

**Public Sector Projects Implementation Unit Ltd. Belgrade**

У ЈАВНОМ СЕКТОРУ Д.О.О. БЕОГРАД

Бр.

3450/1

18.06 2020 год.

БЕОГРАД, НЕМАЊИНА 22-26

On the basis Law on Ratification of the Financial Contract (Public Sector Research And Development) between the Republic of Serbia and the European Investment Bank ("Official Gazette of RS", No 5/10) , article 7. paragraph 1. clause 2) sub-clause (1) of the Public Procurement Law („Official gazette of RS”, no. 124/12, 14/15 and 68/15), clause 16. paragraph 1. item 2) of Decision on the establishment of limited liability company for managing of the projects in public sector („Official Gazette of RS”, no. 51/2010, 72/2013, 24/2014, 65/2014, 110/2016 и 26/2017), clause 53. of Rulebook on closer regulation of the public procurement procedure, no. 8015 dated 29.12.2015. (Amendments of the Rulebook no. 6358 dated 10.10.2017. and Amendments of the Rulebook no. 2734 dated 15.05.2019.), Decision on initiation of the international open procedure number 7382 dated 31.12.2018, clause 30. of the Tender dossier, Decision on Qualification number 707/1 dated 12.02.2020, in accordance with Evaluation report number: 3399/1 dated 17.06.2020. and „No-objection“ letter of European investment bank number 3398 dated 17.06.2020, and in accordance with Guide to Procurement for projects financed by the EIB, acting director of „Public Sector Projects Implementation Unit ltd. Belgrade, Nemanjina 22-26, 11000 Belgrade, delivers the

**DECISION ON CONTRACT AWARD**

**For execution of construction and construction – craft works for making a part of facility and the garage of “Science and Technology Park” in Novi Sad functional (Phase II/2 and Phase II/2a), procurement no. RID – W/IOP1 – 2018.**

1 In the international open procedure for procurement of works no: RID – W/IOP1 – 2018, initiated by the Decision on initiation of the international open procedure for the procurement of works no. 7382 dated 31.12.2018., with procurement subject: Execution of construction and construction – craft works for making a part of facility and the garage of “Science and Technology Park” in Novi Sad functional (Phase II/2 and Phase II/2a), **contract is awarded to the following bidder:**

- Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member of the group of tenderers) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member), Tender number 4494 dated 29.07.2019, with the offered price of **7.966.719,70 EUR**, VAT excluded.

2. This decision shall be published on the Procurement Portal and on the Purchaser's website within 3 days from the date of decision making.

**Rationale**

By delivering the Decision no. 7382 dated 31.12.2018., Purchaser, Public Sector Projects Implementation Unit Ltd. Belgrade, Nemanjina 22-26, 11000 Belgrade, initiated international open procedure for procurement of works, the subject of which is: Execution of construction and construction – craft works for making a part of facility and the garage of “Science and Technology Park” in Novi Sad functional (Phase II/2 and Phase II/2a), procurement no. RID – W/IOP1 – 2018.

International open procedure for procurement of works, with procurement subject: Execution of construction and construction – craft works for making a part of facility and the garage of “Science and Technology Park” in Novi Sad functional (Phase II/2 and Phase II/2a), procurement no. RID – W/IOP1 – 2018, was conducted in accordance with article 7. paragraph 1. clause 2) sub-clause (1) of the Public Procurement Law („Official gazette of RS”, no. 124/12, 14/15 and 68/15) and clause 3.4. of the Guide to Procurement for projects financed by the EIB, in accordance with the Law on Ratification of the Financial Contract (Public Sector Research and Development) concluded between the Republic of Serbia and the European Investment Bank (“Official Gazette of RS”, No 5/10) and Decision on initiation of the international open procedure for procurement of works - Execution of construction and construction – craft works for making a part of facility and the garage of “Science and Technology Park” in Novi Sad functional (Phase II/2 and Phase II/2a), number 7382 dated 31.12.2018.

The estimated value of the procurement is: 8,000,000.00 EUR VAT excluded.

Procurement Notice was published in the Official Journal of the European Union, on the Public Procurement Portal and website of the Purchaser, on 17.06.2019., with tender submission deadline being 29.07.2019. until 11:00.

Procurement Notice defined that Tenders have to be submitted according to the **“two-envelope”** procedure, in which both the technical (administrative) and financial offer are submitted together, but in separate envelopes. Technical (administrative) offers will be opened first and evaluated in terms of acceptability. Upon the evaluation of the technical (administrative) acceptability of all submitted offers, Purchaser shall deliver Decision on qualification and shall send an invitation to the Tenderers whose technical (administrative) offers have been evaluated as acceptable and the opening procedure of their financial offers shall be conducted.

In the tender preparation period 5 Clarifications and one Corrigendum of the Tender Document were made and published on the Public Procurement Portal and the website of the Purchaser.

Tender opening (administrative offers) session was conducted in the premises of Public Sector Projects Implementation Unit Ltd. Belgrade, Veljka Dugoševića 54, 11000 Belgrade, on 29.07.2019. at 12:00, by the members of the Procurement Committee formed by the Decision on forming the procurement Committee number 7383 dated 31.12.2018., which includes:

- Predrag Knežević – Committee President,
- Dijana T. Kasapović – deputy Secretary.

The offers by the following Tenderers have been submitted in a timely manner until 11:00 on 29.07.2019., to the address of the Purchaser: Veljka Dugoševića 54, 11000 Belgrade, in the following order:

<b>Ord. No.</b>	<b>Tender filed at Purchaser under number</b>	<b>Name and code of the Tenderer</b>	<b>Date and time of Tender receipt</b>
1.	4493 4493/1	<b>Group of Tenderers:</b> W.D. Concord West d.o.o. Beograd, Zrenjaninski put 150A, MPP Jedinstvo AD Sevojno, Prvomajska bb, Modulor d.o.o. Beograd, Nikolaja Saltikova 61 and Tesla Sistemi d.o.o. Beograd, dr Ivana Ribara 181a	29.07.2019. at 09:25
2.	4494	<b>Group of Tenderers:</b> K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd and „KESZ EPITO SZERELO“ ZRT, Hungary	29.07.2019. at 10:55
3.	4495	<b>Group of Tenderers:</b> „Gradina“ d.o.o. Beograd, Masarikov trg 8, Beograd – Zemun, „Inobačka“ d.o.o. Novi Sad, Bulevar oslobođenja 30a, Novi Sad and „AG-UNS“ Arhitektonsko građevinski institut d.o.o. Novi Sad, ul. dr Jovanovića 4	29.07.2019. at 10:56
4.	4496	<b>Group of Tenderers:</b> „Energoprojekt visokogradnja“ Bulevar Mihaila Pupina br. 12, Beograd, „BAUWESEN“ d.o.o. Lazarevac, Karađorđeva 32a, Lazarevac and „Amiga“ d.o.o. Kraljevo, Tike Kolarevića 66, Kraljevo	29.07.2019. at 09:57

There have been no untimely tenders.

On the conducted Tender opening the Minutes on technical offers opening was created, number 4509 dated 29.07.2019., which was handed to the present authorized tenderers' representatives.

On 02.08.2019., filed under number 4632, Tenderer – Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member) and „KESZ EPITO SZERELO“ ZRT, Hungari (leading member) submitted the letter requesting the Change of the Minutes on technical offers opening number 4509 dated 29.07.2019. in part which relates to notes, regarding the manner of behaviour of other Tenderers in the period prior the tender opening.

On 05.08.2019. the Committee submitted the reply to the mentioned request.

Upon the conducted opening procedure, in the period from 30.07.2019. until 10.01.2020., the Committee conducted the overview and evaluation of the timely submitted technical (administrative) offers and noted as follows:

1. Considering the elapsed time since the tender submission and opening of the technical (administrative) offers, in accordance with Tender Documents Volume I, Section 2,

Instructions to Tenderers, clause 13.2., Committee sent on 06.11.2019. the request for extension of the tender validity period of bid no. 4493 and 4493/1 dated 29.07.2019. and the request for the extension of the tender security, to the Group of Tenderers: W.D. Concord West d.o.o. Beograd, Zrenjaninski put 150A (leading member), MPP Jedinstvo AD Sevojno, Prvomajska bb (member of the group of tenderers), Modulor d.o.o. Beograd, Nikolaja Saltikova 61(member of the group of tenderers) and Tesla Sistemi d.o.o. Beograd, dr Ivana Ribara 181a (member of the group of tenderers).

Prior to the expiration of the initial tender validity period, Group of Tenderers: W.D. Concord West d.o.o. Beograd, Zrenjaninski put 150A (leading member), MPP Jedinstvo AD Sevojno, Prvomajska bb (member of the group of tenderers), Modulor d.o.o. Beograd, Nikolaja Saltikova 61(member of the group of tenderers) and Tesla Sistemi d.o.o. Beograd, dr Ivana Ribara 181a (member of the group of tenderers), submitted amendment to the tender security No. 265-60-14794-24, which extended the tender guarantee until 29.04.2020., as well as the consent with the extension of the tender validity period of tender no. 4493 and 4493/1 until March 25<sup>th</sup> 2020.

Tender by the Group of Tenderers: W.D. Concord West d.o.o. Beograd, Zrenjaninski put 150A (leading member), MPP Jedinstvo AD Sevojno, Prvomajska bb (member of the group of tenderers), Modulor d.o.o. Beograd, Nikolaja Saltikova 61(member of the group of tenderers) and Tesla Sistemi d.o.o. Beograd, dr Ivana Ribara 181a (member of the group of tenderers), tender number 4493 and 4493/1 dated 29.07.2019. has the following deficiencies:

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.3. Qualification data, Additional conditions for participation in tender procedure, clause 2. Business capacity, among other things defines in case of submission by the consortium/joint venture, the leading member of the joint venture/consortium must fulfil a minimum condition for one facility/complex of facilities of minimum total gross surface of 10,000 m<sup>2</sup>, and he shall submit as evidence Forms 3.5.3, 3.5.3.A and 3.5.4. with all addenda, and that the Purchaser, in the evaluation phase, can, if necessary, request additional evidence – final statements, handover minutes, occupancy permits etc.

Tenderer in his Tender, in Form 3.5.3 stated that the leading member of the Consortium W.D. Concord West d.o.o. Beograd did execute works on its own of total gross surface of 10,000 m<sup>2</sup>, and as the addenda to this claim, he submitted the confirmation of the Investor which confirms the content of the submitted evidence.

Since the Tender Document foresees the option of Purchaser, in the evaluation phase, if necessary, requesting the additional evidence – final statements, handover minutes, occupancy permits etc., on 13.08.2019., filed under number 4838, the Clarification request was sent to the Tenderer, i.e. it was requested from the Tenderer to submit the Building permit in effect, Minutes on technical inspection of the facility and the Occupancy certificate, and in case that it has not been issued, it is necessary to submit the Minutes on qualitative and quantitative acceptance of the facility/executed works. The mentioned additional clarification was necessary considering that from the submitted evidence, as well as from the insight into data of Central register of unified procedures, it was not possible to undoubtedly determine the fulfilment of the requested Business capacity.

On 16.08.2019., filed under number 4951, the Tenderer submitted the additional clarification and with it also the final statement, Contract on execution of works with the belonging Annexes and the Minutes on qualitative and quantitative acceptance and calculation of the executed works. On the other hand the Tenderer did not submit Building permit in effect.

Based on all the evidence submitted in the Tender itself, as well as those submitted after the sent Request for additional clarification, the Committee notes that the requested condition is not fulfilled i.e. that from the documentation submitted it was not possible to confirm that the leading member of the Consortium/Joint Venture W.D. Concord West d.o.o. Beograd fulfils the minimum condition for one facility/complex of facilities of total gross surface of 10,000 m2.

- Tender Document, Volume I, Section 2, Instructions to tenderers, clause 2.2. Tender data, paragraph 10.1. Content of Tender, under b, defines that the technical (administrative) offer cannot contain the data on the offered price.

Contrary to the aforementioned, in the Tender by the Tenderer, in part relating to the clause 3.6 Technical conditions (questionnaire), sub-clause 3.6.1. Work Programme, Method Statement and Organization, the Tenderer submitted the Schedule of requirements and Cash flow which show the projected value of the execution of works, by which the offer of the mentioned Tenderer contains the data on offered price.

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.1. Instructions to Tenderers, clause 16. Tender submission, Packing and marking of tenders, sub-clause 16.1. paragraph 2, defines that if the Tenders are not packed in accordance with the rules provided in this clause shall be considered a violation of the rules and shall cause the **rejection of Tender**.

During the Tender opening the Committee noted that the Technical offer (original and copy) and Financial offer (original and copy) are not packed in one outer envelope, i.e. the Tender is not packed in accordance with the mentioned clause of the Tender Document, by which the Tenderer acted contrary to the requests defined in the Tender Document.

Committee notes that the Tender by the Group of Tenderers: W.D. Concord West d.o.o. Beograd, Zrenjaninski put 150A (leading member), MPP Jedinstvo AD Sevojno, Prvomajska bb (member), Modulor d.o.o. Beograd, Nikolaja Saltikova 61 (member) and Tesla Sistemi d.o.o. Beograd, dr Ivana Ribara 181a (member), tender number 4493 and 4493/1 dated 29.07.2019., is **technically (administratively) unacceptable tender**.

2. Considering the elapsed time since the tender submission and opening of the technical (administrative) offers, in accordance with Tender Documents Volume I, Section 2, Instructions to Tenderers, clause 13.2., Committee sent on 06.11.2019. the request for extension of the tender validity period of tender No. 657/2019 dated 29.07.2019. and the request for the extension of the tender security, to the Group of Tenderers: K.E.SZ.

International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member of the group of tenderers) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member).

Prior to the expiration of the initial tender validity period, Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member of the group of tenderers) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member), submitted amendment to the tender security No. IGTE058984, which extended the tender guarantee until 29.04.2020., as well as the consent with the extension of the tender validity period of tender No. 657/2019 until March 25, 2020.

During the course of technical evaluation of the Tender submitted by the Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member of the group of tenderers) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member) Tender number 657/2019 dated 29.07.2019., Committee determined the following:

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.3. Qualification data, Additional conditions for participation in tender procedure, clause 3. Personnel capabilities, under a), defines that for the requested condition the Tenderers must submit evidence, in accordance with the law of the country in which they have been established.

It is also defined that all Tenderers must submit Form 3.5.5. B – Personnel capabilities – List of full-time employees, so the Tenderers with headquarters in the country of the Purchaser submit the Certificate/excerpt from the Central registry of compulsory social security with the summary overview of all insured, for the month preceding the month of publishing the Procurement Notice.

Contrary to the aforementioned, the Tenderer in his Tender, for the leading member of the group „KESZ EPITO SZERELO“ ZRT, Hungari, who is a non-resident, submitted the Form 3.5.5. B, Statement on fulfilment of the conditions for participation in the tender and the document of the company stating the list of employees dated 23.05.2019. with their positions, but not the evidence which is in accordance with the law of the country in which they have been established.

On 22.08.2019. the Committee sent a Request for clarification, filed under number 5128/1, to the Tenderer, in which it requested the submission of adequate certificate issued by the competent institution in the Republic of Hungary, which confirms the fulfilment of the condition in respect of the Personnel capabilities, under a).

On 28.08.2019. filed under number 5239, Tenderer submitted the clarification in the form of e-mail, sent by the Head of Economic Section, Deputy Head of Mission for Economic Affairs – Embassy of Hungary, regarding the fulfilment of the requested Personnel capabilities, under a).

Since by the submission of the clarification the Tenderer did not submit the evidence in accordance with the Law of the country in which it was established, that he fulfils the conditions for personnel capabilities, the Purchaser, with the goal of clarifying, and having in mind that the leading member of the group is non-resident, so that there is the possibility that the Clarification Request may not be entirely clear to him,

on 09.09.2019., filed under number 5531, sent a repeated Request for clarification, which emphasises that the Tenderer is obliged to submit, for the leading member of the group „KESZ EPITO SZERELO“ ZRT, Hungary, the document, which is issued by the competent institution of the Republic of Hungary, showing the exact number of employees with the list of all names of employees, for the month preceding the month of publishing the Procurement Notice (May 2019.).

As deadline for submission of Clarification, the Purchaser defined 12.09.2019., which was extended, due to Tenderer's request, until 17.09.2019., in order for the tenderer to be enabled to submit the requested evidence.

On 17.09.2019., filed under number 5711, the Tenderer submitted the additional clarification, as well as the confirmation of the institution *National Tax and Customs Administration (Tax and customs Directorate for the County of Csongrad)* in which it is confirmed that the mentioned institution does not issue the list of employees with their qualifications, but it confirms that the leading member „KESZ EPITO SZERELO“ ZRT, Hungary has 197 employees on 23.05.2019.

Since the Purchaser's Request for clarification of the tender number 5531 dated 09.09.2019. did not request the data related to the list of employees with their qualifications, but the data related to the list of employees of the tenderer for the month preceding the month of the Procurement notice publication (May 2019.), regardless of the data on their qualifications, the Purchaser submitted on 20.12.2019. Request for clarification, filed under No. 7845/1, requesting confirmation of the abovementioned institution - National Tax and Customs Administration (Tax and customs Directorate for the County of Csongrad) or confirmation of some other competent institution in the Republic of Hungary, which has the records on employees, all with the goal of verifying data related to the key personnel for the needs of realization of this contract provided in the Qualification Form (3.5.5) – Key Personnel Proposed for Execution of the Contract, confirming that the following persons: Robert Nemeth, position: Graduate Civil Engineer; Lajos Toth, position: Graduate Electrical Engineer of weak current; Gyozo Lehotai, position: Graduate Mechanical Engineer and Predrag Veličkov, position: Health and safety officer, are employed by the leading member of the group of tenderers - KESZ EPITO SZERELO“ ZRT, Hungary, in the month preceding the month in which the Procurement notice was published (May 2019.).

As deadline for submission of Clarification, the Purchaser defined 25.12.2019., which was extended, due to Tenderer's request, until 10.01.2020., in order for the tenderer to be enabled to submit the requested evidence.

On 10.01.2020, filed under no. 135 dated 13.01.2020., the Tenderer submitted the additional clarification, as well as the confirmation of the institution National Tax and Customs Administration (Tax and customs Directorate for the County of Csongrad) in which it is confirmed that the aforementioned persons were employed by the leading member of the group of tenderers - KESZ EPITO SZERELO“ ZRT, Hungary, in the month preceding the month in which the Procurement notice was published (May 2019.).

Taking into account all the submitted documents, the ones submitted in the Tender as well as the ones submitted during the submission of clarifications, the Committee has determined that the leading member of the Group of Tenderers, „KESZ EPITO SZERELO“ ZRT, Hungary fulfils the condition for Personnel capability as is requested by the Tender Document.

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.3. Qualification data, Additional conditions for participation in tender procedure, clause 1. Financial capacity under a), defines that the Tenderer is obliged to submit, for the fulfilment of the requested condition, the Qualification form 3.5.2. and the Solvency report – Form BON-JN which is issued by the Business Registers Agency for the resident tenderers, i.e. Solvency report of the competent institution, for non-resident tenderers, which includes the balance sheet and cash flow accompanied with the opinion of the authorized auditor for companies which are subject to audit for 2015, 2016 and 2017.

With the goal of fulfilling the mentioned condition, the Tenderer, besides the requested Form 3.5.2., for the leading member of the group of Tenderers „KESZ EPITO SZERELO“ ZRT, Hungari (non-resident), submitted the Excerpt from the company Bisnode Magyaroszak Kft with the data on the financial income for 2015, 2016. and 2017. Also, the data on links are submitted, but by following the links the Committee noted that most of the data are in Hungarian language.

On 22.08.2019, filed under number 5128/1, the Committee sent to the Tenderer the Request for clarification which requested the submission of evidence based on which it is possible to undoubtedly determine that the data stated in the submitted excerpt by „Bisnode Magyaroszak“ Kft are actually the official information regarding the financial income available in the register of the competent government institution, to which the links in the tender lead.

In accordance with the submitted Request for clarification, on 28.08.2019. filed under number 5239, an electronic correspondence with the Embassy of Hungary was submitted which confirms that the financial data provided in the excerpt issued by „Bisnode Magyaroszak“ Kft are appropriate and that they fully represent the official financial data of the leading member of the Group „KESZ EPITO SZERELO“ ZRT, Hungary.

On 09.09.2019. filed under number 5531, the Committee sent to the Tenderer the Request for clarification which requested to have the previously mentioned correspondence with and confirmation of the Embassy of Hungary, given in the electronic form, regarding the financial data, be submitted as official document issued by the Embassy of Hungary confirming the content of the correspondence, with the goal of accepting it as relevant evidence.

Acting in accordance with the mentioned request, on 11.09.2019., filed under number 5610 as addenda to the Clarification, the Tenderer submitted the document issued by the Embassy of Hungary stating that financial data, submitted via e-mail, are



authentic and that everything regarding the financial data of the leading member is confirmed.

By submitting all the mentioned evidence, the Committee could undoubtedly confirm the fulfilment of the condition related to Financial capacity, under a).

Committee notes that the Tender by the Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member), Tender number 657/2019 dated 29.07.2019., is **technically (administratively) acceptable tender**.

3. Considering the elapsed time since the tender submission and opening of the technical (administrative) offers, in accordance with Tender Documents Volume I, Section 2, Instructions to Tenderers, clause 13.2., Committee sent on 06.11.2019. the request for extension of the tender validity period of tender no. 4495 dated 29.07.2019. and the request for the extension of the tender security, to the Group of Tenderers: „Gradina“ d.o.o. Beograd, Masarikov trg 8, Beograd – Zemun (leading member), „Inobačka“ d.o.o. Novi Sad, Bulevar oslobođenja 30a, Novi Sad (member of the group of tenderers) and „AG-UNS“ Arhitektonsko građevinski institut d.o.o. Novi Sad, ul. dr Jovanovića 4 (member of the group of tenderers).

Prior to the expiration of the initial tender validity period, Group of Tenderers: „Gradina“ d.o.o. Beograd, Masarikov trg 8, Beograd – Zemun (leading member), „Inobačka“ d.o.o. Novi Sad, Bulevar oslobođenja 30a, Novi Sad (member of the group of tenderers) and „AG-UNS“ Arhitektonsko građevinski institut d.o.o. Novi Sad, ul. dr Jovanovića 4 (member of the group of tenderers), submitted amendment to the tender security No. L/G 25909/19, which extended the tender guarantee until 29.04.2020., as well as the consent with the extension of the tender validity period of tender No. 4495 until March 25<sup>th</sup> 2020.

Tender by the Group of tenderers: „Gradina“ d.o.o. Beograd, Masarikov trg 8, Beograd – Zemun (leading member), „Inobačka“ d.o.o. Novi Sad, Bulevar oslobođenja 30a, Novi Sad (member of the group of tenderers) and „AG-UNS“ Arhitektonsko građevinski institut d.o.o. Novi Sad, ul. dr Jovanovića 4 (member of the group of tenderers) tender number 4495 dated 29.07.2019. has the following deficiencies:

- In accordance with Tender Document, Volume I, Section 2, Instructions to tenderers, clause 2.3. Qualification data under b) Key personnel for the needs of contract realization, it was necessary for the Tenderer to prove, among other things, that the employees with the requested engineering licences must have a work experience as responsible contractor – minimum of 5 years of work experience at the position of responsible contractor in accordance with the foreseen conditions, so that as evidence filled Forms 3.6.6. and 3.5.5.A are requested.

From the requested documentation, the Committee was unable to undoubtedly determine that the mentioned members of key technical personnel on projects mentioned in the resumes, worked as responsible contractors.

On 13.08.2019., filed under number 4837, the Committee sent a Request for clarification to the Tenderer, which requested the submission of the evidence based on which it is possible to undoubtedly determine that the persons mentioned in the requested period performed the duties of responsible contractors, on projects mentioned in their resumes.

On 16.08.2019., filed under number 4950, Tenderer submitted the Clarification, along with Confirmations based on which the Committee undoubtedly determined that the persons mentioned in the requested period performed the duties of responsible contractors, on projects mentioned in their resumes.

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.3. Qualification data, Additional conditions for participation in tender procedure, clause 2. Business capacity under b) it was necessary for the Tenderer to prove that he owns the mentioned certificates (or equivalents) in the field of construction.

According to the mentioned condition, the Tenderer submitted the requested certificates as well as the confirmations on recertification, considering that the validity deadline for the certificates expired one day prior to the Tender opening.

On 16.08.2019., filed under number 4952, the Committee sent a Request for clarification to the Tenderer, in which it requested the Tenderer to answer the questions related to recertification, in order to determine the validity of the submitted Confirmation on recertification, i.e. in order for the submitted confirmation to be considered an evidence requested by the Tender Document.

On 16.08.2019. the Committee requested the clarification also from the Certification body whose certificates and confirmations on recertification were submitted in the Tender by the Tenderer i.e. requested the answers to questions regarding the recertification, in order to be able to undoubtedly determine the validity of submitted Confirmation on recertification.

On 19.08.2019., filed under number 4990, by the Certification body, and on 20.08.2019., filed under number 5016, by the Tenderer, answers/evidence were submitted to the questions regarding the recertification and the validity of submitted evidence.

On 22.08.2019., filed under number 5189, the Committee having in mind the reply of the Certification body sent to the Tenderer the additional Request for clarification in which it is requested for the Tenderer to submit the copies of certificates or reports on recertification of the system for all management systems for which the process of recertification has been successfully finished.

Acting in accordance with the submitted request, on 27.08.2019., filed under number 5222 the Tenderer, as addenda to the submitted Clarification, submitted all copies of all requested certificates.

Based on the submitted the Committee determined that the Tenderer completely fulfils the requested condition of Business capacity under b).

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.1. Instructions to Tenderers, clause 16. Tender submission, Packing and marking of tenders, sub-clause 16.1. paragraph 2, defines that if the Tenders are not packed in accordance with the rules provided in this clause shall be considered a violation of the rules and shall cause the **rejection of Tender**

During the tender opening the Committee noted that the Technical offer (original and copy) and Financial offer (original and copy) are not packed in one outer envelope. Furthermore, the complete Tender is not packed in another outer envelope, by which the Tenderer acted contrary to the requests defined in the Tender Document.

Committee notes that the Tender by the Group of Tenderers: „Gradina“ d.o.o. Beograd, Masarikov trg 8, Beograd – Zemun (leading member), „Inobačka“ d.o.o. Novi Sad, Bulevar oslobođenja 30a, Novi Sad (member of the group of tenderers) and „AG-UNS“ Arhitektonsko građevinski institut d.o.o. Novi Sad, ul. dr Jovanovića 4 (member of the group of tenderers) tender number 4495 dated 29.07.2109. is **technically (administratively) unacceptable tender**.

4. Considering the elapsed time since the tender submission and opening of the technical (administrative) offers, in accordance with Tender Documents Volume I, Section 2, Instructions to Tenderers, clause 13.2., Committee sent on 06.11.2019. the request for extension of the tender validity period of tender no. 4496 dated 29.07.2019. and the request for the extension of the tender security, to the Group of Tenderers: „Energoprojekt visokogradnja“ Bulevar Mihaila Pupina br. 12, Beograd leading member), „BAUWESEN“ d.o.o. Lazarevac, Karađorđeva 32a, Lazarevac (member of the group of tenderers) and „Amiga“ d.o.o. Kraljevo, Tike Kolarevića 66, Kraljevo (member of the group of tenderers).

Prior to the expiration of the initial tender validity period, Group of Tenderers: „Energoprojekt visokogradnja“ Bulevar Mihaila Pupina br. 12, Beograd leading member), „BAUWESEN“ d.o.o. Lazarevac, Karađorđeva 32a, Lazarevac (member of the group of tenderers) and „Amiga“ d.o.o. Kraljevo, Tike Kolarevića 66, Kraljevo (member of the group of tenderers)), submitted the consent with the extension of the tender validity period of tender no. 4496 until March 25<sup>th</sup> 2020. In the same letter, it is stated that the amendment of the tender guarantee will be submitted before the expiry of the validity of the tender security submitted with the tender, which is 25.01.2020.

Tender by the Group of Tenderers: „Energoprojekt visokogradnja“ Bulevar Mihaila Pupina br. 12, Beograd leading member), „BAUWESEN“ d.o.o. Lazarevac, Karađorđeva 32a, Lazarevac (member of the group of tenderers) and „Amiga“ d.o.o. Kraljevo, Tike

Kolarevića 66, Kraljevo (member of the group of tenderers) tender number 4496 dated 29.07.2019. has the following deficiencies:

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.1. Instructions to Tenderers, clause 15. Format and signing of tender, sub-clause 15.2., defines, among other things, that Tender shall be signed by a person or persons authorized to sign on behalf of the Tenderer. Sub-clause 15.4 defines that a Tender submitted by a Consortium/Joint Venture shall be signed by all or an authorized member of the Consortium/Joint Venture. Furthermore, Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 3.4 General data (Questionnaire), Form 3.4.3 Power of Attorney foresees that the Tenderer shall attach the Power of Attorney for the legal representative of a legal entity which authorizes the signatory of the Tender and entire relevant documentation, as well as that the Tenderers do not submit the authorization to sign the Tender and the entire relevant documents in the case of self- submission of the Tender and in the case of Joint Venture/Consortium, where the agreement on establishing a Joint Venture/Consortium authorizes one of the Joint Venture/Consortium partner to sign the Tender and the entire relevant documents, when the offer is submitted by a legal representative of a legal entity.
- During the evaluation of the Tenders the Committee noted that the agreement on establishing a Joint Venture/Consortium, which the Tenderer submitted in his Tender does not contain the provision which authorizes one of the members of Joint Venture/Consortium to sign the Tender and the entire relevant documentation, also the Tenderer did not submit the authorization foreseen in the Form 3.4.3 which authorizes the person to sign the Tender and the entire relevant documentation.
- Furthermore, Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.1. Instructions to Tenderers, clause 10. Tender Content, b) Technical (administrative) Offer foresees for the Technical offer to contain, among other things, under Attachment 2: General Information as requested in Vol. I, Section 3.4 completed in the format indicated in Forms 3.4.1 through to 3.4.5, including the Joint Venture Agreement according to Form 3.4.5 and Power of Attorney authorizing the signatory of the Tender, as well as under Attachment 3: Qualification Information as requested in Vol. I, Section 3.5 completed in the format indicated in Forms 3.5.1-3.5.7.

Regarding the above-mentioned, during the evaluation of Tenders, the Committee noted that the leading member of the consortium „Energoprojekt visokogradnja“ Beograd did not submit Form 3.4.2: Financial identification signed by the bank in which he has an open business account, i.e. submitted form is signed only by the leading member of the consortium. Also, the leading member of the consortium „Energoprojekt visokogradnja“ Beograd did not submit Form 3.5.7 Litigation History.

- Moreover, Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.1 Instructions to Tenderers, clause 15. Format and signing of tender, sub-tender 15.4, defines, among other things, that the Tender legally binds all consortium/joint venture partners, jointly and severally. Tender shall include a copy of the consortium/joint venture agreement which states solidarity and shared responsibility for the execution of the Contract. Also, Tender document, Volume I, Section 2,

Instructions to tenderers, clause 3.4. General data (Questionnaire), Form 3.4.5. Data about Joint Ventures/Consortium, clause f) – III) foresees that as attachment to the form a Joint Venture/Consortium Agreement must be submitted, which, among other things, should contain a provision whereby all members of the group of tenderers for the execution of the contract correspond indefinitely and jointly to the Purchaser.

Committee noted that the Joint Venture/Consortium Agreement, which the Tenderer submitted in hit Tender, does not contain the provision regarding the joint and several liability.

- Tender Document, Volume I, Section 2, Instructions to tenderers, clause 2.3 Qualification data, foresees that the Submission of the Tenders is open to all Tenderers who fulfil the qualification criteria to have fulfilled the obligations which arise from the governing provisions related to safety at work, employment and working conditions, protection of the environment and that as well as that they are not under the prohibition of performance of activities during the Tender submission. The same clause foresees that the mentioned condition is proven by a signed and certified statement from the Tenderer on a letterhead confirming that he meets obligations under the applicable regulations pertaining to safety at work, employment and working conditions, environmental protection, as well as that they are not under the prohibition of performance of activities during the tender submission as well as that the Tenderer, i.e. leading member of the Joint Venture/Consortium, as well as all members and sub-contractors must submit the mentioned evidence.

By overviewing the Tender the Committee noted that the leading member of the consortium „Energoprojekt visokogradnja“ Beograd did not submit the mentioned statement.

- Also, Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.3 Qualification data, in part: Additional conditions for participation in tender procedure, - Financial capacity, under b) foresees the condition that the Tenderer has not been insolvent i.e. that he did not have an account block for a period of 3 (three) years before the publication of the Procurement notice, so that each member of the consortium/joint venture must fulfil this condition. In the same part of the Tender Document it is foreseen that the mentioned condition is to be proven by submitting the confirmation of the competent institution (the body that keeps a register of companies, central bank or tenderer's bank), issued after the publication of the procurement notice that the Tenderer has not been insolvent for a period of 3 (three) years before the publication of the Procurement Notice.

During the evaluation of the Tenders the Committee determined that the leading member of the consortium „Energoprojekt visokogradnja“ Beograd submitted the excerpt from the portal of the National Bank of Serbia on 27.07.2019. with the confirmation that the leading member did not have any registered blockages of the account in the last three years counting from the mentioned date of the excerpt. Also, the leading member of the consortium submitted the excerpt from the portal of the National Bank of Serbia with the confirmation that the leading member did not have any registered blockages of the account in the period from 15.04.2018. to 15.04.2019. Since the Procurement Notice was published on 17.06.2019., the Committee notes

that the Tenderer did not submit the requested evidence that he fulfils the mentioned condition for Financial Capacity.

- Furthermore, Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.3 Qualification data, in part: Additional conditions for participation in tender procedure, 3. Personnel capability, under a) foresees the Total number of workers: In the month preceding the month of the Procurement notice, at least 170 persons are employed, of which at least 120 persons are required to be construction and technical personnel. The same provisions foresee that all the Tenderers, regarding the mentioned condition, must submit Form 3.5.5 B, and that the Tenderers with headquarters in the country of the Purchaser (resident Tenderers – companies established in the country of Purchaser) submit:
- Certificate / excerpt from the Central Registry of compulsory social security with a summary review of all insured persons, for the month preceding the month of the publication of the Procurement notice.
- Also, in part 3. of Personnel capabilities, under b) it is foreseen that the Tenderer must fulfil the condition that in the month preceding the publication of the Procurement Notice he has employed persons with licences defined in the Tender Document, as key personnel for the needs of the realization of this contract. In the same part of Tender Document it is foreseen for the resident Tenderers (companies established in the country of the Purchaser), as evidence of fulfilment of the mentioned criterion, among other things, must submit:
- Certificate / excerpt from the Central Registry of compulsory social security with a summary review of all insured persons, for the month preceding the month of the publication of the Procurement notice.
- Overlooking the Tender by Tenderer the Committee determined that the leading member of the consortium „Energoprojekt visokogradnja“ Beograd did not submit Form 3.5.5B, which is requested by the Tender Document, while the member of the consortium „Amiga“ d.o.o. Kraljevo did not submit the requested Certificate / excerpt from the Central Registry of compulsory social security with a summary review of all insured persons, for the month preceding the month of the publication of the Procurement notice, but he submitted the Excerpt from the electronic data base of Tax Administration of the Republic of Serbia, with excerpts for individual tax applications for tax and deductible contributions for employees, and based on which the number and names of the employed persons at the member of the consortium in the month preceding the month of the publication of the Procurement notice, cannot be determined.

Pursuant to everything abovementioned, the Committee notes that the Tenderer did not submit the evidence for fulfilment of the foreseen condition of Personnel capability.

- Also, Form 3.7.1 General and Particular Conditions of Contract foresees that the Tenderer shall submit the first page of the General Conditions, which are a part of the publication “General Conditions of Contract for construction for building and engineering works designed by the Employer, MDB harmonized edition, June 2010, ISBN 978-86-88809-01-6, 2-88432-044-X, published by Fédération Internationale

des Ingénieurs-Conseils (FIDIC) and each page of the Particular Conditions of Contract which are an integral part of the Tender Documents, which must be initialled by the person authorized to sign the Tender.

During the evaluation of Tenders, the Committee determined that the Tenderer did not submit the first page of the mentioned General Conditions of Contract.

- Tender Document, Volume I, Section 2, Instructions to Tenderers, clause 2.1. Instructions to Tenderers, clause 16. Tender submission, Packing and marking of tenders, sub-clause 16.1. paragraph 2, defines that if the Tenders are not packed in accordance with the rules provided in this clause shall be considered a violation of the rules and shall cause the **rejection of Tender**.

During the Tender opening the Committee noted that the Technical offer (original and copy) and Financial offer (original and copy) are not packed in one outer envelope. Furthermore, the complete Tender is not packed in another outer envelope, by which the Tenderer acted contrary to the requests defined in the Tender Document.

Committee notes that the Tender by the Group of Tenderers: „Energoprojekt visokogradnja“ Bulevar Mihaila Pupina br. 12, Beograd (leading member), „BAUWESEN“ d.o.o. Lazarevac, Karadorđeva 32a, Lazarevac (member) and „Amiga“ d.o.o. Kraljevo, Tike Kolarevića 66, Kraljevo (member) is **technically (administratively) unacceptable tender**.

In accordance with the Tender Document, Volume I, Section 2 Instructions to Tenderers, clause 24. Qualification, the Purchaser shall determine whether the Tenderer meets the qualification criteria and based on the submitted Tender whether he proved to be capable of satisfactory performance of the agreement. Evaluation of the Tenders will be based on a review of the documents which the Tenderer has submitted in his Tender, and which proved the Tenderer's abilities. The Purchaser shall evaluate and compare the Tenders for which he established that they are, in accordance with clause 23. Examination of Tenders:

- (a) complete;
- (b) the documents have been properly signed;
- (c) accompanied by the required Tender Security;
- (d) it is responsive to the requirements of the Tender Documents.

#### **Conclusion of the Committee:**

Upon the evaluated technical (administrative) acceptability of all submitted tenders, the Committee noted that the Tenders by the Tenderers:

- Group of Tenderers: W.D. Concord West d.o.o. Beograd, Zrenjaninski put 150A (leading member), MPP Jedinstvo AD Sevojno, Prvomajska bb (member of the group of tenderers), Modulor d.o.o. Beograd, Nikolaja Saltikova 61 (member of the group of tenderers) and Tesla Sistemi d.o.o. Beograd, dr Ivana Ribara 181a (member of the group of tenderers), Tender number 4493 and 4493/1 dated 29.07.2019.

- Group of Tenderers: „Gradina“ d.o.o. Beograd, Masarikov trg 8, Beograd – Zemun (leading member), „Inobačka“ d.o.o. Novi Sad, Bulevar oslobođenja 30a, Novi Sad (member of the group of tenderers) and „AG-UNS“ Arhitektonsko građevinski institut d.o.o. Novi Sad, ul. dr Jovanovića 4 (member of the group of tenderers) Tender number 4495 dated 29.07.2019.
- Group of Tenderers: „Energoprojekt visokogradnja“ Bulevar Mihaila Pupina br. 12, Beograd (leading member), „BAUWESEN“ d.o.o. Lazarevac, Karadorđeva 32a, Lazarevac (member of the group of tenderers) and „Amiga“ d.o.o. Kraljevo, Tike Kolarevića 66, Kraljevo (member of the group of tenderers) Tender number 4496 dated 29.07.2019,

are not in accordance with Tender Document, and as such they have been evaluated as **unacceptable**.

Upon the evaluated technical (administrative) acceptability of all submitted tenders, the Committee noted that the Tender by the Tenderer:

- Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member of the group of tenderers) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member), Tender number 4494 dated 29.07.2019,

**is in accordance with Tender Documents, and as such has been evaluated as acceptable.**

In accordance with all aforementioned, the Committee suggested to the Purchaser to, in the procurement procedure - execution of construction and construction – craft works for making a part of facility and the garage of “Science and Technology Park” in Novi Sad functional (Phase II/2 and Phase II/2a) procurement number RID – W/IOP1 – 2018, deliver the Decision on the qualification and upon the expiration of standstill period of 10 days from the day of publication of the Decision on the qualification if no complaints were submitted, or after decision on a filed complaint, send an Invitation to the Opening of the Financial Offers to Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member of the group of tenderers) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member), tender number 4494 dated 29.07.2019.

In accordance with the validity of the Decision on qualification no. 707 dated 12.02.2020., and the provisions of the Tender Document Volume I, clause 24.4, paragraph 4, an Invitation for the opening of financial offers no. 2621 was sent on 15.05.2020., to the qualified Tenderer.

The information on public opening of financial offers was published on the website of the Public Sector Projects Implementation Unit Ltd. Belgrade.

The Financial offers opening session was conducted in the premises of Public Sector Projects Implementation Unit Ltd. Belgrade, Veljka Dugoševića 54, 11000 Belgrade, on 18.05.2020. at 10:00 am.



Minutes of financial offers opening was created on the conducted Financial offers opening session, number 2627 dated 18.05.2020., which was then handed to the present authorized tenderers' representatives.

During the procedure of the opening of the financial offers, the following offered price of the qualified Tenderer was noted:

Name of the Tenderer	Offered price EUR, VAT excluded
Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd and „KESZ EPITO SZERELO“ ZRT, Hungary	7.919.505,61

Upon the conducted opening of the financial offers, the Committee conducted the evaluation of the financial offers.

In accordance with the Tender Document, Volume I, Section 2 Instructions to tenderers, clause 27. Evaluation and comparison of Tenders, clause 27.1, the Committee was determining the following regarding the financial offer:

- whether it is complete;
- whether the documents are properly signed;
- whether it is in accordance with the requests form the Tender Document;
- whether it is in accordance with the estimated value of the procurement.

During the evaluation of the tenders, of the financial offers, the Committee, in accordance with the clause 27.4 Instructions to tenderers, conducted the check of the calculation errors in the following manner:

- where there is a discrepancy between the amounts written in figures and in letters, the amount written in letters shall be the valid one; and
- where there is a discrepancy between the unit price and the total price which is obtained by multiplying the unit price and the amount, the unit price shall prevail, and the total price shall be corrected.

It has been determined, during the check, that there are calculation errors in the Tender of the qualified Tenderer, so in accordance with the clause 27.5 of the Tender Document, the correction of the calculation errors has been made regarding which, on 21.05.2020, the Request for the correction of the calculation errors was submitted to the Tenderer, filed at the Purchaser under no. 2757 on 21.05.2020. A deadline was given to the qualified Tenderer, in the mentioned request, to submit the consent to the correction of the calculation errors no later than 25.05.2020. at 12:00.

Qualified Tenderer, submitted the consent to the correction of the calculation errors, in a timely manner on 25.05.2020.

Upon the conducted correction of the calculation errors, the offered price is **7.966.719,70 EUR, VAT excluded.**

Upon the conducted evaluation of the acceptability of the financial offer of the qualified Tenderer, the Committee noted that the Tender by the Tenderer:

- Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd (member) and „KESZ EPITO SZERELO“ ZRT, Hungary (leading member), tender number 4494 dated 29.07.2019.

**is in accordance with all the requests from the Tender Document and the estimated value of the procurement, and as such it was evaluated as the only acceptable one.**

In accordance with the Tender Document, Volume I, Section 2 of the Instruction to Tenderers, clause 29. Award criteria, clause 29.1 Employer will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tender Documents and with the lowest offered price, provided that such Tenderer has been determined to be qualified in accordance with qualification criteria

Pursuant to everything abovementioned, the Committee suggested to the Purchaser to deliver the Decision on contract award and to conclude the contract with the Tenderer - Group of Tenderers: K.E.SZ. International d.o.o. Beograd, Đorđa Stanojevića 12, 11070 Novi Beograd and „KESZ EPITO SZERELO“ ZRT, Hungary, tender number: 4494 dated 29.07.2019., whose Tender was evaluated as acceptable with the offered price of **7.966.719,70 EUR, VAT excluded.**

In accordance with all aforementioned, and with a basis in Committee's recommendation in Evaluation report number 3399/1 dated 17.06.2020. and „No-objection“ letter of European investment bank number 3398 dated 17.06.2020, it has been decided as in the enacting clause.

#### **Legal remedy:**

Tenderer has the right to submit request for the protection of rights to the Purchaser within 10 (ten) days from the date of publication of the decision on the Public Procurement Portal., in accordance with procedure defined in clause 30.4 of Instructions to Tenderers (Volume I, Section 2) of the Tender Dossier

Acting Director  
Dušan Kovačević

