question).

II. Reasoning of technical specifications

*Note: Define the technical specifications for the goods to be procured, which must describe the minimum or totality of the most important constituent elements, which guarantee the required quality, and which consider the goods as acceptable for the required functions, in accordance with article 4, paragraph 38 / b and article 36, of the PPL, as well as article 40, paragraph 2, of DoCM no. 285, dated 19.05.2021, "On the Adoption of Public Procurement Rules", **by reasoning any functional requirements or performance, and / or any required standard**, where each reference must be accompanied by the phrase "or his / her equivalent".*

Attention: In the technical specifications, unless justified by the object of the contract, no specific product brand or specific source or process, which characterizes the products or services offered by a specific economic operator, should be mentioned, nor any trademark, patent, type or specific origin or production, with the aim of favouring or eliminating certain undertakings or products. Such a thing is allowed only in exceptional cases when there is not a sufficient, accurate or understandable way of describing the object of the contract, according to paragraph 3 of article 36 of the PPL. Such references should be accompanied by the words "or equivalent".

The technical specifications are carried out by Eco Tirana referring to the requirements and needs of the contracting authority Eco Tirana sh.a. in the field of its activity, referring to previous acquisitions and the performance of the service of the area where operates referring on the urban waste management service contract.