Document for completion by the contracting authority

to be submitted as **ANNEX to the tender dossier**

**WORKS CONTRACT NOTICE**

**Contract title:**

**“Emergency strengthening of the banks of Rilska River through construction of retaining walls in urban quarters 6, 27 and 1 along section of Road III-107 Rila – Rila Monastery” – STAGE 1 “Retaining Wall No 1 – L 297m, km 13+387 – km 13+684, right downstream”.**

**Location** – Republic of Bulgaria, Region of Kyustendil, Municipality of Rila.

1. **Reference**

CB007.2.31.169-WO-1

1. **Procedure**

Simplified works tender

1. **Programme title**

Interreg-IPA Cross-border Cooperation Bulgaria-Serbia Programme 2014TC16I5CB007

(2001-2020) – Second call for proposals.

1. **Financing**

**Provided by t**he project (the Project) CB007.2.31.169 « JOINT MEASURES FOR GREEN INFRASTRUCTURE », co-financed by the European Union in accordance with the rules of Interreg-IPA Cross-border Cooperation Bulgaria-Serbia Programme 2014TC16I5CB007 (Second call for proposals).

1. **Contracting authority**

Municipality of Rila

1 Vazrazhdane Square, 2630 Rila,

Rila Municipality, District of Kyustendil, Republic of Bulgaria

**CONTRACT SPECIFICATIONS**

1. **Nature of contract**

**Lump-sum**

1. **Description of the contract**

The contract involves the construction of a new reinforced concrete retaining and flood protection walls along a section of the right bank of Rilska River which runs along Road III-107 Rila – Rila Monastery between km 13+387 and km 13+684. The works shall comply with the approved technical design and building permit provided by the Contracting Authority and included in the Technical Specification (Volume 3 of the Tender Dossier).A backside pedestrian promenade and landscaping works shall be performed in the section between 0+120 m to 0+250 m of the retaining wall. For the construction the Municipality of Rila has an approved investment project, technical phase and construction permit. The construction is the first category according to Article 137, paragraph 1, item 1, letter, of the Spatial Planning Act and Article 2, paragraph 7 of Ordinance № 1 on the nomenclature of types of constructions. The present contract covers only stage № 1 of the investment project mentioned above.

1. **Provisional commencement date of the contract**

**The provisional date on which the contract will enter into force is 11.10.2021.**

**The provisional commencement date of the implementation of the tasks is 18.10.2021 (date of drawing up a Protocol for opening a construction site and for determining the construction line and level (Annexes № 2 and 2a) according to the Bulgarian ORDINANCE № 3 OF 31 JULY 2003 FOR DRAWING UP ACTS AND PROTOCOLS DURING THE CONSTRUCTION (Issued by the Bulgarian Minister of Regional Development and Public Works).**

1. **Period of implementation of tasks**

**Period of implementation of the tasks will be no more than 240 calendar days (two hundred and forty), calculated from the** **date of drawing up a Protocol for opening a construction site and for determining the construction line and level (Annexes № 2 and 2a) to the date of drawing up a Statement of findings to establish the suitability for acceptance of the construction (Annex № 15), according to the Bulgarian ORDINANCE № 3 OF 31 JULY 2003 FOR DRAWING UP ACTS AND PROTOCOLS DURING THE CONSTRUCTION (Issued by the Bulgarian Minister of Regional Development and Public Works).**

**Note: In the determined period under p.9. or in the proposed by the tenderer period of implementation of tasks (as per the Volume 1/Section 4/Form 4.6.3.-Wprking plan and programme) the period or the periods of the temporary stop of the execution of works as per the National legislation is/are included.**

*For the purpose of the present contract “Implementation of tasks” means physical execution (accompanied also with all acts, protocols and all relevant documentary evidence for quality performance) of the planned works (Construction and Montage Works), subject of the Contract, described in the approved Works Design and listed in the Financial offer/Volume 4.2.3. “Breakdown of the lump-sum prices”.*

*The Contract will be considered fulfilled after issuing of Protocol for establishing the suitability for use of the construction (Annex № 16) from the* ***ORDINANCE № 3 OF 31 JULY 2003 FOR DRAWING UP ACTS AND PROTOCOLS DURING THE CONSTRUCTION (Issued by the Bulgarian Minister of Regional Development and Public Works), for which 23.09.2022 is the end date.***

**TERMS OF PARTICIPATION**

1. **Eligibility and rules of origin**

Participation in this tender procedure is open not only to the invited tenderers.

Participation is open to all natural persons who are nationals of and legal persons [participating either individually or in a grouping (consortium) of tenderers] which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) No 236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable Instrument under which the contract is financed (see also heading 17 below). Participation is also open to international organisations. All goods purchased under the contract must originate from an eligible source country as defined above. However, the goods to be purchased may originate from any country, whenever the total price of the estimated quantity of those goods, as reflected in a separate item of the breakdown of the lump-sum price (Volume 4.2.3) is below EUR 100 000.

*For more details: see p.2.3.from the PRAG.*

1. **Subcontracting**

**Subcontracting is allowed.**

Subcontractors, suppliers and entities upon whose capacity the tenderer relies for the selection criteria, must be eligible in respect of the rules on nationality and origin for the financing programme detailed in Section 10 above.

1. **Grounds for exclusion**

Natural persons, companies or undertakings falling into a situation set out in Section 2.6.10.1.1. (‘exclusion from participation in procurement procedures’) and Section 2.6.10.1.2. (‘rejection from a given procedure’) of the practical guide, are not entitled to participate in this tender procedure or be awarded a contract. Should they do so, their tender will be considered unsuitable or irregular respectively. Tenderers must provide declarations to the effect that they are not in any of the exclusion situations listed in Section 2.6.10.1. of the practical guide. The declarations must cover all the members of a joint venture/consortium. Tenderers guilty of making false declarations may also incur financial penalties up to 10% of the value of the contract and exclusion in accordance with the Financial Regulation in force.

Those exclusion situations apply to all members of a joint venture/consortium, all subcontractors and all suppliers to tenderers, as well as to all entities upon whose capacity the tenderer relies for the selection criteria.

Tenderers included in the lists of EU restrictive measures (see Section 2.4. of the PRAG) at the moment of the award decision cannot be awarded the contract.

1. **Number of tenders**

Tenderers may submit only one tender. Tenders for parts of the works will not be considered. Tenderers may not submit a tender for a variant solution in addition to their tender for the works required in the tender dossier.

**SELECTION AND AWARD CRITERIA**

1. **Selection criteria**

### In order to be eligible for the award of the contract, tenderers must provide evidence that they meet the selection criteria. If a tender is submitted by a consortium, unless specified, the selection criteria will be applied to the consortium as a whole.

The selection criteria for each tenderer are as follows:

***14. a Economic and financial capacity of candidate:***

The candidate (consortium as a whole or sole tenderer) must fulfil the following selection criteria regarding their economic and financial capacity:

1. The average annula total turnover of the tenderer in the past 3 years for which acounts have been closed or for the period less than 3 years for which accounts have been closed(depending on the date on which the participant is registered or started activity) must be at least 270 000.00 EUR or 528 066.00 BGN.

The candidate must establish compliance with the above criterion by completing and presenting Form 4.4 *“Financial Statement”* (Volume 1, Section III *“Forms regarding financial criteria”* of the Tender Dossier).

The documents with which the economic and financial capacity of the tenderer under point 14a.1. is proved are:

Balance sheets or extracts from balance sheets or any other equivalent documents, depending on the national legislation of the state of registration of the tenderer, for a period equal to or less than the last three years for which accounts have been closed.

If a tender is submitted by a consortium the selection criteria of point 14.a.(1). for economic and financial capacitywill be applied to the consortium as a whole.

Notes : No tender guarantee is requred under the present tender.

The Performance guarantee is 5 % fo the value of the contract.

***14.b Technical and professional capacity of candidate:***

(1) .Must have completed at least one project of similar nature and complexity in the last 5 years prior to the publication of the present notice.

For projects of similar nature comparable to the works concerned will be accepted works for construction and/or reconstruction/repair of facilities for geoprotection and shore protection along rivers and the sea shore - drainages, drainage galleries, drainage wells, horizontal drainage channels, earth and rock buttresses, bunks, dams, dikes, retaining walls, and any others or equivalent at discretion by the tenderer.

The documents with which compliance with the technical and professional capacity under point 14.b.1. is proved is:

-List of the most significant works, accompanied by certificates and/or references for satisfactory execution, issued by the contracting authority or entity who ordered or purchased the works, specifying whether they have been carried out successfully and in a professional manner.

The contracting authority reserves the right to ask for other additional documents/evidence, signed by the supervisors/contracting authority of the projects concerned.

If a tender is submitted by a consortium the selection criteria of point 14.b .(1). for technical capacitywill be applied to the consortium as a whole.

14.b.(2). The chosen for contractor must provide proves that it has professional qualifications as a construction entity.

According to the Bulgarian Chamber of Builders Law entities executing construction in Bulgarian from 1st to 5th category as per the Bulgarian Territory Structure Act should be registered in the Central Register of Professional Builders. The registration is also obligatory for builders, which are entitled to perform such an activity under the legislation of a Member State of the Union or of another country - party to the Agreement on the European Economic Area or of the Swiss Confederation for registration.

The chosen contractor, before signing the contract must provide evidence that its entity is registered in the Bulgarian Chamber of Builders for the execution of construction of 4th group, I-st category as per RULES FOR THE PROCEDURE FOR ENTRY AND KEEPING OF THE CENTRAL PROFESSIONAL REGISTER OF THE BUILDER (Effective from January 1, 2018;Issued by the Chamber of Builders in Bulgaria).

The object is a construction of 1st category according to the art. 137, par. 1, point 1, letter (in Bulgarian “ж“) as per the Bulgarian Territory Structure Act.

At the moment of provision of the tenderer`s offer, tenderers are not obliged to prove that they meet this requirement.

14.b.(3)

The chosen for contractor tenderer must provide proves that it has a valid professional risk indemnity insurance.

If the tenderer is registered in Bulgaria it must have a professional risk indemnity insurance in accordance with art. 171 of the Territory Structure Act in Bulgaria. The minimum coverage of the insurance should be in compliance with the Ordinance for the conditions of compulsory insurance in design and construction in Bulgaria (SG. No. 17/02.03.2004).

If the tenderer is an entity registered outside of Bulgaria it should provide an equivalent document, according to the legislation of the country where the entity has its headquarters or operations managed.

At the moment of provision of the tenderer`s offer, tenderers are not obliged to prove that they meet this requirement.

At the moment of provision of the tender offer, every tenderer must present **declaration/s** (in free format) that in case that he is selected for a contractor he will provide proves for compliance with the requirements under p. 14b.2 and p. 14.b.3.

**If a tender is submitted by a consortium the selection criteria** **under point 14.b.2 and p.14.b.3 for technical and professional capacitywill be applied to those members of the consortium, which will execute construction works.**

**When the candidate envisages the participation of subcontracor/s the selection criteria under point 14.b.2 and p.14.b.3 for technical and professional capacitywill be applied to those subcontractor/s , which will execute construction works.**

**14.b.3. Key experts:**

The key personnel should consist at least from:

* **Site manager-**technically qualified person, responsible for technical management of the construction.

Minimum requirements:

Educational qualifications:

**–** Diploma from an accredited higher school qualified as "Construction engineer", "Engineer" or "Architect” or equivalent

Or

* Having a secondary education with four years course of study with professional qualification in the fields of “Architecture and Construction” or “Technics” or equivalent.

Professional experience:

3 (three) years professional experience in construction of buildings and facilities;

Specific experience:

Experience as a site manager in the implementation of 1 (one) project of the same nature as the works concerned by the present tender.

For projects of similar nature comparable to the works concerned will be accepted works for construction and/or reconstruction/repair of facilities for geoprotection and shore protection along rivers and the sea shore - drainages, drainage galleries, drainage wells, horizontal drainage channels, earth and rock buttresses, bunks, dams, dikes, retaining walls, and any others or equivalent at discretion by the tenderer.

A technically qualified person can be also accepted a foreign person under conditions set out in art.163a, par.3 from the Bulgarian Low on Spatial Planning.

Capacity-providing entities:

An economic operator may, where appropriate and for a particular contract, rely on the capacity of other entities, regardless of the legal nature of the links which it has with them. If the tenderer relies on other entities, it must prove to the Contracting Authority that it will have at its disposal the resources necessary to perform the contract by producing a commitment on the part of those entities to place resources at its disposal. Such entities, for instance the parent company of the economic operator, must respect the same rules of eligibility and notably that of nationality, as the economic operator relying on them and must comply with the selection criteria for which the economic operator relies on them. Furthermore, the tender should include a separate document providing data on this third entity for the relevant selection criterion. Proof of capacity must be provided at the request of the Contracting Authority.

With regard to technical and professional criteria, a tenderer may only rely on the capacities of other entities where the latter will perform the works for which these capacities are required.

With regard to economic and financial criteria, the entities upon whose capacity the tenderer relies become jointly and severally liable for the performance of the contract.

Financial data to be provided by the tenderer in relation to the selection criteria must be expressed in EUR. If applicable, where a candidate refers to amounts originally expressed in a different currency, the conversion to EUR shall be made in accordance with the InforEuro exchange rate of the month of the submission of the tender offer, which can be found at the following address: <http://ec.europa.eu/budget/graphs/inforeuro.html>.

1. **Award criteria**

The sole award criterion will be the price: the most economically advantageous tender is the technically compliant tender with the lowest price.

**TENDERING**

1. **Ethics clauses**

**The tenderers are subject to the ethics clauses, detailed in Section 2.5.6. of the practical guide.**

1. **Legal basis[[1]](#footnote-1)**

**Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action and Interreg-IPA CBC Bulgaria - Serbia Programme, CCI Number: CCI 2014TC16I5CB007.**

**Bulgarian Law of Spatial Planning.**

**Bulgarian Procurement Law**.

Bulgarian Law on Obligations and Contracts.

Bulgarian Law for Chamber of Builders;

1. **Appeals**

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. See further Section 2.12. of the practical guide.

1. **Early detection and exclusion system**

The tenderers and, if they are legal entities, persons who have powers of representation, decision-making or control over them, are informed that, should they be in one of the situations of early detection or exclusion, their personal details (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the early detection and exclusion system (EDES) and communicated to the persons and entities concerned in relation to the award or the execution of a procurement contract.

1. Please state any specificity that might have an impact on rules on participation (such as geographic or thematic or long/short term). [↑](#footnote-ref-1)