

ANNEX NO. 3 DOCUMENTATION OF PROCUREMENT PROCEDURE

QUALIFICATION DOCUMENTATION

Name of the procurement procedure:

Framework agreement for the provision of programming services

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1. REQUIREMENTS FOR PROVING QUALIFICATION

1.1 The Contracting Authority in accordance with Section 73 of Act 134/2016 Coll., On Public Procurement, as amended (hereinafter referred to as the "**Act**"), requires proof of:

- a) basic qualification pursuant to Section 74 of the Act,
- b) professional qualification pursuant to Section 77 of the Act,
- c) technical qualification pursuant to Section 79 of the Act.

1.2 The Contracting Authority pursuant to Section 73 of the Act does not require proof of:

- a) economic qualification pursuant to Section 78 of the Act.

2. BASIC QUALIFICATION

Basic qualification pursuant to Section 74 of the Act

2.1 An economic operator pursuant to Section 74 (1) of the Act shall not be qualified if it:

- a) was convicted by final judgement in the country of its registered seat of a crime specified in Annex No. 3 to the Act or another similar crime pursuant to the law of the country of its registered office in the past 5 years preceding the commencement of the procurement procedure; expunged convictions are disregarded,
- b) has outstanding tax arrears registered in tax records in the Czech Republic or in the country of its registered office,
- c) has outstanding arrears in respect of payments and penalties of public health insurance in the Czech Republic or in the country of its registered office,
- d) has outstanding arrears in respect of payments and penalties of social security contributions and contribution to the national employment policy in the Czech Republic or in the country of its registered office,
- e) is in liquidation, has been declared insolvent, in respect of whom the receivership has been imposed under another legal regulation or it is in a similar situation pursuant to the law of the country of its registered office.

2.2 If the economic operator is a legal person, both this legal person and every member of its governing body shall meet the condition specified in paragraph 2.1 of the Qualification documentation. Where a legal person is a member of the governing body of the economic operator, the condition specified in paragraph 2.1 of the Qualification documentation shall be met by

- a) this legal person,
- b) every member of the governing body of this legal person, and
- c) the person representing this legal person in the governing body of the economic operator.

2.3 If a participant in the procurement procedure is a branch of a business of:

- a) a foreign legal person, the condition specified in paragraph 2.1 of the Qualification documentation shall be met by this legal person as well as the head of the branch,
- b) a Czech legal person, the condition specified in paragraph 2.1 of the Qualification documentation shall be met by the persons referred to in paragraph 2.2 of the Qualifications documentation as well as the head of the branch.

2.4 The economic operator shall prove that it fulfils the basic qualification requirements in relation to the Czech Republic by submitting:

- a) a copy of an entry in the Criminal Records in respect of paragraph 2.1a) of the Qualification documentation,
- b) a confirmation from a relevant tax office in respect of paragraph 2.1b) of the Qualification documentation,
- c) a written affirmation regarding excise duty in respect of paragraph 2.1b) of the Qualification documentation,
- d) a written affirmation in respect of paragraph 2.1c) of the Qualification documentation,
- e) a confirmation from a relevant district social security administration in respect of paragraph 2.1d) of the Qualification documentation,
- f) a copy of an entry in the Commercial Register, or a written affirmation in the event that the economic operator is not incorporated in the Commercial Register, in respect of paragraph 2.1e) of the Qualification documentation.

3. PROFESSIONAL QUALIFICATION

Professional qualification pursuant to Section 77 (1) of the Act

3.1 The economic operator shall prove its professional qualification in relation to the Czech Republic by submitting a copy of an entry in the Commercial Register or other similar records provided that registration in such records is required pursuant to another legal regulation.

Professional qualification pursuant to Section 77 (2) (a) of the Act

3.2 The Contracting Authority in accordance with Section 77 (2) (a) of the Act requires the economic operator to submit a document demonstrating that it has a license to undertake business within a scope corresponding to the subject-matter of the public contract provided that such license is required pursuant to other legal regulations.

3.3 The Contracting Authority requires the economic operator to submit:

- a) relevant trade authorization or license, at least for trades or activities:

1. Production, trade and services not listed in Annexes 1 to 3 of the Trade Act

Branch of activity: Providing software, consulting in the field of information technology, data processing, hosting and related activities and web portals¹

or another similar trade or activity corresponding to the subject of the public contract.

4. ECONOMIC QUALIFICATION

Economic qualification pursuant to Section 78 of the Act

4.1 The Contracting Authority does not require proof of economic qualification.

5. TECHNICAL QUALIFICATION

5.1 To prove the technical qualification criteria, the Contracting Authority requires:

Technical qualification pursuant to Section 79 (2) (b) of the Act

5.2 In accordance with Section 79 (2) letter (b) of the Act the Contracting Authority requires the economic operator to submit a list of significant services provided **over the past three years before the commencement of the procurement procedure**, including the prices and dates of their provision and the identification of the clients.

5.3 The list of significant services must prove that the economic operator performed at least the following significant services:

- a) the subject of at least 1 significant service was the programming services of software related to the management of data and document storage, their processing and licensing within the open source DSpace framework.

5.4 The Contracting Authority recommends processing the list of significant services according to the draft (Annex No. 2 of the Qualification documentation).

Technical qualification pursuant to Section 79 (2) (c) of the Act

5.5 In accordance with Section 79 (2) letter (c) of the Act the Contracting Authority requires the economic operator to submit a list of the technicians or technical bodies that will take part in the performance of the public contract, especially those responsible for quality control and those who will executed the works, regardless of whether they are employees of the economic operator or persons otherwise related to the economic operator.

¹ Translated into Czech language: Výroba, obchod a služba uvedené v přílohách 1 až 3 živnostenského zákona, obor činnosti: Poskytování software, poradenství v oblasti informačních technologií, zpracování dat, hostingové a související činnosti a webové portály.

5.6 From the submitted documents it must be clear that the economic operator will have a realization team made up of the following persons available for the performance of the public contract:

a) Project manager

1. 1 person

b) Software architect

1. 1 person

c) Software programmer

1. 1 person

One person cannot hold multiple positions within the realization team.

The economic operator shall provide the members of the realization team with information on the positions of the respective members of the realization team vis-à-vis the economic operator in the list of members of the realization team. In the event that the relevant member of the realization team is himself a economic operator or does not have a working, functional or similar relationship with the economic operator, the relationship between this member of the realization team and the economic operator will be considered as proving the fulfilment of part of the qualification through another person in the sense of Section 83 of the Act.

5.7 The Contracting Authority recommends processing the list of members of the realization team according to the draft (Annex No. 3 of the Qualification documentation).

Technical qualification pursuant to Section 79 (2) (d) of the Act

5.8 In accordance with Section 79 (2) letter (d) of the Act the Contracting Authority requires the economic operator to submit certificates of education and professional qualifications related to the requested supplies, services or works, in respect of both the natural persons who can provide the supplies, services or works and their managerial staff.

5.9 From the submitted documents it must be clear that the economic operator will have a realization team made up of the following persons meeting these requirements available for the performance of the public contract:

a) Project manager

- | | |
|-------------------------------------|---|
| 1. minimum level of education: | Master degree or higher |
| 2. minimum professional experience: | at least 5 years of experience in the position of project manager or senior software developer |

The economic operator shall include data on professional experience and its duration in the list of the realization team. The economic operator shall include data on the level of education in the list of the realization team too and he submits a copy of the proof of education (i.e. university diploma).

b) Software architect

- | | | |
|----|----------------------------------|--|
| 1. | minimum level of education: | Master degree of higher |
| 2. | minimum professional experience: | at least 3 years of experience in the position of software developer or architect (or similar position) |

The economic operator shall include data on professional experience and its duration in the list of the realization team. The economic operator shall include data on the level of education in the list of the realization team too and he submits a copy of the proof of education (i.e. university diploma).

c) Software programmer

- | | | |
|----|----------------------------------|--|
| 1. | minimum level of education: | Bachelor degree of higher |
| 2. | minimum professional experience: | at least 3 years of experience in the position of software programmer or software developer (or similar position) |

The economic operator shall include data on professional experience and its duration in the list of the realization team. The economic operator shall include data on the level of education in the list of the realization team too and he submits a copy of the proof of education (i.e. university diploma).

Common provisions for technical qualification

5.10 For the conversion of financial data in a foreign currency (i. e. in a currency other than CZK) submitted to prove technical qualification, there shall be used the currency exchange rate of the Czech National Bank declared on the date of termination of the performance.

6. COMMON PROVISIONS FOR QUALIFICATION

Proving of qualification obtained abroad

6.1 Where qualification has been obtained abroad, it shall be proved by documents issued under the law of the country in which it has been obtained and to the extent required by the Contracting Authority.

Qualification in the case of joint participation of economic operators

6.2 In the case of joint participation of economic operators, the basic and professional qualifications pursuant to Section 77 (1) of the Act shall be proved by each economic operator separately.

Proving of qualification through other persons

6.3 An economic operator may prove a certain part of the economic qualification, technical qualification or professional qualification, with the exception of the criterion set out in Section 77 (1) of the Act, requested by the Contracting Authority through other persons. In that case, the economic operator is obliged to submit to the contracting authority:

- a) documents proving that the professional qualification pursuant to Section 77 (1) of the Act has been fulfilled by the other person,
- b) documents proving that a missing part of the qualification has been fulfilled by the other person,
- c) documents proving that the basic qualification was fulfilled pursuant to Section 74 of the Act by the other person and
- d) a written commitment of the other person to provide performance intended for the performance of the public contract or to provide things or rights which the economic operator is entitled to use when performing the public contract, at least to the extent to which the other person has proved its qualification instead of the economic operator.

6.4 It is presumed that the requirement set out in paragraph 6.3d) of the Qualification documentation is met if the written commitment of another person contains joint and several liability of such person and the economic operator for the performance of the public contract. Where, however, the economic operator proves qualification through the other person and submits documents pursuant to Section 79 (2) a) b) or d) of the Act relating to such person, the document under paragraph 6.3d) of the Qualification documentation shall contain a commitment that the other person shall carry out the works or services to which the qualification criterion in question relates.

Qualification documents

6.5 Economic operators shall submit their qualification documents within their tenders in copies.

6.6 The Contracting Authority in accordance with Section 86 (1) of the Act shall require primarily documents registered in the system that helps identify the certificates requested as a proof of qualification (e-Certis).

6.7 The Contracting Authority in accordance with Section 86 (2) of the Act stipulates, that the economic operator may substitute qualification documents by an affirmation. The Contracting Authority recommends processing the affirmation according to the draft (Annex No. 1 of the Qualification documentation). The economic operator may replace the required documents by a European Single Procurement Document according to Section 87 of the Act in any case.

6.8 Before the contract (respectively the framework agreement) is concluded, the Contracting Authority shall always request the selected economic operator to submit the originals or certified copies of the qualification documents, unless they have already been submitted during the procurement procedure.

6.9 The economic operator is not obliged to submit documents supporting the facts contained in the European Single Procurement Document to the Contracting Authority provided that it informs the Contracting Authority that it had already submitted such documents in a previous procurement procedure.

6.10 The documents proving basic qualification under Section 74 of the Act (paragraph 2.1 of the Qualification documentation) and professional qualification under Section 77 (1) of the Act (paragraph 3.1 of the Qualification documentation) shall prove the fulfilment of the required qualification criterion not later than 3 months before the date of the submission of the tender.

Changes in qualification of a participant

6.11 If the qualification of a participant changes after the submission of documents or affirmation regarding qualification, the participant is obliged to announce such change to the contracting authority within 5 working days and to submit new documents or affirmation of qualification within 10 working days from the announcement of such change; the contracting authority may extend these time limits or excuse their default. The participant shall not become obliged to announce changes and submit new documents under the first sentence if the qualification is changed in such a manner that

- a) the qualification requirements are still met,
- b) the criteria for the reduction of the number of participants or the number of tenders have not been influenced,
- c) the criteria for evaluation of tenders have not been influenced.

6.12 If the Contracting Authority finds out that the economic operator has not fulfilled the duty defined in paragraph 6.11 of the Qualification documentation), the Contracting Authority shall exclude such economic operator from the procurement procedure without delay.

Proving qualification by submitting an Extract from the List of Approved Economic Operators

6.13 Where the economic operator submits to the Contracting Authority an extract from the List of Approved Economic Operators pursuant to Section 228 of the Act (hereinafter referred to as the "***extract from the List of Approved Economic Operators***"), such extract shall replace the document attesting to

- a) the basic qualification pursuant to Section 74 of the Act and
- b) the professional qualification pursuant to Section 77 of the Act to the extent to which the data contained in the extract prove the fulfilment of the professional qualification criteria.

6.14 The Contracting Authority shall accept an extract from the List of Approved Economic Operators provided that on the last day on which the basic qualification or professional qualification is to be proved, the extract is not older than 3 months. The contracting authority is not obliged to accept an extract from the List of Approved Economic Operators in which the commencement of proceedings pursuant to Section 231 (4) of the Act is recorded.

6.15 In the same manner as using an extract from the List of Approved Economic Operators, the economic operator may prove its qualification by submitting a certificate issued in another Member State of the European Union, European Economic Area or the Swiss Confederation, in which the economic operator has its registered office, and which is an equivalent of the extract from the List of Approved Economic Operators.

Proving qualification by a certificate from a System of Certified Economic Operators

6.16 A valid certificate pursuant to Section 239 of the Act, issued within an approved System of Certified Economic Operators (hereinafter referred to as the "**certificate**"), may be used to prove qualification during the procurement procedure. The economic operator is presumed to be qualified to the extent recorded in the certificate.

6.17 The Contracting Authority shall not question the data recorded in the certificate without specific reasons. Prior to concluding a contract, the economic operator who has proven its qualification by a certificate may be requested to submit the documents referred to in Section 74 (1) b) to d) of the Act.

6.18 In the same manner as using a certificate, the economic operator may prove its qualification by submitting a certificate issued in another Member State, in which the economic operator has its registered office, and which is an equivalent to the certificate issued within a System of Certified Economic Operators.

7. LIST OF ANNEXES

7.1 The following annexes are part of the Qualification documentation:

Annex No. 1 Draft of a written affirmation for qualification

Annex No. 2 Draft of a list of significant services

Annex No. 3 Draft of a list of members of the realization team

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