

**REPUBLIC OF BULGARIA**  
**MINISTRY OF REGIONAL DEVELOPMENT AND PUBLIC WORKS**  
**"ROAD INFRASTRUCTURE' AGENCY"**

**DOCUMENTATION**

**ABOUT PARTICIPATION IN NEGOTIATION PROCEDURE WITH ANNOUNCEMENT  
FOR PUBLIC PROCUREMENT WITH SUBJECT:  
„SELECTION OF CONTRACTOR FOR DESIGN AND EXECUTION OF EMERGENCY  
REPAIR AND REHABILITATION WORKS OF THREE VIADUCTS AT "TRAKIA  
MOTORWAY AT KM 61+327 AND KM 67+027 AND "HEMUS" MOTORWAY AT  
KM 30+874**

**PART ONE - APPLICATION INSTRUCTIONS**

Sofia, 2012

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**SECTION I. DECISION FOR OPENING THE PROCEDURE FOR AWARD OF PUBLIC  
PROCUREMENT**

## **SECTION II. ANNOUNCEMENT OF PUBLIC PROCUREMENT**

### SECTION III. FULL DESCRIPTION OF THE PUBLIC PROCUREMENT SUBJECT

1. Subject of public procurement is „SELECTION OF CONTRACTOR FOR DESIGN AND EXECUTION OF EMERGENCY REPAIR AND REHABILITATION WORKS OF THREE VIADUCTS AT "TRAKIA MOTORWAY AT KM 61+327 AND KM 67+027 AND "HEMUS" MOTORWAY AT KM 30+874 “

**The present public procurement comprises three separate items, as follows:**

**Separate item № 1:** „Design and execution of emergency repair and rehabilitation works of "Trakia" Motorway viaduct at km 61+327.

**Separate item № 2:** Design and execution of emergency repair and rehabilitation works of "Trakia" Motorway viaduct at km 67+027

**Separate item № 3:** Design and execution of emergency repair and restoration works of "Hemus" Motorway viaduct at km 30+874.

**1.1.** The construction site has the following characteristics:

**Site description:**

**1.1.1. Separate item № 1:** „Design and execution of emergency repair and rehabilitation works of "Trakia" Motorway viaduct at km 61+327

Defects and faults have been found at the structure and their rapid development requires the implementation of immediate emergency repair and rehabilitation works in order the developing destructive processes to be stopped and the structure to be put in operation in compliance with the norms, regulations and requirements in force.

Considering the observations made, repair of the following components shall be required:

#### ROADWAY

The road way is heavily worn out and needs full rehabilitation including:

- change and/or repair of existing railings and elastic fence;
- pavement block repairs;
- change of dilatation joints;
- drainage system repair and improvement;
- mounting of grates to the road ditches and covers for the communication pits;
- removal of protective reinforced concrete over the waterproofing and making of flat, compact waterproof foundation with the corresponding slopes on the entire road way of superstructures;
- making of reliable waterproofing, preventing penetration of water through the road plate;
- making of asphalt-concrete cover; the new leveling shall eliminate the influence of superstructures suspension, by laying of reinforced concrete layer, linked to the existing plate and to avoid laying of “dead’ leveling layers additionally increasing the constant loads.

#### SUPERSTRUCTURE AND SUBSTRUCTURE

Rehabilitation shall cover the structure damaged parts and shall include:

- removal of destructed concrete and salt deposits on the components surfaces by sand-blasting or water blasting;
- white metal blast finish of uncovered corrosive mild reinforcement;
- restoration of components design section of concrete by using appropriate repair systems;
- treatment of found cracks with appropriate compositions;
- making of watertight cover of the edge main beams’ outer side by impregnation or lubrication, aiming to undertake preventive measures for long-term concrete quality assurance;
- cleaning the steel bearings from corrosion and laying of protective anti-corrosion coating;
- rehabilitation of bearings quadrae.

#### STRUCTURE SURROUNDING AREA

Rehabilitation shall provide for correct collecting and leading away of surface water from the terrain and road way.

**1.1.2. Separate item № 2:** „Design and execution of emergency repair and restoration works of "Trakia" Motorway viaduct at km 67+027”.

Defects and faults have been found at the facility and their rapid development requires the implementation of immediate emergency repair and restoration works in order the developing destructive processes to be stopped and the facility to be put in operation in compliance with the norms, regulations and requirements in force.

Considering the observations made, repair of the following components shall be required:

ROAD WAY

The road way is heavily worn out and needs full rehabilitation including:

- change and/or repair of existing railings and elastic fence;
- pavement block repairs;
- change of dilatation joints;
- drainage system repair and improvement;
- mounting of grates to the road ditches and covers for the communication pits;
- removal of protective reinforced concrete over the waterproofing and making of flat, compact waterproof foundation with the corresponding slopes on the entire road way of superstructures;
- making of reliable waterproofing, preventing penetration of water through the road plate;
- making of asphalt-concrete cover; the new leveling shall eliminate the influence of superstructures suspension, by laying of reinforced concrete layer, linked to the existing plate and to avoid laying of “dead” leveling layers additionally increasing the constant loads.

SUPERSTRUCTURE AND SUBSTRUCTURE

Rehabilitation shall cover the structure damaged parts and shall include:

- removal of destructed concrete and salt deposits on the components surfaces by sand-blasting or water blasting;
- white metal blast finish of uncovered corrosive mild reinforcement;
- restoration of components design section of concrete by using appropriate repair systems;
- treatment of found cracks with appropriate compositions;
- making of watertight cover of the edge main beams’ outer side by impregnation or lubrication, aiming to undertake preventive measures for long-term concrete quality assurance;
- cleaning the steel bearings from corrosion and laying of protective anti-corrosion coating;
- rehabilitation of bearings quadrae.

STRUCTURE SURROUNDING AREA

Rehabilitation shall provide for correct collecting and leading away of surface water from the terrain and road way.

**1.1.3. Separate item № 3:** „Design and execution of emergency repair and rehabilitation works of "Hemus" Motorway viaduct at km 30+874”.

Defects and faults have been found at the structure and their rapid development requires the implementation of immediate emergency repair and rehabilitation works in order the developing destructive processes to be stopped and these unique bridge facilities to be put in operation in compliance with the norms, regulations and requirements in force.

Considering the observations made, repair of the following components shall be required:

ROAD WAY

The road way is heavily worn out and needs full rehabilitation including:

- change and/or repair of existing railings and elastic fence;
- pavement block repairs;
- change of dilatation joints;
- drainage system repair and improvement;
- mounting of grates to the road ditches and covers for the communication pits;

- removal of protective reinforced concrete over the waterproofing and making of flat, compact waterproof foundation with the corresponding slopes on the entire road way of superstructures;
- making of reliable waterproofing, preventing penetration of water through the road plate;
- making of asphalt-concrete cover; the new leveling shall eliminate the influence of superstructures suspension, by laying of reinforced concrete layer, linked to the existing plate and to avoid laying of “dead” leveling layers additionally increasing the constant loads.

#### SUPERSTRUCTURE AND SUBSTRUCTURE

Rehabilitation shall cover the structure damaged parts and shall include:

- removal of destructed concrete and salt deposits on the components surfaces by sand-blasting or water blasting;
- white metal blast finish of uncovered corrosive mild reinforcement;
- restoration of components design section of concrete by using appropriate repair systems;
- treatment of found cracks with appropriate compositions;
- making of watertight cover of the edge main beams’ outer side by impregnation or lubrication, aiming to undertake preventive measures for long-term concrete quality assurance;
- cleaning the steel bearings from corrosion and laying of protective anti-corrosion coating;
- rehabilitation of bearings quadrae.

#### STRUCTURE SURROUNDING AREA

Rehabilitation shall provide for correct collecting and leading away of surface water from the terrain and road way.

Each candidate shall make an observation, use expertise and prepare a tender bid in such manner, that the facility shall comply with the requirements, stated in Eurocode 1,2,7 and 8 after completion of emergency restoration works.

### **SECTION IV. REQUIREMENTS AND EVIDENCE FOR THE ECONOMIC AND FINANCIAL STATUS AND TECHNICAL CAPABILITIES AND/OR QUALIFICATIONS OF APPLICANTS IN THE PUBLIC PROCUREMENT FOR THE PURPOSE OF PRELIMINARY SELECTION**

1. The Contracting Authority conducts preliminary selection, aiming to determine the applicants, having the necessary financial and technical capabilities to implement the public procurement.

**2.1 For each separate item, the applicant in the procedure shall comply with the following requirements for economic and financial status:**

- a) earned incomes from construction contracts (including new construction, reconstruction, major repair, rehabilitation) of bridges, viaducts and other road structures, recovery and reinforcement of road structures with air placed concrete (schotcrete) and other methods, total for the last 3 fiscal /2009, 2010 and 2011/ years, not less than **7 (seven) million BGN, excluding VAT**;
- b) access to its own financial resources, credit line or an equivalent financial instrument, to amount not less than **700 000 / seven hundred thousand/ BGN, excluding VAT**

The access to resources under the previous sentence shall be unconditional, excluding the provision stipulating the applicant to be selected for contractor.

In case the applicant is a consortium, which is not a legal entity, the requirements under i.1.1 shall be fulfilled by the consortium or any of its members.

**2.2.** In evidence of their economic and financial status, the applicants shall submit the following documents:

- 2.2.1.** certified copies from constituents of the annual financial statements for the past 3 fiscal years /2009, 2010 and 2011/, in case their publishing is required by the legislation of the country in which the applicant has been established. If the fiscal year has not been ended

according to the legislation of the country or the term for making the financial statements has not been passed, the applicant submits interim financial statements; their contents being certified by the signature of statement compiler and applicant's legal representative or by a person, explicitly authorized by the legal representative with notary verified power of attorney.

a) certified copy of the balance sheets for past 3 fiscal /2009, 2010 and 2011/ years;

b) certified copy of the profit and loss accounts for past 3 fiscal /2009, 2010 and 2011/ years;

c) audit reports or declaration, that the applicant is not subjected to mandatory financial audit as per the provisions of Accountancy law

**2.2.2** information about the turnover from construction, similar to the subject of the contract (including new construction, reconstruction, overhaul, rehabilitation) of large road facilities for the past three fiscal years /2009, 2010 and 2011/ in total, depending on the date on which the Applicant has been established or started operations. The information is provided on the blank of a completed Appendix № A1. The execution of contracts, stated in Appendix № A1 is proved by a recommendation from the Contracting Authority of under the relevant contract, certificate of completion, certificate for final payment or other document issued by a person different from the Applicant, proving the contract's finalization;

**2.2.3** the access to financial resources shall be proved by bank certificate, proving the financial resources availability. The certificate shall state in unambiguous manner that the access to financial resources under this item does not depend on any conditions (including ones, related to the bank's funding regulations), excluding the condition that applicant to be selected for contractor.

*\* In case the applicant participates for more than one separate item, the requirements under item 2 shall be considered complied with, if the applicant meets the higher required values, i.e. without summing up.*

### **3. The applicant in the procedure shall meet the following requirements for technical capabilities and qualifications.**

**3.1.** For the past 5 years /2007, 2008, 2009, 2010 and 2011/, he must have completed a contract/contracts for new construction and/or reconstruction and/or overhaul and/or rehabilitation of three facilities with gauge larger than 20 meters and total length more than 100 m. In order to prove the technical capabilities and qualification under the present item 3.1. the applicant provides the information under this item.3.1 on the blank of a completed Appendix № A2.. The execution of contracts, stated in Appendix № A2 is proved by a recommendation from the Contracting Authorities showing the subject of the corresponding project, scope and volume of works, contract value, contract signing date and period of implementation, as well as the requirements for gauge and length, stated above, certifying the execution of sites, mentioned in previous section;

**3.2.** it shall have a team available for implementing the design and construction: persons to carry out technical management during construction, including quality control assurance (management team) and workers and employees (experts and competent technical staff).

**3.2.1.** The minimum members of management staff, responsible for the public procurement execution shall be as follows:

#### **A/. Construction site manager shall**

- have a master's degree in "road construction"
- have work experience in road construction for more than 10 years;
- have particular experience in the field of bridge, viaducts and other road facilities construction, in recovery and reinforcement of bridges and other road facilities with air placed concrete (gunite) and other modern methods for a period, not less than 8 years.

### **B/.Construction site deputy manager shall**

- have a master’s degree in “road construction”
- have work experience in road construction for more than 10 years;
- have particular experience in bridge, viaducts and other road facilities construction, in recovery and reinforcement of bridges and other road structures with air placed concrete (shotcrete) and other modern methods for a period, not less than 5 years.

**3.2.2.** The minimum requirements for the design team members are as follows:

#### **A/. Design team manager shall:**

- have master degree in “Transport construction” or similar subject, if the degree was obtained in a country where no such subject exists,
- have work experience in the road sector for more than 10 years,
- have at least 6 years of particular experience in road and large facilities design;
- have been a team manager for at least 2 (two) road projects with large road facilities

#### **B/. Road engineer shall:**

- have master degree in “Transport construction” or similar subject, if the degree was obtained in a country where no such subject exists,
- have work experience in the road sector for more than 10 years,
- have at least 6 years of particular experience in road design;
- have been a leading designer for at least 2 (two) road projects.

#### **C/. Designer shall:**

- have master degree in “Transport construction” or similar subject, if the degree was obtained in a country where no such subject exists,
- have work experience in the road sector for more than 10 years,
- have at least 6 years of particular experience in large facilities design;
- have been a leading designer for at least two large structures with a total clearance larger than 100 meters

#### **D/. Geodesist shall:**

- have master degree as “Geodesy engineer” or equivalent,
- have work experience as geodesist for more than 10 years,
- have at least 6 years of particular experience as geodesy engineer in the field of road design;
- have participated in field-measurement works during the design of at least 2 (two) road sites.

The compliance with the requirements as per items 3.2.1 and 3.2.2 shall be proved with Appendices № A3, A4, A5 and A6.

*\* In case the applicant participates for more than one separate item, he shall be obliged to submit separate team for each of the separate items with the tender bid.*

**3.2.3.** Certificates for designers capacity (for the design team only), copies of diplomas and copies of records of service (or equivalent document showing employment or retirement length of service) shall be submitted for persons as per items 3.2.1 and 3.2.2, as well as other documents issued by third parties attesting to their qualifications shall be submitted.

In cases whereupon the educational system of the applicant’s graduation country does not have “master’s degree”, he/she shall prove that his/her educational degree corresponds to the “master’s degree” according to Bulgarian legislation.

If an indication of the particular subject is missing in the educational system of the educational institution issued the diploma, the copy of the diploma should be provided with the sheets, stating the studied subjects.

**3.2.4.** Should a applicant – a foreign person/entity, has indicated in his application (Appendix № A6) that the public procurement shall be executed with a number of workers and employees, whose nationality is not one of the European Union member-states or a state – member of the European Economic Area or the Swiss Confederation, he shall submit a declaration form - Appendix No. №

A7, stating that he shall, at his own risk provide visas, residence permits and work permits for the stated number of workers and employees, as required by the Bulgarian legislation.

**3.3.** it shall have the capabilities to provide technical equipment for the public procurement execution, including testing and inspection, enabling the quality assurance for the construction and assembly works done at the site - construction machines and technical equipment for the public procurement execution, not less than;

- Earth excavation machine	1 pc.
- Bulldozer	1 pc.
- Dumpers	2 pcs.
- Wheel loader	1 pc.
- Mobile crane 20 t.	1 pc.
- Mobile crane min .200 t	1 pc.
- Asphalt cutter	1 pc.
- Concrete pump	1 pc.
- Ready mix truck	2 pcs.
- Asphalt paving machine	1 pc.
- Machine for emulsion	1 pc.
- Water tank	1 pc.
- Road compactors (rollers) including tire type	3 pcs.
- Compressor	1 pc.
- Pneumatic hammers	2 pcs.
- Water blasting machine	1pc.
- Air placed concrete equipment	1pc.
- Equipment for coating of protective and recovering mixtures for concrete structures	1pc.

The information under i.3.3 shall be submitted on the blank of completed Appendix № A17, and documents, verifying the grounds for use of the equipment by the applicant shall be applied for the equipment, stated in the Appendix.

**3.4.** The applicant shall have capabilities for production and/or supply of construction products in quantities and in quality, necessary for the project implementation in accordance with the technical specifications.

**3.5.** The applicant shall have implemented quality management system, certified under ISO 9001:2008 standard (or equivalent), as well as implemented environmental management system ISO 14001:2004 (or equivalent). The requirement shall be proved by documents, verifying the compliance with the corresponding standards.

**4.** All declarations and lists, being part of applicant application shall be signed by the applicant's legal representative or by person explicitly authorized by the legal representative with notary verified power of attorney, except:

**4.1** Appendices № A4, A5 and A10 shall be submitted to the application, which shall be signed by the physical person they refer to, without the option for authorization.

**4.2.** Appendix № A9, shall be submitted to the application, which shall be signed by the applicant's legal representative, without the option for authorization.

**5.** Applicant may submit verification for registration in official list of approved economic entities of European Union member-state. In this case the Applicant shall not be expelled from the procedure for award of public procurement on the grounds of not having been submitted any of the documents as per i. 2.2, i. 3.1, i. 3.2, and i. 3.5 provided that circumstance is evidenced by the submitted verification.

**6.** Any Applicant may use the resources of one or more other physical persons or legal entities (third party) when executing the public procurement, provided that it proves that it has available such resources. The Commission The will assume that the applicant will have third party resources available, if it submits contracts or other documents, permitted by the law of the state

by place of contraction, thus unconditionally ascertaining that the documents submitted are binding for the contract duration of implementation.

**6.1.** The persons under i.3.2, hired under labor or civil contract by the applicant, shall not be considered for using third parties resources.

**7.** The provisions of i. 6 shall also be applied when the applicant in the procedure is a consortium of physical persons and/or legal entities;

**8.** Applicant may refer to previous projects under i.2.1 and 3.1, fulfilled as a main contractor, including as member of consortium, but within the limits of its own participation in the project. The applicant may refer to previous projects in its capacity of subcontractor, but limited to the subject of the subcontractor agreement only and within the value of subcontractor agreement accordingly.

## **SECTION V. CIRCUMSTANCES, THE PRESENCE OF WHICH IS GROUNDS FOR EXCLUSION OF APPLICANTS AND DOCUMENTS VERIFYING THEIR NON-EXISTANCE**

- 1.** Applicant, for which any of the below circumstances as per Article 47, paragraph 1 and 2 of the Public Procurement Act /PPA/ are a fact, shall be excluded from the procedure:
  - 1.1.** has been convicted by an effective sentence, unless rehabilitated, for:
    - a) a criminal offence against the financial, tax or social security system, including money laundering under Art. 253-260 of the Penal Code;
    - b) bribery under Article 301 to 307 of the Penal Code;
    - c) participation in a criminal organization under Article 321 and 321a of the Penal Code;
    - d) a criminal offence against property under Article 194 to 217 of the Penal Code;
    - e) a criminal offence against the economy under Article 219 to 252 of the Penal Code;<sup>1</sup>
  - 1.2.** has been declared bankrupt <sup>2</sup>;
  - 1.3.** is in a legal procedure of insolvency or in similar procedure according to the national laws and subordinate legislation<sup>3</sup>;
  - 1.4.** is the subject of pending proceedings for a declaration of bankruptcy or has reached an out-of-court agreement with the creditors thereof within the meaning given by Article 740 of the Commerce Act, and in the cases where the applicant is a foreign person, is in a similar procedure under the national laws and subordinate legislation, including where the activities thereof are under administration by the court or applicant has suspended business activities<sup>4</sup>;
  - 1.5.** is deprived of rights to practice a particular profession or activity according to the legislation of the country where the violation has been committed<sup>5</sup>;
  - 1.6.** is found guilty for non observing its obligations under a contract for public procurement, proved by the Contracted authority with court decision;
  - 1.7.** has incurred any pecuniary obligations to the State or to a municipality within the meaning given in Article 162 (2) of the Tax-Insurance Procedure Code, established by an effective act of a competent authority, unless a rescheduling or deferral of the said obligations has been allowed, or in case the applicant is a foreign person, financial obligations, related to payments of social security or tax contributions in compliance with the regulations of the country, in which the applicant is established<sup>6</sup>; has effective administrative penalty for recruiting of illegal resident foreigners for the last 5 years (art. 47, para. 2, i. 4 of PPA);
  - 1.8.** has been convicted with effective sentence for crime under art. 313 of the Penal Code related to carrying out of procedures for award of public procurement
- 2.** The requirements as per i. 1.1, i. 1.5 and i. 1.8 shall be applied as follows:

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<sup>1</sup> Art. 47, para. 1 i. 1 of PPA.

<sup>2</sup> Art. 47, para. 1 i. 2 of PPA.

<sup>3</sup> Art. 47, para. 1 i. 3 of PPA.

<sup>4</sup> Art. 47, para. 2 i. 1 of PPA.

<sup>5</sup> Art. 47, para. 2 i.2 of PPA.

<sup>6</sup> Art. 47, para. 2 i. 3 of PPA.

- 2.1. in general partnerships – for the persons under Art. 84, Para 1 and Art. 89, Para 1 from Commerce act;
  - 2.2. in limited liability partnership – for persons as per art. 105 from the Commerce act, excluding the limited liability partners;
  - 2.3. in limited liability company – for persons as per art. 141, para. 2 from the Commerce act, and in case of single person limited liability – for persons as per art. 147, para. 1 from the Commerce act;
  - 2.4. in joint-stock company – for authorized persons as per art. 235, para. 2 from the Commerce act, and in case no authority is granted – for persons as per art. 235, para. 1 from the Commerce act;
  - 2.5. in limited liability partnership with shares – for persons as per art. 244, para. 4 from the Commerce act;
  - 2.6. in the rest of the cases, including foreign persons – persons, representing the applicant or the applicant.
  - 2.7. in cases as per i. 2.1 – 2.6 - and for procurators as well, if any; in case the foreign entity has more that one procurators, the declaration is submitted solely by the procurator, whose representative power is valid for the territory of the Republic of Bulgaria.
3. Any foreign person or legal entity whereto any of the circumstances covered under Article 47 (1) and (2), of the Public procurement act, stated in i. 1<sup>7</sup>. applies in the country where the said person is established, shall be ineligible for participation in a public procurement award procedure
4. Applicants shall be ineligible for participation in a public procurement award procedure if:
- 4.1. persons, covered by item 2 are related persons with the Contracting Authority or high-ranked officials in its organization;
  - 4.2. has signed a contract with a person under art. 21 or 22 of the Law on preventing and disclosure of conflict of interest<sup>8</sup>.
5. When the applicant is a consortium or anticipates sub-contractors for the public procurement execution, the requirements of art. 47, para. 1, 2 and 5 from PPA, listed in i.1 and the requirements of i.4 are applied to all consortium members and the sub-contractors respectively;.
- 6.1 The non-existence of circumstances as per i. 1 and i.4 shall be verified with autographically signed declaration by each of persons as per i.2 on the blank of Appendices № 1, 2 and 3.
- 6.2 Applicants shall be obliged, within the procedure period, to inform the Contracting authority about any change in circumstances as per i.4.2 within 7-day term after they occur.
7. Other circumstances, the existence of which is grounds for exclusion of the applicants:
- 7.1. Any of the required appendixes to the application has not been submitted;
  - 7.2 . The application and the appendixes are not submitted in Bulgarian language;
  - 7.3. In any other cases, provided any of the documents, required by the Contracting authority has not been submitted and/or in case of incomplete or incorrect references or appendixes, if the above problems are not solved by the applicant under the provisions of art. 68 para. 8 of PPA.

## **SECTION VI. GENERAL INSTRUCTIONS FOR SUBMISSION OF APPLICATION**

- 1. Each applicant has the right to present one application only for any of the separate items as per the stipulations of art. 57, para. 3 of the PPA. When the applicant in the procedure is a foreign legal entity or a consortium of foreign legal entities, the application and the attached documents shall meet the requirements of art. 56, para. 4 of the PPA.
- 2. Provided it is stated that any of the mentioned documents may be submitted as “verified copy”, the document is considered as such, if the copy has the following contents:
  - 2.1. «true copy of the original»;
  - 2.2. name and family name of the person, verified the document;
  - 2.3. verification date;
  - 2.4. hand signature of the person, endorsed in blue colour under the verification.

<sup>7</sup> Art. 48, para. 1 of PPA.

<sup>8</sup> Art. 47, para. 5 of PPA.

- 2.5. All constituents of the application shall be signed by the manager in charge and according to his/her current registration.
- 3.1. Provided submission of power of attorney is required by the documentation or by law, it shall contain all data for the parties (proxy/authorized person/ and principal), as well as an explicit statement that the authorized person is entitled to sign the application and to represent the applicant in the procedure.
- 3.2. No power of attorney is submitted for a applicant in the procedure, in case it is a consortium and not a legal entity, if the consortium's articles of association have appointed him to represent the consortium.
4. If UIC /unified identity code/ is specified, the applicant is entitled to refer to art. 23, para. 4 of the Commercial Register Act and not to provide evidence of circumstances listed in the commercial register and not to present acts, already reported in the commercial register. In these cases, the list of documents indicates «Not applicable according to art. 23, para. 4 of the Commercial Register Act ».
5. The following requirements shall apply to documents, issued outside Bulgaria or in a foreign language:
  - 5.1. Legalization of all official documents, issued in foreign countries is required, including the registration certificate of the applicant, notarized documents, etc. The legalization requirement under the preceding sentence shall not apply to documents issued in countries - parties by the Convention on elimination of the requirement for legalization of foreign public acts, which is enough to have an Apostile to be placed on. The text of the Convention and the list of member-states could be found on Internet address: <http://www.hcch.net/e/conventions/menu12e.html><sup>9</sup>
  - 5.2. All documents in a foreign language shall go together with translation in Bulgarian. The translation of applicant's registration certificate or the translation of the identity document, in case the applicant is physical person shall be official translation<sup>10</sup>.
6. Any person may review and/or purchase this public procurement documentation, hereinafter referred to as "documentation", together with the appendixes – constituting its integral part.
7. In the open procedure for awarding of public procurement contract, any Bulgarian or foreign physical person or legal entity, or a consortium of such persons/entities<sup>11</sup>, purchased the documentation may submit an application.
8. Submission of application means that the applicant is acquainted with the documents, provided by the Contracting authority, accepts them and intends to participate in the procedure.
9. All pages in the application shall be signed and numbered. Each document in the documents list shall refer to the page of the application it could be found.
10. Applications shall be received in RIA registry Sofia, “Macedonia” blvd. № 3 every working day from 10 to 12 AM and from 14 to 17 till 15.06.2012, included as per the deadline, stated in the notification.
11. Applications shall be opened, reviewed, evaluated and ranked by commission, appointed by the Contracting authority as per art. 34 of PPA.

## **VI.1. SUBMITTING OF APPLICATION**

1. Applications for participation in preliminary selection shall be submitted as per the stipulations of art. 57, para. 1, 3, 4 and 5 of PPA, by fax or by phone. In case the application is announced by phone, the applicant shall confirm it in writing prior the expiry of the deadline for applications acceptance. In case the application for participation is sent by fax, the applicant should confirm it by a letter, with advice of delivery or by e-mail not later than 17.00 on 15.06.2012. In the rest of the

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<sup>9</sup> The legalization of document is verification of a fact that the official document is issued by a competent authority in the relevant jurisdiction. When the document is issued by a State, party by the Convention on eliminating the requirement of legalization for foreign public documents, the document, it is enough to be fitted with an Apostille.

<sup>10</sup> Official translation shall mean a translation, done by a translator in contractual relations with the Ministry of Foreign Affairs for legalized translations.

<sup>11</sup> Art. 9 of PPA

cases, the sample blank of Appendix № A11 shall be used for the written application or confirmation.

- 2.1** The application for participation shall be drawn in Bulgarian language including when submitted by foreign physical persons or legal entities.
- 2.2** The application shall be submitted in a sealed opaque envelope, marked at the bottom right corner with the designation "Application"
- 3.** The following documents shall be placed in the envelope under i.2.2 as well:
  - 3.1** Verified copy of registration document for a applicant, not stated its unified identity code in accordance with art. 23 of the Commercial Register Act, and if the applicant is physical person - identity document. If the applicant in the procedure is a foreign physical person or legal entity or a consortium of the above, the document is submitted officially translated in Bulgarian language<sup>12</sup>.
  - 3.2** Participation Guarantee in original. Participation guarantee shall be submitted in one of the following forms:

- cash deposit in the Contracting authority bank account (RIA administration):

Bank: Bulgarian National Bank – central office

IBAN: BG03 BNBG 9661 3300 1659 03

BIC: BNBGBGSD

- bank guarantee issued in favour of the Contracting authority. In case the guarantee is a bank guarantee, the latter shall be as per Appendix № A12; or another form containing the same or better conditions for the Contracting Authority;

- 3.3** A copy of the document (invoice) for purchased documentation.
- 3.4** Evidence of economic and financial status in accordance with Section IV, i. 2.2
- 3.5** Evidence of technical capacity and/or qualification as per Section IV, i. 3
- 3.6.** Declarations for non-existence of the circumstances as per art.47, para 1, 2 and 5 of the Public Procurement Act (PPA) according to Section V, i. 6.1;
- 3.7.** Information about sub-contractors, which include:
  - 3.7.1.** List of sub-contractors who will participate in the public procurement execution, if such are provided for. The list is included in the completed tender form - Appendix № A13 and it contains the sub-contractors name, types of Construction and Assembly Works (CAW) or the activities they will perform and the share of their participation (percentage of the total contract price).
  - 3.7.2.** Declaration from each of the sub-contractors regarding their agreement to participate in the public procurement execution in accordance with Appendix № A14;
- 3.8.** Notarized power of attorney of the person, representing the applicant in the public procurement procedure (original). Power of attorney shall be submitted when:
  - 3.8.1.** The Applicant is a consortium, which is not a legal entity; in these cases the person representing the applicant should be authorized by all applicants in the consortium, in accordance with the instructions from Section VI, i. 3.1.
  - 3.8.2.** The application or parts thereof have not been signed by the managing body, representing the applicant according to its current registration. When copy of documents have been attached to the application, they shall be verified as „true copies of the original" by the corresponding applicant.
- 3.9.** Declaration under art. 9 as of RIA Internal rules (Appendix № A15)
- 4.1.** When a applicant in the procedure is a consortium – not a legal entity, an original or notarized copy of the registration document for the consortium establishment shall be submitted with the application. This document shall unconditionally verify that the applicants in the consortium bear the joint liability for the participation in the public procurement and for the period of the contract implementation. A declaration for joint liability shall be separately attached to the application (according to the sample Appendix № A16), signed by each member of the consortium.
- 4.2** In case of consortium – not a legal entity, the documents under the present i. 3.1, i. 3.4. (referring Section IV, i. 2.2.1. and 2.2.2.only), i. 3.5 (referring Section IV, i. 3.1. and i. 3.4) and i. 3.7, shall be submitted by each physical or legal entity, partner in the consortium. Every sub-contractor shall

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<sup>12</sup> Official translation shall mean a translation, done by a translator in contractual relations with the Ministry of Foreign Affairs for legalized translations.

submit the documents under i. 3.1, i. 3.4. (referring Section IV, i. 2.2.1. and 2.2.2.only), i. 3.5 (referring Section IV, i. 3.1. and i. 3.4) in accordance with the type and share of its participation.

5. The applicant has not the right to submit an application during the preliminary selection.

## SECTION VII. VEIWING OF APPLICATION

1. The Contracting authority appoints a commission for carrying out the procedure under the provisions of art. 34 – 36 of the PPA.
- 2.1 Tendered in the procedure or their authorized representatives may attend the action of the commission for opening the envelopes with the applications, as well as representatives of the mass media or non-profit legal entities upon submission of document for membership to the specific media/organization.
- 2.2 In case applicants' authorized representatives attend the commission meeting for opening the applications, they should submit power of attorney (original or verified copy "True copy of the original" by the applicant), providing them an opportunity to attend the meeting.
- 3.1 The commission alone verifies the compliance of the applications with terms and requirements of art. 68, para.7 – 11 of PPA, preliminary announced by the Contracting authority.
- 3.2 The commission may at any time check the data, submitted by the applicants, to ask for clarifications about the documents, submitted with the applications, as well as for additional evidences about data.
4. The commission reviews applications received and makes a selection of applicants based on the submitted documents, verifying their economic and financial status, technical capabilities and/or qualification about the public procurement execution..
5. In all cases, where any of the required documents by Contracting Authority has not been attached to the application and/or violations have been found in the submitted documentation, the Commission gives an opportunity to the applicants to eliminate the violation as per the stipulations of art. 68, para. 8 of PPA
6. The Commission proposes a applicant for exclusion provided it:
  - 6.1 any of the required documents under i 3 from Section VI.1.has not been submitted;
  - 6.2. any of the circumstances under art. 47, para. 1, 2 and 5 of PPA as per Section V, i. 6.1 are available.
  - 6.3. application, non-complying with the preliminary announced terms by the Contracting authority as per Section VI is submitted or the application is submitted during the selection stage.
7. The Commission draws a memorandum about the preliminary selection results as art. 88, para. 4 of the PPA.
8. The Contracting authority announced a decision about the applicants to be invited to submit a tender bid within 5 working days from the date of the memorandum under i. 7. The decision states the applicants, non-complying with the Contracting authority requirements, as well as the grounds for their exclusion.
- 9.1 The Contracting authority sends the decision about preliminary selection under i.8 simultaneously to all applicants within three-days period, and sends to applicants under i.8, sentence one written invitations for participation in contracting procedure.
- 9.2. The Contracting authority sends, within the term under i.9.1 simultaneously to selected applicants written invitation for submitting a tender bid. The invitation contains final term and place for submitting the tender bids, as well as number and date of publishing the notification for public procurement, e-mail for access to specifications and additional documents.
10. Evaluation of the bids shall be carried out by the "lowest price" criterion". Instructions for submitting the bid and attached appendices shall be sent with the invitation.

## SECTION VIII. PARTICIPATION GUARANTEE

1. The guarantee for participation in the public procurement for each separate item amounts **70 000 (seventy thousand) BGN**, in case of submission of ban guarantee for participation in the procedure, the latter shall have a validity period of 120 days after the final term for submitting the applications, stated in the Announcement.

**2.1** Contract performance guarantee shall be at the amount of 3 % from the contract value, VAT excluded.

Guarantees may be under the form of bank guarantee for the determined value or cash amount, deposited in RIA account:

**Bank: Bulgarian National Bank – central office. № 1“Al Batenberg” sq**

**IBAN: BG03 BNBG 9661 3300 1659 03**

**BIC: BNBG BGSD**

The performance guarantee shall be submitted by the applicant, selected as Contractor prior signing the contract for public procurement execution.

All costs for opening the deposits and guarantees and their possible adoption shall be at the applicant's expenses. Guarantees shall be released as per the PPA stipulations.

**2.2.** bank guarantee issued in favour of the Contracting authority, as per Appendix № A12; or another form containing the same or better conditions for the Contracting Authority.

**3.** The cost of opening and servicing the guarantees shall be borne by the applicant. The applicant shall provide and pay all fees for opening and servicing of guarantees so that the amount of guarantee obtained by the Contracting authority shall not be less than the amount specified in this procedure.

**4.** The Contracting authority shall release the participation guarantee without interest for the period during which the funds have been lawfully at his disposal.

**5.** The Contracting authority is entitled to retain the guarantee for participation in the procedure in the cases under art 61 of the PPA.

**6.** The Contracting Authority shall release the participation guarantees in accordance with art 62 of the PPA.

#### **SECTION IX. EXCHANGE OF INFORMATION FOR CONDUCTING THE PUBLIC PROCUREMENT PROCEDURE BETWEEN THE CONTRACTING AUTHORITY AND THE STAKEHOLDERS AND THE APPLICANTS IN THE PROCEDURE**

**1.** The Contracting Authority shall notify each party, purchased documentation, each applicant respectively, about any of its decisions, having regard to its participation in the procedure.

**2.** The exchange of information between the Contracting Authority and the stakeholders/applicants/, including the notification as per i.5 shall be in writing, in Bulgarian language and done by means of:

a) handing personally, against signature, or

b) electronically at the e-mail addresses, specified by the Contracting authority or stakeholders/applicants or

c) by fax, to the numbers, specified by the Contracting authority or stakeholders/applicants;

d) by mail – registered letter with advice of delivery, sent to the address, stated by the stakeholders/applicants;

e) by combination of means under items „a”-„d”.

**3.** The exchange of information by handing it personally, against signature is done by the Contracting authority via the contact persons, stated in item I.1 in the announcement). The information is received by the stakeholder/applicant via contact persons, stated during the purchasing of instructions,

**4.** Upon notification by electronic mail or fax notification, it is considered as valid, if it is sent to the addresses in accordance with i.2 and an automatically generated message confirming the sending.

**5.** In the event of changing the indicated correspondence address and fax, the persons, purchased the documentation and the applicants are obliged to duly inform the Contracting authority within 24 hours term.

**6.** Correspondence address or fax, stated incorrectly or failing to inform the Contracting authority about any change of the correspondence address or fax, releases the Contracting authority from responsibility for incorrect sending of notices or information.

7. The exchange and keeping of information in the course of conducting the procedure for award of public procurement is done in a manner that ensures integrity, authenticity and confidentiality of information.
8. When submitting its application for participation in preliminary selection, the applicant may indicate which part of it is confidential and may require from the Contracting Authority not to disclose such confidential information. The Contracting Authority has no right not disclose information provided by applicants and designated by them as confidential in terms of technical or commercial secret, except for in the cases as per i. 8.1. and i. 8.2.
- 8.1. art. 44 of PPA regarding the Contracting authority obligation to send the information about the concluded contract to the Public Procurement register;
- 8.2. art. 73, para. 4 and 5 of PPA, when should a applicant request so in writing, the Contracting authority shall be obliged to grant the said applicant access to the memorandum to submit a copy of the memorandum. In such case the Contracting authority shall make efforts and refuse access to some of the data contained in the memorandum where disclosure of the said data conflicts with a statutory instrument or prevents, restricts or breaks the competition.
9. The Contracting authority shall provide documentation for participation to stakeholders against payment of the price, indicated in the announcement on paper and electronic bearer. Any person may review the contents of documents at site, via the contact person, stated in the announcement Part Two from the documentation and its appendices shall be provided free of charge with the Invitation for participation under art. 89, para. 1 of PPA.

## **SECTION X. OTHER INSTRUCTION**

1. All costs related to participation in open procedure for the award of public procurement, including costs related to studies and providing an evidence of the public procurement shall be fully borne by the stakeholders, respectively by the applicants.
2. By concluding the procedure for awarding of a public procurement, no exchange of information on matters related to its carrying out is allowed, except as stipulated under the provisions of the Public Procurement Act (PPA) and in the documentation between the stakeholder or their representatives and:
  - a) authorities and officials of the “Road Infrastructure” Agency administration (RIA), related to conducting of the public procurement procedure;
  - b) authorities, officials, consultants and experts which have participated in the drafting and acceptance of the participation documentation:
3. Authorities, officials, consultants and experts involved in conducting the procedure have no right to reveal information about their actions on or regarding the open procedure, except in cases and under the stipulations of the documentation.
4. Publication of notice for the procedure for award of public procurement in mass media in the country or abroad, as well as via Internet is not a violation of the requirements, set in i.3, provided it is done after the promulgation of the notice for the open procedure on the Internet site of “State Gazette” and in the “Official Journal” of the European Union, hereinafter called "the announcement”.
5. The provisions of Public Procurement act shall apply to all matters, related to conducting the procedure and drafting the documentation, not mentioned in the documentation itself.

## **SECTION XI. APPENDICES**

- Appendix №A1** Form of major contracts list in accordance with Section IV, i. 2.2.2 from the present documentation;
- Appendix №A2** Form of major contracts list in accordance with Section IV, i. 3.1 from the present documentation;
- Appendix №A3** Form of list of persons, responsible for technical management during construction process, including for quality control assurance during the public procurement execution;

- Appendix №A4** Form declaration of persons under Section IV, i. 3.2.1 and i. 3.2.2 from the present documentation;
- Appendix №A5** Form of working experience and personal data reference sheet under Section IV, i. 3.2.1 and i. 3.2.2 from the present documentation;
- Appendix №A6** Form of reference sheet for number of workers and employees, participating in the public procurement execution;
- Appendix №A7** Form of declaration under Section IV, i. 3.2.4. from part one of the present documentation;
- Appendix №A8** Form of declaration under art. 47, para. 1, i. 1 and para. 2, i. 2 and i. 5 of PPA
- Appendix №A9** Form of declaration under art. 47, para. 1, i. 2 and i. 3, para. 2, i. 1, i. 2a, i. 3 and i. 4 and para. 5, i. 2 of PPA
- Appendix №A10** Form of declaration under art. 47, para. 5, i.1 of Public Procurement Act;
- Appendix №A11** Form of application for participation in preliminary selection;
- Appendix №A12** Form of participation bank guarantee;
- Appendix №A13** List of sub-contractors;
- Appendix №A14** Form of declaration about agreement for participation as sub-contractor in public procurement;
- Appendix №A15** Form of declaration under art. 9 of the "Road Infrastructure" Agency Internal Organization Rules for conducting public procurement procedures and for control of their execution;
- Appendix №A16** Joint liability declaration;
- Appendix №A17** List of technical equipment for public procurement execution, including equipment for testing and control;
- Appendix №A18** Form of declaration under art. 56, para. 1, i. 11 of PPA.

**Documentation is approved by RIA management board Decision, memo 3848/12 dated 31.05.2012 regarding opening a procedure for award of public procurement.**