# A. INSTRUCTIONS TO Tenderers

PUBLICATION REF.: GoI/MoH/14/2020

By submitting a tender, Tenderers fully and unreservedly accept the special and general conditions governing the contract as the sole basis of this tendering procedure, whatever their own conditions of sale may be, which they hereby waive. Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender. No account can be taken of any remarks in the tender relating to the tender dossier; remarks may result in the immediate rejection of the tender without further evaluation.

These instructions set out the rules for the submission, selection and implementation of contracts financed under this call for tenders, in conformity with the practical guide (available on the internet at: <http://ec.europa.eu/europeaid/prag/document.do>).

Basic glossary:

AICS: Italian Agency for Development Cooperation. It is the funding donor.

MAECI-DGCS Italian Ministry of Foreign Affairs – Directorate General for the Development Cooperation.

Contracting Authority/Purchaser: Ministry of Health of the Republic of Kosovo.

Beneficiary: University Clinical Center of Kosovo – Cardio Surgery Department.

Contractor/Supplier: The person or entity and/or the consortium of companies that, by signing of the contract, undertake to supply the goods and relevant ancillary services covered by the contract.

# Supplies to be provided

## 1.1 The subject of the contract is the supply, delivery, installation, commissioning, maintenance, after-sales service by the Contractor of the following single lot of goods:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Lot** | **Lot description** | **Item** | **Item description** | **Quantity** |
| A | MEDICAL EQUIPMENT | A01 | Tables, operating | 1 |
| A02 | Lights, surgical | 1 |
| A03 | Surgical instrument set | 1 |
| A04 | Loupes, surgical | 3 |

* The maximum contract value is **102,000.00 Euro (EUR)**.
* The goods must be delivered to the **University Clinical Centre of Kosovo – Cardiac Surgery Unit** within **45 days** of the commencement order in accordance with point 15 of the Contract Notice.
* **Supply Incoterms, version 2010, shall be CIP** (Carriage And Insurance Paid To) University Clinical Center of Kosovo – Cardio Surgery Department.
* The Tenderer shall be ISO 9001 and/or ISO 13485 certified, the Manufacturers of the goods shall be ISO 13485 certified. Copy of all certifications shall be provided in the bid.
* The goods shall be CE marked (MDD 93/42 and further modifications) for medical use and compliant with IEC 60601 last revision standard. Copy of certification shall be included in the bid.
* The supply must be prepared in accordance with the technical specifications set out in this Tender Dossier (Annex II, Technical Specifications).
* The Contracting Authority reserves the right to for the provision of samples of goods included in Item 3 during the evaluation and for evaluation purposes. The samples will be chosen by the Evaluation Committee and may not be more than 20 % ot the total number of products included in Item 3.
* The Tenderers are required to attend the mandatory site visit to the installation site. A certificate of attendance will be issued by the Contracting Authority and shall be included by the Tenderers in the Envelope A of their bid.
* The supply listed above shall be accompanied by a list of spare parts and consumables, itemised, recommended by the Manufacturer and/or by the Supplier based on its technical expertise. The unit prices and the total price of the spare parts will not be taken into account in the evaluation of tenders, except in the event that such prices affect significantly the total cost of ownership f the supplies and are not justified according to the current market. The list of spare parts should be prepared by the Bidder on the basis of the Manufacturer’s recommendations and of its professional experience, in consistency with the equipment technical specifications and bearing in mind that the equipment will be installed and used in Kosovo. The Bidder shall indicate the unit price of each consumable and spare parts. The Contracting Authority reserves in any case the right to proceed or not with the purchase of the spare parts and consumables indicated and as per quoted by the Bidder. The list of spare parts and consumables defined by the Contracting Authority will become part of the contract.
* The Supplier shall include in the bid a proposal for an after-sales and after-warranty service contract, over 1 year and renewable, at least for Item 1 and 2. The proposal shall be itemised. The price of the contract proposal will not be taken into account in the evaluation of tenders, except in the event that the price affects significantly the total cost of ownership f the supplies and are not justified according to the current market. The Contracting Authority reserves in any case the right to proceed or not with the purchase of the after-warranty service contract, as per specified and quoted by the Bidder. The after-sale services defined by the Contracting Authority will become part of the contract.
* The Contracting Authority reserves the right to award the contract even in presence of a single offer. In this event, such offer shall be subject to an assessment of fairness and reasonability.
* All equipment must be new and must carry the original documentation, certifications, manufacturing testing certificates and all applicable related documents, all with date and validation.
* The Supplier shall provide a written warranty of the manufacturer granting the availability of spare parts, consumables, maintenance and support services for at least 10 years from the date of provisional acceptance. The services shall be provided in Kosovo by the Manufacturer or by a Representative officially authorized and certified by the Manufacturer. The service provider shall be physically located in Kosovo.
* The Original Manufacturer's brochure giving all technical information about the model proposed must accompanying the proposal. Failure of providing this information will lead to exclusion form the evaluation process.
* If not specified in the required technical specifications, all equipment which requires regular consumables and reagents must be delivered with one-year stock in normal operation conditions.
* Original software and any other kind of license shall delivered together with the equipment and shall be in the name of the final Beneficiary, if required.
* The Supplier shall provide together with the goods the didactic material for maintenance and user training courses. The didactic material will be in Albanian and shall be approved by the Purchaser.
* All the labels and indications on the equipment as well as the software included with the equipment shall be in Albanian or English.
* The Supplier shall deliver together with the equipment one hard copy and a soft copy (CD, DVD or USB memory) of the operation and maintenance manuals in English with each unit provided. If the Albanian and Serbian versions of these manuals are available by the Manufacturer, they shall be included in the supply.

## 1.2 The supplies must comply fully with the technical specifications set out in the tender dossier (technical annex) and conform in all respects with the drawings, quantities, models, samples, measurements and other instructions.

## 1.3 Tenderers are not authorised to tender for a variant solution or an alternative bid in addition to the present tender.

## 1.4 Subcontracting is allowed according to the terms set out in art. 6 of the General and Special conditions of the contract.

# Timetable

|  |  |  |
| --- | --- | --- |
|  | **DATE** | **TIME\*** |
| **Clarification meeting / site visit (if any)** | Not applicable | Not aplicable |
| **Deadline for requesting clarifications from the Contracting Authority** | **27.08.2020** | **16:00** |
| **Last date on which clarifications are issued by the Contracting Authority** | **07.09.2020** | **16:00** |
| **Date of the site visit** | **20.08.2020** | **11:00** |
| **Deadline for submission of tenders** | **18.09.2020** | **14:00** |
| **Tender opening session** | **18.09.2020** | **14:30** |
| **Notification of award to the successful Tenderer** | **90 days at most** | **-** |
| **Signature of the contract** | **150 days at most** | **-** |

**\* All times are in the time zone of the country of the Contracting Authority provisional date**

**\*\* Provisional date**

# Participation

3.1 Participation is open to all legal persons participating either individually or in a grouping (consortium) of Tenderers with no limitation as regards the country of origin, which fulfil the minimum requirements set out at point 16 of the contract notice.

## 3.2 These terms refer to all nationals of the above states and to all legal entities, companies or partnerships effectively established in the above states. For the purposes of proving compliance with this rule, Tenderers being legal persons, must present the documents required under that country’s law.

## 3.3 The eligibility requirement detailed in subclauses 3.1 and 3.2 applies to all members of a joint venture/consortium and all subContractors, as well as to all entities upon whose capacity the Tenderer relies for the selection criteria. Every Tenderer, member of a joint venture/consortium, every capacity-providing entity, every subContractor providing more than 10 % of the supplies must certify that they meet these conditions. They must prove their eligibility by a document dated less than one year earlier than the deadline for submitting tenders, drawn up in accordance with their national law or practice or by copies of the original documents stating the constitution and/or legal status and the place of registration and/or statutory seat and, if it is different, the place of central administration. The Contracting Authority may accept other satisfactory evidence that these conditions are met.

## 3.4 Natural or legal persons are not entitled to participate in this tender procedure or be awarded a contract if they are in any of the situations listed in point 9 of the Contract Notice (Grounds of Exclusions) or they are in any of the situations mentioned in Sections 2.4. (EU restrictive measures), 2.6.10.1. (exclusion criteria) or 2.6.10.1.2. (rejection from a procedure) of the practical guide. Should they do so, their tender will be considered unsuitable or irregular respectively. Tenderers must provide declarations on honour (envelope A document A14) that they are not in any of these exclusion situations. The declarations must cover all the members of a joint venture/consortium. The tender submitted by Tenderers who make false declarations will be considered irregular.

## The exclusion situations referred to above also 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. When requested by the Contracting Authority, Tenderers/Contractors must submit declarations from the intended subContractors that they are not in any of the exclusion situations. In cases of doubt over declarations, the Contracting Authority will request documentary evidence that subContractors are not in a situation that excludes them.

## 3.5 To be eligible to take part in this tender procedure, Tenderers must prove to the satisfaction of the Contracting Authority that they comply with the necessary legal, technical and financial requirements and have the means to carry out the contract effectively.

## 3.6 Subcontracting is allowed according to the terms set out in art. 6 of the General and Special conditions of the contract, but the Contractor will retain full liability towards the Contracting Authority for performance of the contract as a whole. Where tenders include subcontracting, it is recommended that the contractual arrangements between Tenderers and their subContractors include mediation, according to national and international practices, as a method of dispute resolution.

# Origin

## 4.1 Goods provided in Items 1, 2 and 4 may originate from any country.

Goods provided in Item 3 shall originate from OECD member countries.

For these purposes, ‘origin’ means the place where the goods are mined, grown, produced or manufactured and/or from which services are provided. The origin of the goods must be determined according to the relevant international agreements (notably WTO agreements), which are reflected in EU legislation on rules of origin for customs purposes: the Customs Code (Council Regulation (EEC) No 2913/92) in particular its Articles 22 to 246 thereof, and the Code's implementing provisions (Commission Regulation (EEC) No 2454/93).

## Tenderers must provide an undertaking signed by their representative certifying compliance with this requirement. The Tenderer is obliged to verify that the provided information is correct. Otherwise, the Tenderer risks to be excluded because of negligently misrepresenting information. For more details, see Section 2.3.5. of the practical guide.

## 4.2 When submitting tenders, Tenderers must state expressly that all the goods meet the requirements concerning origin and must state the countries of origin. They may be asked to provide additional information in this connection.

# Type of contract

## Unit-price.

# Currency

## Tenders must be presented in Euro (EUR)[[1]](#footnote-1).

# Lots

This tender procedure is not divided into lots.

## The Tenderer must offer the whole quantity or quantities of items indicated in the single lot. Under no circumstances must tenders be considered for part of the quantities required.

# Period of validity

## 8.1 Tenderers will be bound by their tenders for a period of 120 days from the deadline for the submission of tenders.

## 8.2 In exceptional cases and prior to the expiry of the original tender validity period, the Contracting Authority may ask Tenderers in writing to extend this period by 40 days. Such requests and the responses to them must be made in writing. Tenderers that agree to do so will not be permitted to modify their tenders and they are bound to extend the validity of their tender guarantees for the revised period of validity of the tender. If they refuse, without forfeiture of their tender guarantees, their participation in the tender procedure will be terminated.

8.3 The successful Tenderer will be bound by its tender for a further period of 60 days. The further period is added to the validity period of the tender irrespective of the date of notification.

# Language of tenders

## 9.1 The tenders, all correspondence and documents related to the tender exchanged by the Tenderer and the Contracting Authority must be written in the language of the procedure, which is English.

## If the supporting documents are not written in English, a translation in English must be attached.

# Submission of tenders

## 10.1 Tenders must be sent with registered mail to the Contracting Authority before the deadline specified in 10.3. They must include all the documents specified in point 11 of these Instructions and be sent or hand-delivered to the following address:

Ministry of Health – Procurement Office

Lagjja Arberia, Str. of Zagreb nn. Pristinë, office 009

Republic of Kosovo, 10000

INCLUDE WORKING DAYS AND HOURS

Tenders shall be sent with registered mail or hand delivered with receipt. Proofs of submission of the tender should be hold by the Tenderer.

Tenders must comply with the following conditions:

## 10.2 All tenders must be submitted in one original, marked ‘original’, and and two copies signed in the same way as the original and marked ‘copy’. Each copy must enveloped separately.

## 10.3 All tenders must be submitted to Ministry of Health, Str. of Zagreb nn. Pristinë, Republic of Kosovo 10000 before the deadline **18.09.2020 at 14:00**

## (a) either by registered post or by courier service, in which case the evidence shall be constituted by the receipt of shipment and acknowledgement of delivery with their respective dates.

## (b) or by hand-delivery to the premises of the Contracting Authority by the participant in person or by an agent, in which case the evidence shall be constituted by the acknowledgement of receipt signed by any official of the procurement office of the Ministry of Health of the Republic of Kosovo.

The Contracting Authority may, for reasons of administrative efficiency, reject any application or tender submitted on time to the postal service but received, for any reason beyond the Contracting Authority's control, after the effective date of approval of the short-list report or of the evaluation report, if accepting applications or tenders that were submitted on time but arrived late would considerably delay the evaluation procedure or jeopardise decisions already taken and notified.

10.4 All tenders, including annexes and all supporting documents, must be submitted in a sealed envelope sealed with transparent tape, countersigned across the seam overlap and bearing only:

a) the above address;

b) the reference code of this tender procedure, (i.e. GoI/MoH/14/2020 );

c) where applicable, the number of the lot(s) tendered for;

d) the words ‘Not to be opened before the tender opening session’ in the language of the tender dossier.

e) the name of the Tenderer.

The technical and financial offers must be placed together in a sealed envelope. The envelope should then be placed in another single sealed envelope/package, unless their volume requires a separate submission for each lot.

# Content of tenders

Failure to fulfil the below requirements will constitute an irregularity and may result in rejection of the tender. All tenders submitted must comply with the requirements in the tender dossier and comprise:

**11.1 Envelope A: “Administrative Documentation”**

The Envelope A must contain the following documentation:

* The ‘Tender Form for a Supply Contract’, duly completed, which includes the Tenderer’s statement on its financial and technical capacity and its declaration (from each member if a consortium) (Forms/Envelope A).
* The details of the bank account into which payments should be made (financial identification form) (Forms/Envelope A).
* The legal entity file and the supporting documents as per art. 3.2 of these terms (Forms/Envelope A).
* Tender guarantee (Forms/Envelope A).
* Declaration on honour on exclusion criteria and selection criteria (Forms/Envelope A).

To be supplied in free-text format::

* A description of the warranty conditions, which must be in accordance with the conditions laid down in Art. 32 of the Special Conditions and Art. 32 of the General.
* A declaration of origin of the supplies issued by the Tenderer and according to Article 10 of the Special Conditions and Art. 10 of the General Conditions.
* Duly authorised signature: an official document (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company/joint venture/consortium is duly authorised to do so.
* In the event that the contract be implemented by the Tenderer through a local trader/retailer/dealer, an official document proving that the local trader/retailer/dealer is the official agent of the Tenderer in the country of the contract implementation.
* Statement of the site visit attendance.
* Statement of not being in connection whatsoever with, or not being convicted for or not being under preliminary injunction due to activities of the criminal organizations. Italian Tenderers (from each member if a consortium) must provide a self-declaration that they are not in the conditions as referred to in the Italian Legislative Decree 8.8.1994, n. 490 (“Antimafia”). Non-Italian Tenderers (from each member if a consortium) must provide an equivalent self-declaration, if issuable under their respective national law.
* Certificate of registration of the Tenderer (from each member if a consortium) to the Chamber of Commerce of its country of origin or at other relevant authorising/regulatory bodies.
* Certificate of registration of the Tenderer or its local official agent to the Chamber of Commerce of the country where the contract is implemented.
* Copy of the ISO 9001 and/or ISO 13485 certification of the Tenderer.
* Certificates of good performance execution or handover certificates concerning previous contracts.
* Declaration of no conflict of interest.

**11.2 Envelope B: “Technical Offer”**

The Envelope B must contain the following documentation:

* The technical form duly completed. The form contains the minimum technical requirements that need to be met by the Bidder. The original brochures and any relevant technical report must accompany the technical offer whether applicable. The technical offer should be presented as per template (Annex II+III\*, Contractor’s technical offer) adding separate sheets for details if necessary.
* The list of spare parts and the list of consumables (using the specific template included in Forms/Envelope C with no indication of prices), recommended by the Manufacturer or prepared by the Tenderer based on its expertise.
* A training plan and schedule (using the specific template included in Forms/Envelope B) outlining the methodology and subject of training needed to operate the equipment with quantification of the human resources needed for training.
* The description of the team in charge of the execution of the contract ancillary activities (using the specific template included in Forms/Envelope B).
* The curricula of the team members in charge of the execution of the contract ancillary activities (using the specific template included in Forms/Envelope B). If the curricula proposed do not match with the requirements contained in the Technical Specifications, the Contracting Authority reserves the right to request the Bidder new team members and related curricula.
* The time schedule of delivery, installation, testing and commissioning of the equipment with indication of composition of the technical team needed for such activities (using the specific template included in Forms/Envelope B).
* A soft-copy version of the technical offer.

To be supplied in free-text format::

* Certificate of compliance of each item proposed with the Medical Device Directive (93/42/EEC) and further modifications.
* Certificate of compliance of each item proposed with IEC 60601 last revision standard or equivalent issued by an independent certification authority, if applicable (i.e. for electrical devices).
* Copy of ISO 13485 certification of the Manufacturers.
* A proposal for after-sales service inclusive of an in-warranty period service plan (which shall provide full Manufacturer’s warranty, periodic maintenance and safety/quality checks as per recommended by the Manufacturers and shall include parts, consumables, tools/instruments and complete intervention) and an after-warranty maintenance service that will not be included in the bid price and will not entail any obligation for the Contracting Authority.

**Specific requirements related to the documentation accompanying the technical offer**

* The Tenderer shall provide inside its offer the original Manufacturer's brochure for each item, in hard-copy and soft-copy (CD/DVD or USB memory) support, in English language and, if available, in Albanian and Serbian.
* The Tenderer shall commit in written (free-text) to provide, if awarded, complete and original user and service manuals, in hard copy and soft-copy (CD/DVD or USB memory) support, in English language and, if available, in Albanian and Serbian.
* The user manual shall include all information for proper functioning and operation of the equipment by the user; the user manual shall include, but not be limited to, the following information:
	+ physical description;
	+ features and functions;
	+ operating instructions;
	+ operational checks and technical procedures;
	+ illustrations;
	+ performance characteristics;
	+ adjustments, troubleshooting, calibrations, etc.;
	+ preventive maintenance.
* The service manual shall include all information necessary to carry out a complete maintenance of the equipment at the Clinical Engineering Department of the Hospital; the service manual shall include, but not be limited to, the following information:
	+ system overview with full technical specifications and supply requirements;
	+ installation requirements and instructions;
	+ spare parts list with part number and ordering information;
	+ wiring diagrams and technical drawings/schemes;
	+ list of equipment needed for calibration and routine maintenance;
	+ calibration, quality control and preventive maintenance procedures and checklists;
	+ certificate of inspection and calibration from factory.
* The Supplier shall provide didactic material for user and maintenance training courses, in hard-copy and soft-copy (CD/DVD or USB memory) support, in Albanian, Serbian and English language.

**Specific requirements/instructions related to the supply ancillary services**

**Installation**

* The Tenderer shall include in his offer a detailed installation plan and time schedule.
* Successful Bidder shall be responsible for site inspection and evaluation of:
	+ quality of electric installation (earth, neutral, phases, electric board, etc.);
	+ quality of hydraulic installation (water supply, water pressure, inlets and outlets standards, etc.);
	+ environmental conditions (ventilation, illumination, humidity, etc.);
	+ safety and any other aspect affecting the installation of the equipment.
* Bidders that will not participate to the site visit and inspection will be excluded from the further evaluation process.
* Installation must be carried out by specialized and qualified personnel, certified by the Manufacturer, with at least one senior specialist (relevant experience > 5 years).
* The table below specifies the equipment final destination:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Lot** | **Item** | **Nomenclature** | **Quantity** | **Destination** | **Room** |
| A | A01 | Tables, operating | 1 | Cardio surgery  | Operating theatre 2 |
| A02 | Lights, surgical | 1 | Cardio surgery  | Operating theatre 2 |
| A03 | Surgical instrument set | 1 | Cardio surgery  | Operating theatre 2 |
| A04 | Loupes, surgical | 3 | Cardio surgery  | Operating theatre 2 |

* Installation shall be performed according to the site visit and the technical and architectural plans/drawings enclosed in the tender.
* Successful Bidders shall control the complete execution of contracted services; they may use sub-Contractor or local representative that have been clearly indicated in the submitted proposal; installation must be carried out by specialized and qualified personnel, certified by the Manufacturers.
* The Supplier/Installer shall transport the equipment inside the hospital to the installation site, open the packages and install it according with the installation requirements.
* The Supplier/Installer shall clean-up the site of any packaging/shipping material and any waste produced after installation, the Purchaser can decide to retain the original boxes.
* The Supplier/Installer is responsible to install the equipment ready for testing and commissioning.
* Any damage to hospital structures, finishing or installations caused by the Supplier/Installer will be repaired by the awarded Bidder within 2 weeks using the same construction materials, quality and standards of the damaged areas and restoring all the previous services with the same supply quality.
* The Tenderer will include in the economic offer the installation works cost.

**Testing and commissioning**

* Official testing and commissioning will be carried out once all the items of the lot have been supplied.
* The Supplier/Installer shall test, calibrate and commission the goods, in presence of the Purchaser, as appropriate and in such way that, upon installation completion, they are fully operational and ready for use.
* All the official testing and commissioning procedure costs shall be borne by the Supplier/Installer, including costs for instrumentation and materials.
* Testing and commissioning must be carried out by specialized and qualified personnel, certified by the Manufacturers, with at least one senior specialist (relevant experience > 5 years).
* A complete set of commissioning forms with the entire set of tests run and the results obtained will be handed to the Purchaser after the final reception of the equipment.

**Training**

* The Tenderer shall include in its offer a detailed training plan for users and service technicians, with time schedule and specifying topics, duration and personnel involved, using the specific format included in the tender document.
* User and Technical training shall be provided within 15 calendar days after the installation of the equipment.
* Both User and Technical training must be carried out by specialized and qualified personnel, certified by the Manufacturers.
* Both User and Technical training shall enrol all relevant Hospital’s personnel, users and maintenance technicians, as per provided by the Contracting Authority and/or the Beneficiary.
* All User and Technical training sessions must be carried out by at least two persons, specialized and qualified, certified by the Manufacturers, with at least one senior specialist (relevant experience > 5 years).
* The location of the training course for users and service technicians shall the place where the equipment is delivered and installed.
* The didactic material for user and maintenance training courses shall be in hard-copy and soft-copy (CD/DVD or USB memory), and in Albanian language if available, or alternatively in English.
* The User and Technical training must include for the most complex equipment, such as ITEM A01- tables, operating and A02 – lights, surgical, up to two calls for re-training during the warranty, in the case of personnel originally trained has been substituted by not trained personnel or any other need.
* Minimum training requirements are to be set out according to the recommendations of the Manufacturers and not less than the provisions in table below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Lot** | **Item** | **Nomenclature** | **User training** | **Technical training** |
| A | A01 | Tables, operating | ≥ 3 h | ≥ 4 h |
| A02 | Lights, surgical | ≥ 1 h | ≥ 2 h |
| A03 | Surgical instrument set | ≥ 1 h | ≥ 2 h |
| A04 | Loupes, surgical | ≥ 1 h | ≥ 1 h |

*User training*

* The training courses for users shall be theoretical and practical, using the equipment in the offered configuration, proper instrumentation, testers, simulators and phantoms, and planning simulations of all functions and possible mistakes; the training proposal shall be approved by the Purchaser.
* The training course for users shall include all relevant personnel (doctors, nurses and technicians) of the hospital where the equipment is installed.
* The training course for users shall focus on least on the following topics:
	+ presentation and contacts of the reference application specialist in Kosovo and from the Manufacturer;
	+ equipment's functions in the offered configuration, alarm signals and error signals;
	+ user’s troubleshooting;
	+ calibrations (if applicable), daily cleaning and maintenance operations in order to assure the longest equipment life;
	+ correct equipment utilization and related possible risks for users and patients.
* The average duration of the course shall be not less than what indicated in the table above or by the Manufacturer, whichever is higher.
* A final test shall be organized at the end of the training course in order to verify the know-how acquired.
* Upon completion of the training, the purchaser will issue a statement on training attendance and satisfaction.

*Technical training*

* The training course for maintenance technicians shall be theoretical and practical, using the equipment in the configuration, proper instrumentation, testers, simulators and phantoms, and planning simulation and management of the most common problems; the training proposal shall be approved by the Purchaser.
* The training course for maintenance technicians shall include all relevant biomedical engineers and technicians of the hospital where the equipment is installed.
* The training course for maintenance technicians shall focus at least on the following topics:
	+ presentation and contacts of the reference technical service in Kosovo and from the Manufacturer;
	+ general equipment functions, specific technical characteristics and alarm signals;
	+ main electrical, mechanical and functional schemes;
	+ calibrations (if applicable) and periodic maintenance in order to assure the longest equipment life;
	+ preventive maintenance procedure and its regular recurrence;
	+ problem identification, troubleshooting and corrective maintenance (to identify the problem and the parts needed and to solve problems where the complexity doesn’t require the intervention of the Manufacturer);
	+ safety and quality controls, where applicable.
* The average duration of the training course will be no less then what indicated in the table above or by the Manufacturer, whichever is higher.
* A final test shall be organized at the end of the training course in order to verify the know-how acquired and the results shall be delivered to the Purchaser.
* Upon completion of the training, the purchaser will issue a statement on training attendance and satisfaction.

**11.3 Envelope C: “Financial Offer”**

The envelope C must contain the following documentation:

* A financial offer calculated on a CIP[[2]](#footnote-2) basis for the supplies tendered. This financial offer should be presented as per template (Annex IV\*, Budget breakdown, found in Envelope C), adding separate sheets for details if necessary.
* List of the spare parts and consumables with indication of unit prices (using template in Envelope C).
* A proposal for after-sales service over 1 year, renewable.
* A soft-copy version of the financial offer.

# Taxes and other charges

## Based on the Law of the Republic of Kosovo n.03/L-033, Art.5, paragraph 5.7 and 5.8, the Projects “Support to the Kosovo Health System” financed by AICS is exempted from VAT and custom duties both on goods and services.

# Additional information before the deadline for submission of tenders

The tender dossier should be so clear that Tenderers do not need to request additional information during the procedure. If the Contracting Authority, on its own initiative or in response to a request from a prospective Tenderer, provides additional information on the tender dossier, it must send such information in writing to all other prospective Tenderers at the same time.

Tenderers may submit questions in writing to the following address up to 21 days before the deadline for submission of tenders, specifying the **publication reference and the contract title “Supply of Equipment and Surgical Instruments for the Cardiac Surgery Unit”**:

Contact name: Berat Marmullaku

Adress: Str. of Zagreb nn. Pristine, office 7, Republic of Kosovo, 10000

Telephone: +381 38 200 24 ext. 136

E-mail: berat.marmullaku@rks-gov.net

The Contracting Authority has no obligation to provide clarifications after this date.

Any clarification of the tender dossier will be published on the Ministry of Health of the Republic of Kosovo website at [http://www.msh-ks.org](http://www.msh-ks.org/) at the latest 11 days before the deadline for submission of tenders.

Any prospective tenderers seeking to arrange individual meetings with either the Contracting Authority and/or the Italian Cooperation during the tender period may be excluded from the tender procedure.

# Clarification meeting / site visit

14.1 A mandatory site visit will be held on **20.08.2020 at 11:00** in UCCK, Cardiosurgery Clinic. Attendance shall be confirmed to the following email address: berat.marmullaku@rks-gov.net. No clarification information meeting is foreseen. All the costs of attending the mandatory site visit will be borne by the Tenderers. Other than this site visit for all prospective Tenderers, no visits by individual prospective Tenderers can be organised during the tender period.

# Alteration or withdrawal of tenders

## 15.1 Tenderers may alter or withdraw their tenders by written notification prior to the deadline for submission of tenders referred to in Article 10.1. No tender may be altered after this deadline. Withdrawals must be unconditional and will end all participation in the tender procedure.

## 15.2 Any such notification of alteration or withdrawal must be prepared and submitted in accordance with Article 10. The outer envelope must be marked ‘Alteration’ or ‘Withdrawal’ as appropriate.

## 15.3 No tender may be withdrawn in the interval between the deadline for submission of tenders referred to in Article 10.1 and the expiry of the tender validity period. Withdrawal of a tender during this interval may result in forfeiture of the tender guarantee.

# Costs of preparing tenders

No costs incurred by the Tenderer in preparing and submitting the tender are reimbursable. All such costs will be borne by the Tenderer.

# Ownership of tenders

The Contracting Authority retains ownership of all tenders received under this tender procedure. Consequently, Tenderers have no right to have their tenders returned to them.

# Joint venture or consortium

## 18.1 If a Tenderer is a joint venture or consortium of two or more persons, the tender must be a single one with the object of securing a single contract, each person must sign the tender and will be jointly and severally liable for the tender and any contract. Those persons must designate one of their members to act as leader with authority to bind the joint venture or consortium. The composition of the joint venture or consortium must not be altered without the prior written consent of the Contracting Authority.

## 18.2 The tender may be signed by the representative of the joint venture or consortium only if it has been expressly so authorised in writing by the members of the joint venture or consortium, and the authorising contract, notarial act or deed must be submitted to the Contracting Authority in accordance with point 11 of these instructions to Tenderers. All signatures to the authorising instrument must be certified in accordance with the national laws and regulations of each party comprising the joint venture or consortium together with the powers of attorney establishing, in writing, that the signatories to the tender are empowered to enter into commitments on behalf of the members of the joint venture or consortium. Each member of such joint venture or consortium must provide the proof required under Article 3.5 as if it, itself, were the Tenderer.

# Opening of tenders

## 19.1 The purpose of the opening session is to check whether the tenders are complete, whether the requisite tender guarantees have been provided, whether the required documents have been properly included and whether the tenders are generally in order.

## 19.2 The tenders will be opened in public session on **18.09.2020 time 14:30** at Ministry of Health, Str. Zagreb nn, Prishtinë, Republic of Kosovo 10000 by the appointed committee. The committee will draw up minutes of the meeting, which will be available on request.

In the case that at the date of the opening session some tenders have not been delivered to the Contracting Authority but their representatives can show evidence that it has been sent on time, the Contracting Authority will allow them to participate in the first opening session and inform all representatives of the Tenderers that a second opening session may be organised, if it is determined by the Contracting Authority.

## 19.3 At the tender opening, the Tenderers’ names, the tender prices, any discount offered, written notifications of alteration and withdrawal, the presence of the requisite tender guarantee (if required) and such other information as the Contracting Authority may consider appropriate may be announced.

## 19.4 After the public opening of the tenders, no information relating to the examination, clarification, evaluation and comparison of tenders, or recommendations concerning the award of the contract can be disclosed until after the contract has been awarded.

## 19.5 Any attempt by Tenderers to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the Contracting Authority in its decision concerning the award of the contract will result in the immediate rejection of their tenders.

## 19.6 All tenders received after the deadline for submission specified in the contract notice or these instructions will be kept by the Contracting Authority. The associated guarantees will be returned to the Tenderers. No liability can be accepted for late delivery of tenders. Late tenders, which cannot be accepted according to Art. 10.3 of the Instructions to the Tenderers will be rejected and will not be evaluated.

# Evaluation of tenders

## 20.1 Examination of the administrative conformity of tenders

The aim at this stage is to check that tenders comply with the essential requirements of the tender dossier. A tender is deemed to comply if it satisfies all the conditions, procedures and specifications in the tender dossier without substantially departing from or attaching restrictions to them.

Substantial departures or restrictions are those which affect the scope, quality or execution of the contract, differ widely from the terms of the tender dossier, limit the rights of the Contracting Authority or the Tenderer’s obligations under the contract or distort competition for Tenderers whose tenders do comply. Decisions to the effect that a tender is not administratively compliant must be duly justified in the evaluation minutes.

If a tender does not comply with the tender dossier, it will be rejected immediately and may not subsequently be made to comply by correcting it or withdrawing the departure or restriction.

## 20.2 Technical evaluation

After analysing the tenders deemed to comply in administrative terms, the evaluation committee will rule on the technical admissibility of each tender, classifying it as technically compliant or non-compliant.

## The minimum qualifications required (see selection criteria in contract notice point 16) are to be evaluated at the start of this stage.

Where contracts include after-sales service and/or training, the technical quality of such services will also be evaluated by using yes/no criteria as specified in the tender dossier.

## 20.3 In the interests of transparency and equal treatment and to facilitate the examination and evaluation of tenders, the evaluation committee may ask each Tenderer individually for clarification of its tender including breakdowns of prices, within a reasonable time limit to be fixed by the evaluation committee. The request for clarification and the response must be in writing, but no change in the price or substance of the tender may be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered during the evaluation of tenders pursuant to Article 20.4. Any such request for clarification must not distort competition. Decisions to the effect that a tender is not technically compliant must be duly justified in the evaluation minutes.

## 20.4 Financial evaluation

a) Tenders found to be technically compliant will be checked for any arithmetical errors in computation and summation. Errors will be corrected by the evaluation committee as follows:

- where there is a discrepancy between amounts in figures and in words, the amount in words will be the amount taken into account;

- except for lump-sum contracts, where there is a discrepancy between a unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will be the price taken into account.

b) Amounts corrected in this way will be binding on the Tenderer. If the Tenderer does not accept them, its tender will be rejected.

c) Unless specified otherwise, the purpose of the financial evaluation process is to identify the Tenderer offering the lowest price. Where specified in the technical specifications, the evaluation of tenders may take into account not only the acquisition costs but, to the extent relevant, costs borne over the life cycle of the supplies (such as for instance maintenance costs and operating costs), in line with the technical specifications. In such case, the Contracting Authority will examine in detail all the information supplied by the Tenderers and will formulate its judgment on the basis of the lowest total cost, including additional costs.

## 20.5 Variant solutions

Variant solutions will not be taken into consideration.

## 20.6 Award criteria

The sole award criterion will be the price. The contract will be awarded to the lowest compliant tender.

**21. Notification of award**

The Contracting Authority will inform all Tenderers simultaneously and individually of the award decision. The tender guarantees of the unsuccessful Tenderers will be released once the contract is signed.

# 22. Signature of the contract and performance guarantee

22.1 The successful Tenderer will be informed in writing that its tender has been accepted (notification of award). Upon request of the Contracting Authority and before the signature of the contract with the successful Tenderer, the successful Tenderer shall provide the **documentary proof** or statements required under the law of the country in which the company (or each of the companies in case of a consortium) is effectively established, to show that it is not in any of the exclusion situations listed in Art. 9 of the Contract Notice and Section 2.6.10.1. of the practical guide. This evidence or these documents or statements must carry a date not earlier than one year before the date of submission of the tender. In addition, a statement shall be provided that the situations described in these documents have not changed since then.

The notification award and the terms of the contract are subject to prior approval from part of the Italian Agency for Development Cooperation.

For contracts with a value of less than EUR 300,000, the Contracting Authority may, depending on its assessment of the risks, decide not to require proofs for selection criteria.

## 22.2 The successful tenderer must also provide evidence of financial and economic standing and technical and professional capacity according to the selection criteria for this call for tenders specified in Point 16 of the Contract Notice and in Section 2.6.11. of the practical guide. In particular, but not limited to, the following documentary proofs are required:

* appropriate statements from banks;
* evidence of professional risk indemnity insurance;
* presentation of balance sheets or extracts from balance sheets for at most the last three years for which accounts have been closed, where publication of the balance sheet is required under the company law of the country in which the economic operator is established;
* a statement of overall turnover and turnover for supplies covered by a contract during a period of no more than the last three financial years.

The Contracting Authority may, depending on its assessment of the risks, decide not to require proofs for financial and economic standing and technical and professional capacity.

## 22.3 If the successful Tenderer fails to provide the documentary proof or statement or the evidence of financial and economic standing and technical and professional capacity within 15 calendar days following the notification of award or if the successful Tenderer is found to have provided false information, the award will be considered null and void. In such a case, the Contracting Authority may award the tender to the next lowest Tenderer or cancel the tender procedure.

The Contracting Authority may waive the obligation of any Candidate or Tenderer to submit the documentary evidence referred to above if such evidence has already been submitted for the purposes of another procurement procedure, provided that the issue date of the documents does not exceed one year and that they are still valid. In this case, the Candidate or Tenderer must declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that his/her situation has not changed.

Documentary evidence of the financial and economic capacity and/or of the technical and professional capacity according to the selection criteria specified in Point 16 of the Contract Notice shall be submitted. (See further Section 2.6.11. of the practical guide).

By submitting a tender, each Tenderer accepts to receive notification of the outcome of the procedure by electronic means. Such notification shall be deemed to have been received on the date upon which the Contracting Authority sends it to the electronic address referred to in the offer.

22.4 The Contracting Authority reserves the right to vary quantities specified in the tender by +/- 100 % at the time of contracting and during the validity of the contract. The total value of the supplies may not, as a result of the variation rise or fall by more than 25 % of the original financial offer in the tender. The unit prices quoted in the tender shall be used.

## 22.5 Within 30 days of receipt of the contract signed by the Contracting Authority, the selected Tenderer must sign and date the contract and return it, with the performance guarantee (if applicable), to the Contracting Authority. On signing the contract, the successful Tenderer will become the Contractor and the contract will enter into force.

## 22.6 If it fails to sign and return the contract and any financial guarantee required within 30 days after receipt of notification, the Contracting Authority may consider the acceptance of the tender to be cancelled without prejudice to the Contracting Authority’s right to seize the guarantee, claim compensation or pursue any other remedy in respect of such failure, and the successful Tenderer will have no claim whatsoever on the Contracting Authority.

22.7 The performance guarantee referred to in the general conditions is set at 10 % of the amount of the contract and must be presented in the form specified in the annex to the tender dossier. It will be released within 45 days of the issue of the final acceptance certificate by the Contracting Authority, except for the proportion assigned to after-sales service.

# 23. Tender guarantee

The tender guarantee referred to in Article 11 above is set at 2 % ofthe available budget and must be presented in the form specified in the annex to the tender dossier. It must remain valid for 45 days beyond the period of validity of the tender, or not less than 180 days, whichever is higher. Tender guarantees provided by Tenderers who have not been selected will be returned together with the information letter that the Tenderer has been unsuccessful. The tender guarantee of the successful Tenderer will be released on signing of the contract, once the performance guarantee has been submitted.

# 24. Ethics clauses and code of conduct

## 24.1 Absence of conflict of interest

The Tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other Tenderers or parties involved in the project. Any attempt by a Tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the evaluation committee or the Contracting Authority during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties according to the Financial Regulation in force.

Without the Contracting Authority’s prior written authorisation, Contractors and their staff or any other company with which the Contractor is associated or linked may not, even on an ancillary or subcontracting basis, supply other services, carry out works or supply equipment for the Project. This prohibition also applies to any other Projects that could, owing to the nature of the contract, give rise to a conflict of interest on the part of the Contractors.

When putting forward their candidacy or participating in a tender, Candidates or Bidders must declare that they are affected by no potential conflict of interest, and that they have no particular link with other Bidders or parties involved in the Project. Should such a situation arise during the performance of the contract, the Contractors must immediately inform the Contracting Authority.

## 24.2 Respect for human rights as well as environmental legislation and core labour standards

The Tenderer and its staff must comply with human rights and applicable data protection rules, and undertake not to offend the political, cultural and religious mores of the beneficiary state. In particular and in accordance with the applicable basic act, Tenderers and applicants who have been awarded contracts must comply with the environmental legislation including multilateral environmental agreements, and with the core labour standards as applicable and as defined in the relevant International Labour Organisation conventions (such as the conventions on freedom of association and collective bargaining; elimination of forced and compulsory labour; abolition of child labour).

**Zero tolerance for sexual exploitation and sexual abuse:**

A policy of 'zero tolerance' is applied in relation to all wrongful conduct which has an impact on the professional credibility of the Tenderer.

Physical abuse or punishment, or threats of physical abuse, sexual abuse or exploitation, harassment and verbal abuse, as well as other forms of intimidation shall be prohibited.

## 24.3 Anti-corruption and anti-bribery

The Tenderer shall comply with all applicable laws and regulations and codes relating to anti-bribery and anti-corruption. The MAECI-DGCS and the AICS reserve the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract and if the Contracting Authority fails to take all appropriate measures to remedy the situation. For the purposes of this provision, ‘corrupt practices’ are the offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a contract or execution of a contract already concluded with the Contracting Authority.

## 24.4 Unusual commercial expenses

Tenders will be rejected or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.

Contractors undertakes to supply the MAE-DGCS and the AICS on request with supporting evidence regarding the conditions in which the contract is being executed. Either MAECI- DGCS or AICS may carry out whatever documentary or on-the-spot checks it deem necessary to find evidence in cases of suspected unusual commercial expenses.

Contractors found to have paid unusual commercial expenses on projects funded by the MAE-DGCS or the AICS are liable, depending on the seriousness of the facts observed, to have their contracts terminated or to be permanently excluded from receiving MAE-DGCS or AICS funds.

## 24.5 Breach of obligations, irregularities or fraud

The Contracting Authority reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to breach of obligations, irregularities or fraud. If breach of obligations, irregularities or fraud are discovered after the award of the contract, the Contracting Authority may refrain from concluding the contract.

## 24.5 Additional clauses

Any attempt by Candidates or Bidders to obtain confidential information, enter into unlawful agreements with competitors or influence the Contracting Authority during the process of examining, clarifying, evaluating, and comparing tenders will lead to the rejection of his candidacy or tender and may result in administrative penalties.

Civil servants or other officials of the public administration of the beneficiary country, regardless of their administrative situation, must not be engaged as experts by the Tenderers unless the prior approval of the AICS has been obtained.

Contractors must at all times act impartially and as a faithful adviser in accordance with the code of conduct of their profession. They must refrain from making public statements about the Project or services without the contracting authority’s prior approval. They may not commit the Contracting Authority in any way without its prior written consent.

The Contractors may accept no payment connected with the contract other than that provided for therein. The Contractors and their staff must not exercise any activity or receive any advantage inconsistent with their obligations to the Contracting Authority.

The Contractor and their staff are obliged to maintain professional secrecy for the entire duration of the contract and after its completion. All reports and documents drawn up or received by the Contractor are confidential.

The contract shall govern the contracting Parties' use of all reports and documents drawn up, received or presented by them during the execution of the contract.

The Contractors shall refrain from any relationship likely to compromise their independence or that of their staff. If Contractors cease to be independent, the Contracting Authority may, regardless of injury, terminate the contract without further notice and without the Supplier having any claim to compensation.

Failure to comply with one or more of the ethics clauses may result in the exclusion of the Candidate, Bidder or Contractor from other MAE-DGCS and AICS contracts and may entail penalties. The individual or company in question must be informed of the fact in writing.

It is the obligation of the Contracting Authority to ensure that the procurement procedure is concluded in a transparent manner, based on objective criteria and disregarding any possible external influences.

# 25. Cancellation of the tender procedure

If a tender procedure is cancelled, Tenderers will be notified by the Contracting Authority. If the tender procedure is cancelled before the tender opening session the sealed envelopes will be returned, unopened, to the Tenderers.

Cancellation may occur, for example, if:

* the tender procedure has been unsuccessful, namely where no suitable, qualitatively or financially acceptable tender has been received or there has been no valid response at all;
* the economic or technical parameters of the project have changed fundamentally;
* exceptional circumstances or *force majeure* render normal implementation of the project impossible;
* all technically acceptable tenders exceed the financial resources available;
* there have been breach of obligations, irregularities or frauds in the procedure, in particular where these have prevented fair competition;
* the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the Tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market.

**In no event will the Contracting Authority be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure even if the Contracting Authority has been advised of the possibility of damages. The publication of a contract notice does not commit the Contracting Authority to implement the programme or project announced.**

# 26. Appeals

Tenderers believing that they have been harmed by errors or irregularities during the award process may file a complaint to the Contracting Authority in relation to any issue arising during award process within 30 (thirty) days of the date of the award notification.

Contracting Authority will respond within 30 (thirty) days of the date of the complaint notification.

In any case, the tenderers will have the possibility to appeal to the Court of Prishtinë under the terms provided for by the procedural law of Kosovo for any issue regarding the award procedure. Likewise, the company awarded the contract will have the possibility to appeal to the Court of Prishtinë for any issue related to the execution of the contract.

**27. Data Protection**

If processing your reply to the invitation to tender involves the recording and processing of personal data (such as names, contact details and CVs), they will be processed solely for the purposes of the management and monitoring of the tender and of the contract by the data controller without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application national laws.

In cases where you are processing personal data in the context of participation to a tender (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) you shall accordingly inform the data subjects of the details of the processing and communicate the above mentioned privacy statement to them.

Processing of personal data related to this tender procedure by the Contracting Authority takes place in accordance with the national legislation of the state of the Contracting Authority and with the provisions of the respective financing agreement.

# 28. 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, and communicated to the persons and entities listed in the above-mentioned decision, in relation to the award or the execution of a procurement contract.

# 29. Additional clauses

In addition to what provided for above, in the Contract Notice, and in the Special and General Conditions of the contract, the following terms apply, which harmonize the latest edition of the “Rules and Procedures for service, supply and works contracts financed from the general budget of the European Commission in the context of cooperation with third countries” – PRAG with the fundamental principles of Italian law on procurement and development aid.

**29.1 CONTRACTOR ELIGIBILITY**

### 29.1.1 The rule on objectivity and impartiality

To avoid any conflict of interest, any natural or legal person, including entities within the same legal group, members of consortia, temporary associations, and sub-contractors, involved in the preparation of the Project shall be excluded from participating in tenders or from submitting offers aimed at the implementation of the Project.

**29.2 CONTRACT GENERAL PRINCIPLES**

### 29.2.1 Contract award and execution shall assure proper quality of performance, and respect the principles of economical convenience, efficiency, timeliness, and fairness. Contract award must also abide by the principles of free competition, equal treatment, non-discrimination, transparency, proportionality, and, whenever possible, publicity.

29.2.2 Upon prior agreement of the Parties, economical convenience may be counterbalanced by social fairness, protection of public health, conservation of environment, and promotion of sustainable development.

29.2.3 Award procedures shall be cancelled if there are fewer than three eligible candidates/bidders. In presence of adequately motivated technical reasons, even less than three eligible offers may be accepted, shall the fundamental principles mentioned in art. 29.2.1 be respected.

29.2.4 Contracts may not be modified, unless the modification is approved by the AICS pursuant to following clauses. Contractors are not entitled to any payment or reimbursement whatsoever for activities carried out without prior authorization. If AICS or the Contracting Authority so requires, contractors may be forced to restore, at their own expenses, the original state before the unauthorized modification.

29.2.5 Bidding documents shall specify the financial amount available for the contract to be awarded. This amount has to be intended as starting bid. Any offer above such starting bid shall not be considered.

29.2.6 Modifications of supply and service contracts shall be effective upon AICS prior authorization, which may only be granted in the following cases:

29.2.6.1 modifications of applicable laws and regulations;

29.2.6.2) unforeseen and unforeseeable circumstances, including the implementation of new materials, components or technology not existing when the award procedure was commenced, provided that the modifications ameliorate the quality of the performance, without increasing the contract total amount;

29.2.6.3 events related to the nature or the quality of the goods or places where the contract activities take place, which occur during the contract execution and were unforeseeable when the contract was made;

29.2.6.4 unless otherwise provided, the above-mentioned modifications may not increase or reduce the total contract amount beyond 20 %;

29.2.6.5 modifications, which, in the interest of the contracting authority, increase or reduce the total contract amount, necessary to improve the quality and performance of the project are allowed up to 5 %, provided that the funding is available and no substantial modification is made; the modifications shall be only due to objective reasons, unforeseeable when the contract was made;

29.2.6.6 Contractors may not refuse the above-mentioned modifications; such modifications shall be executed at the same contractual conditions;

29.2.6.7 Contractors shall execute any non-substantial modification that the contracting authority may see fit, provided that the nature of the activity is not fundamentally altered and no additional costs are imposed.

29.2.8 Contracts may not be assigned to a third party. In case of assignment, the contract shall be automatically terminated.

29.2.9 Subcontracting is allowed up to an amount of 30% of the total contract amount. The bidding documents must specify if subcontracting is allowed and the conditions thereof. Upon submitting their bids, Bidders must declare which supplies/services/works they intend to subcontract. Contractors must deposit subcontracts with the Contracting Authority at least 20 days before commencing the execution of the subcontracts. Subcontractors must be eligible for the supplies/services/works they are assigned.

29.2.10 Contract prices shall be firm, fixed, and non-revisable.

29.2.11 Contract prices shall be denominated and paid exclusively in Euro (EUR). Exchange rate risk or variations may not be subject to compensation whatsoever.

29.2.12 The contract shall be automatically terminated if the Contractors are the subject of proceedings for a declaration of bankruptcy, for winding-up, for administration by the courts, for an arrangement with creditors or for any similar procedure provided for in national legislation or regulations.

29.2.13 In case of malice or grave negligence, Contractors’ liability may not be limited.

29.2.14 Contract execution shall be governed by the law of the beneficiary state.

29.2.15 Disputes arising between the Contractors and the Contracting Authority shall not be submitted to the jurisdiction of the Italian courts.

29.2.16 Bidding documents shall include the above-mentioned principles.

29.2.17 The Italian party reserves the right to apply the fundamental principles of Italian law, should any legal gap arise.

### **29.****3 ELIGIBLE AND INELIGIBLE COSTS**

29.3.1 The costs included in the contract(s) shall be eligible if they are actual, economic, and necessary for carrying out the Project pursuant to Project document.

29.3.2 In any case, the following items shall not be considered eligible:

a) voluptuary or luxury goods (e.g. perfumes, cosmetics, art objects, spirits, sports goods, etc.);

b) goods, services and civil works directly or indirectly connected to police or military activities;

c) non-income / non-profit taxes (including VAT) and import duties;

d) provisions for outstanding debts and future losses of the beneficiary or the final users;

e) interests owed by the beneficiary or the final users to any third party.

1. The currency of tender shall be the currency of the contract and of payment. [↑](#footnote-ref-1)
2. INCOTERMS definition: CIP – Carriage and Insurance Paid to [↑](#footnote-ref-2)