

**Preparation of project documentation for increasing the safety on the railway level crossings in the Western Balkans**

**PS/SRV/LCS/005/2023**

**INSTRUCTIONS FOR THE TENDERERS**

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## **I. SECTION I: CONTRACTING AUTHORITY**

### **I.1) NAME AND ADDRESS**

The Transport Community through Permanent Secretariat of of Transport Community

Address: Beogradjanka building, Masarikova 5/8, 11000, Belgrade, Serbia

Internet addresses: <https://www.transport-community.org/>

Email address: [procurement@transport-community.org](mailto:procurement@transport-community.org)

All communications related to this procurement procedure must be addressed at the coordinates mentioned above and in the Contract Notice/invitation to tender.

TCT Secretariat shall not be held liable if the Tenderer does not comply with this instruction.

### **I.2) JOINT PROCUREMENT**

The contract does/does not involve joint procurement.

The contract is not awarded by a central purchasing body.

### **I.3) COMMUNICATION**

The procurement documents are available for unrestricted and full direct access, free of charge, at: [Open tenders - Transport Community \(transport-community.org\)](https://www.transport-community.org/)

Deadline for submission of the request for clarification is 4 calendar days before the latest date for submission of the tender.

Tenders or request to participate shall be submitted electronically, by email, at [procurement@transport-community.org](mailto:procurement@transport-community.org).

Tenderers are invited to examine all documents and notify the Contracting Authority of any conflicts, errors, discrepancies, etc. or to request the clarifications that are considered necessary using the coordinates of the contact person(s) mentioned above.

#### **I.3.1) REQUESTS FOR ADDITIONAL INFORMATION DURING PREPARATION OF TENDERS**

The TCT Secretariat considers that the tender documentation provides potential tenderers with sufficient details on the requirements, criteria, rules and other guidance necessary to ensure complete, correct and explicit information on the procurement procedure, and on this to decide whether or not to submit a tender under this award procedure. However, economic operators have the right to request additional information regarding the tender documentation, according to the instructions below.

The requests for additional information shall be made solely for the purpose of clarifying the procurement documents.

Any interested economic operator has the right to request additional information regarding the Tender Documentation until the deadline mentioned above (paragraph I.3) COMMUNICATION.

Any request for additional information shall be made in writing only and send at the email address [procurement@transport-community.org](mailto:procurement@transport-community.org);

The TCT Secretariat shall respond to the timely received requests for additional information as soon as possible, and no later than 3 (three) days before the last date for submitting the tenders.

**TCT Secretariat shall not be bound to reply to requests for additional information received after the specified deadline but may do so if feasible, in due observance of the deadline specified in the paragraph above.**

All the responses to requests for clarifications/additional information (if any) and all the modifications /corrigenda shall be published in the same way as the contract notice / invitation to tender and will be part of the Tender Documentation.

The TCT Secretariat may, on its own initiative, inform interested parties of any error, inaccuracy, omission, or any other type of clerical error in the text of the procurement documents.

### **I.3.2) MODIFICATIONS OF THE TENDER DOCUMENTATION**

Where appropriate, the TCT Secretariat may amend the content of the tender documentation by issuing a corrigendum which shall be communicated/published no later than 6 (six) days before the date set for the submission of tenders.

The TCT Secretariat shall allow a sufficient time for the interested economic operators to prepare the Tenders. If necessary, the time for submission of the Tenders shall be extended considering the content of the information included in the corrigendum.

### **I.3.3) EXTENSION OF THE TIME FOR SUBMISSION OF THE TENDERS**

The time for submission of tender shall be extended when:

- following the request for clarification/additional information significant changes are made to the procurement documents; and/or
- the TCT Secretariat does not answer within the deadline stated at point I.3.1 above.

The time for submission of tender shall not be extended if clarifications/additional information have

either not been requested in good time or its importance with a view to preparing responsive tenders is insignificant.

#### **I.4) TYPE OF THE CONTRACTING AUTHORITY AND MAIN ACTIVITY**

The Transport Community is an international organisation in the field of mobility and transport, consisting of 33 participants – the EU and the six Western Balkans regional partners, established by the Treaty establishing the Transport Community.

Permanent Secretariat of Transport Community (“TCT Secretariat”) is one of the institutions set up under the Treaty. TCT Secretariat provides administrative support to the other institutions of the Transport Community, acts as a Transport Observatory to monitor the performance of the indicative TEN-T extension of the comprehensive and core networks to the Western Balkans and supports the implementation of the Western Balkans Six (WB6) Connectivity Agenda aiming to improve links within the Western Balkans as well as between the region and the European Union. It also reviews and monitors the implementation of the obligations under the Treaty

## **II. SECTION II: OBJECT**

### **II.1) SCOPE OF THE PROCUREMENT**

#### **Title and reference number**

Preparation of project documentation for increasing the safety on the railway level crossings in the Western Balkans **(PS/SRV/LCS/005/2023)**

#### **CPV code**

34632000 Railways traffic-control equipment

34632200 Electrical signalling equipment for railways

71311230 Railway engineering services

#### **Type and conditions of contract: Services**

Tenderers need to take full account of the provisions of the draft contract (Annex 10) as the latter will define and govern the contractual relationship(s) to be established between the Contracting Authority and the successful tenderer(s). Special attention is to be paid to the provisions specifying the rights and obligations of the Contractor, in particular those on risks assignment, payment schedule and conditions, performance of the contract, confidentiality, and checks and audits.

## **Short description**

The objective of this assignment is to hire a contractor to prepare procurement documentation to improve the safety of railway level crossings in the Western Balkans. This includes the administrative and technical aspects of the tender documents for the improvement of signaling and control-command systems. The contractor will also be responsible for defining the conditions of the supply and installation of equipment and related works.

## **Estimated total value**

- Estimated total value without VAT is: **120.000,00**
- Currency: **EUR**

## **Information about lots**

This contract is not divided in lots.

### **II.2.1 Place of Performance**

The services shall be delivered in the Republic of Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, the Republic of Serbia and the Contractor's place of business.

### **II.2.2 Description of the Procurement**

The services to be performed are described in the Technical Specifications.

### **II.2.3 Award Criteria**

The contract/framework agreement will be awarded based on the most economically advantageous tender, according to the 'best price-quality ratio' award method.

Tenders will be evaluated on the basis of the following award criteria and their weighting:

#### **1. Price - 40%**

The price considered for evaluation will be the total price of the Financial Proposal, covering all the requirements set out in the Technical Specifications.

#### **2. Quality – 60%**

The quality of the tender will be evaluated based on the criteria set in the following table. The maximum total quality score is 100 points.

Tenders must score a minimum number of points for each criterion, as indicated in the table below. The minimum no. of total points to be scored is 60. Tenders that do not reach the minimum thresholds for each criterion or a total number of 60 points will be rejected and will not be ranked.

No	Award Criteria	Maximum Points	Minimum threshold
1.	<p><b>Qualification and experience of key personnel</b></p> <p>Meeting the minimum requirements for the key expert whose profile is defined in section 8.1 of the Technical Specifications equals to 26 points.</p> <p>The remaining 24 points shall be granted based on the project related experience of the key expert, as following:</p> <ul style="list-style-type: none"> <li>- 8 points shall be granted for each additional project covering the criteria defined in section 8.1 of the Technical Specifications (project related experience row), other than those considered for proving fulfillment of the minimum requirement.</li> <li>- No more than 5 projects shall be considered overall (2 for reaching the minimum threshold, other 3 for getting the maximum no. of points). The key expert's CV could, however, include as many projects as the tenderer considers appropriate.</li> </ul>	50	26
2.	<p><b>Quality of the proposed methodology</b></p> <p>This criterion assesses the applicability and adequacy of the proposed approach and methodology.</p> <p>The methodology section of the Technical Proposal shall be of maximum 30 pages and should describe:</p> <ul style="list-style-type: none"> <li>- all tasks and activities which shall be realised for the successful delivery of the project;</li> <li>- How the tenderer intends to approach each task to achieve the end result</li> <li>- Proposed delivery schedule;</li> <li>- Risk management plan.</li> </ul> <p>Scoring under this criterion shall be made based on the following:</p> <ul style="list-style-type: none"> <li>- Mere repetition of the terms of reference will result in a low score;</li> <li>- Further breakdown of tasks per sub-activities will get higher score, but artificial split should be avoided;</li> <li>- Detailed description of <i>how</i> activities shall be carried out in correlation with the proposed team structure shall get higher score;</li> <li>- Presentation of a general risk management plans shall get lower score, identifying risks that are relevant for this assignment and well-targeted and realistic mitigations measures shall be scored higher);</li> </ul>	30	14
3.	<p><b>Quality Assurance and Quality Control Measures</b></p> <p>This criterion will assess the proposed quality control system and how the tenderer is going to apply it in order to meet the requirements of the assignment. This should be detailed in the technical proposal and specific to the tasks at hand.</p>	20	10
	<b>Total</b>	100	60

## Ranking of tenders

The contract will be awarded to the most economically advantageous tender, i.e. the tender offering the best price-quality ratio determined in accordance with the formula below. A weight of 60/40 is given to quality and price.

Score for tender X	=	cheapest price	*	100	*	40%	+	total quality score (out of 100) for all award criteria of tender X	*	60%
		_____								
		price of tender X								

Should the outcome of the formula lead to two or more tenders with the same result, the tenderer who has been awarded the highest marks for quality will be deemed to be the most economically advantageous tender. This approach will continue to be applied to each of the award criteria in the descending order listed in below until a most economically advantageous tender can be determined: criterion no. 1, criterion no. 2.

The contract shall be awarded to the tender ranked first, which complies with the minimum requirements specified in the procurement documents and is submitted by a tenderer having access to procurement, not in an exclusion situation and fulfilling with the selection criteria.

### II.2.5 Duration of the Contract

The period of performance of the contract resulting from this award within which the Contractor is required to complete the execution of tasks and delivery of the purchased services is 24 weeks. The contract duration up to the fulfilment of all obligations the parties will commit to each other might prolong further, as including also the delivery approval and contract closing procedures.

This contract is not subject to renewal.

### II.2.6 Information about the limits on the number of candidates to be invited

N/A

### II.2.7 Information about variants

Variants shall not be accepted

### II.2.8 Information about options

Options shall not be allowed.



### **II.2.9 Information about the funding budget**

Funding budget will be ensured from Transport Community budget.

### **II.2.10 Additional information**

N/A

### **II.3) Adjustment of the contract/framework agreement price**

The price shall not be adjusted.

## **III. SECTION III: LEGAL, ECONOMIC, FINANCIAL AND TECHNICAL INFORMATION**

### **III.1) Conditions for participation**

This section includes information about:

- i. The minimum requirements for participation at this procedure;
- ii. The exclusion grounds from participating to this procedure and the means of proof,
- iii. Selection criteria

Tenderers are responsible for carefully reviewing the Tender Documentation, including any corrigendum issued during the preparation of Tenders, as well as obtaining all information requested regarding any conditions or obligations applicable to the Tenderer by submitting a Tender under this procurement procedure.

Participation in this procurement procedure is open on equal terms to all natural and legal persons or associations of such persons established in:

- Member State of the European Union;
- A Member State of the European Economic Area;
- A South East European signing party of the Transport Community Treaty.

It is also open to all natural and legal persons established in a third country which has a special agreement with the Union in the field of public procurement on the conditions laid down in that agreement.

To enable the Contracting Authority to verify the access, each tenderer must indicate its country of establishment (and in case of joint tender – the country of establishment of each group member) and must present the supporting evidence normally acceptable under the law of that country/-ies. The same document(s) could be used to prove country/-ies of establishment and the legal capacity as described in Section III.1.1.b.

### III.1.1) SUITABILITY TO PURSUE THE PROFESSIONAL ACTIVITY, INCLUDING REQUIREMENTS RELATING TO ENROLMENT ON PROFESSIONAL OR TRADE REGISTERS

#### III.1.1.A) REQUIREMENTS REGARDING THE EXCLUSION GROUNDS

All economic operators involved in the procedure, regardless of their role (individual Tenderer, member of a group/joint venture, Subcontractor, Supporting Third Party) must demonstrate that it is not in any of the situations that could lead to its exclusion from the procedure, as described in Article 57 of Directive 2017/24/EU of the European Parliament and of the Council and art 136 of the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council.

To verify that the economic operators (individual Tenderers, members of a group/joint venture, Identified Subcontractors, Supporting Third Parties) are not in any of the situations regarding the reasons for exclusion, the following information is applicable:

*Preliminary evidence* - As preliminary evidence for the verification of the reasons for exclusion, the economic operators (individual Tenderers, members of a group/joint venture, Identified Subcontractors, Supporting Third Party) shall submit a Declaration on Honour that they are not in an exclusion situation signed by an authorised representative (Annex 1).

*The supporting documents that will be presented only at the request of the Contracting Authority*

At the request of the TCT Secretariat, and before the award of the contract / framework agreement, Tenderers must present updated supporting documents demonstrating that they do not fall under any exclusion ground listed in the Declaration on Honour. **Please note that a simple request for evidence in no way implies that the Tenderer has been successful.**

The requirement to present updated supporting documents is applicable to all economic operators related to the Tenderer in this procedure, including Identified Subcontractors or Supporting Third Parties, if any.

Supporting documents include, but are not limited to:

- For situations described in (a), (c), (d) or (f) in the Declaration of honour, production of a recent extract from the judicial record is required or, failing that, an equivalent document recently issued by a judicial or administrative authority in the country of establishment of the person showing that those requirements are satisfied.
- For the situation described in point (a) or (b) in the Declaration of honour, production of recent certificates issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for

which the person is liable, including for example, VAT, company tax (legal persons only) and social security contributions. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment.

The supporting documents in another language than English shall be translated in English.

Potential Tenderers, residents of the European Union and the countries of the European Economic Area (EEA), can use the website of the European Commission available at the following address: <https://ec.europa.eu/tools/ecertis/search> to identify the documents to be presented as supporting documents (if they are available in the respective country).

An economic operator participating in the procedure is not required to submit the documentary evidence if it has already been submitted for another procurement procedure carried out by TCT Secretariat, provided the documents were issued not more than one year before the date of their request by the contracting authority and are still valid at that date. In such cases, the tenderer must declare on its honour that the documentary evidence has already been provided in a previous procurement procedure, indicate the reference of the procedure and confirm that there has been no change in its situation.

An economic operator participating in the procedure is not required to submit a specific document if the TCT Secretariat can access the document in question on a national database free of charge.

The TCT Secretariat reserves the right to:

- a) request additional information for the purpose of evaluating the inclusion in the situations related to the exclusion grounds;
- b) directly request information from the competent authorities in case of uncertainty related to any of the reasons for exclusion.

At any time during the procedure, the TCT Secretariat may request tenderers/candidates to present updated declaration, or all or part of the supporting documents where this is necessary to ensure the proper conduct of the procurement procedure.

In case any of the economic operators fall under any of the grounds for exclusion, the tender will be excluded from the procedure, with the sole exception of Identified Subcontractors. In case an Identified Subcontractor is found to fall under any exclusion ground, the TCT Secretariat shall request

the Tenderer only once for its replacement. Failing to nominate a replacement not falling under any exclusion ground upon such request shall result in the tender being rejected.

### **III.1.1.b) CAPACITY TO EXERCISE PROFESSIONAL ACTIVITY**

The information and formalities necessary to assess the fulfilment of the minimum selection requirements related to the ability to exercise the professional activity are presented below.

#### **Enrolment in a relevant professional or trade register**

The economic operators (Individual Tenderer, members of a group/joint venture, Identified Subcontractor, Supporting Third Party) must be enrolled in a relevant professional or trade register in accordance with the legal requirements of the country where the economic operator is established, except when the economic operator is an international organisation.

Supporting evidence will be included in the tender for all economic operators involved (Individual Tenderers, members of a group/joint venture, Identified Subcontractors, Supporting Third Parties) demonstrating that:

- the economic operator is legally incorporated in its country of origin, and it is not in a situation of cancellation of incorporation;
- it legally carries out its professional activity on the market, and
- its object of the activity stated in the incorporation act allows the execution of the activities subject matter of the contract/framework agreement.

The supporting documents shall include:

- certificates issued by the professional register or trade register, or equivalent documents issued by the competent authorities of the country where the economic operator is established/incorporated;
- other evidence that the economic operator can present in accordance with the legislation of the country in which it is established/incorporated.

### **III.1.2) ECONOMIC AND FINANCIAL STANDING**

#### **Criterion 1: The minimum yearly turnover**

Annual turnover of the last two financial years should be at least EUR 120,000 in average: (turnover in year 1 + turnover in year 2)/2 => EUR 120,000.

#### **Criterion 2: Assets/liabilities ratio**

Ratio between total assets and total liabilities should be above 1.00.

To demonstrate the fulfilment of the minimum selection requirements, any Tenderer may rely on the resources of other economic operators, regardless of the legal nature of the relations it has with these entities.

If a group of economic operators submits a joint tender, the minimum yearly turnover in the area covered by the contract/framework agreement may be met by any member. The joint venture agreement between the economic operators shall be submitted together with the Tender.

If the Tenderer wishes to use the support of a Supporting Third Party for the fulfilment of the minimum requirement related to the minimum yearly turnover in the area covered by the contract, the Tenderer has the right to invoke the support of a Supporting Third Party, regardless of the nature of the existing legal relationships between the Tenderer and the Supporting Third Party.

When a Tenderer invokes the support of a Supporting Third Party, it shall prove that:

- a) It has at his disposal the necessary resources by submitting an unconditional commitment of the Supporting Third Party Supporter regarding the financial support of the Tenderer.
- b) The Supporting Third Party who grants the financial support shall meet the requirements regarding the reasons for exclusion and the ability to exercise professional activity

The commitment of Supporting Third Party shall:

- a) be submitted together with the Tender;
- b) state that the Supporting Third Party is jointly responsible for the execution of the contract/framework agreement;
- c) confirm that the Supporting Third Party shall make available to the Tenderer the financial resources necessary for the execution of the contract/framework agreement;
- d) guarantee to the TCT Secretariat that, in the event that the Tenderer encounters difficulties during the execution of the contract/framework agreement, the Third-Party Supporter undertakes to fulfil the contractual obligations in a timely and correct manner in accordance with the legal regulations, through its direct involvement.

Supporting documents to be submitted as evidence with the bid shall include (without being limited to):

- a. For economic operators required under national law to keep a complete set of accounts:
  - i. statement of financial position, statement of profit or loss account and
  - ii. annexes of the last two years for which accounts have been closed;

- b. For economic operators required under national law to keep a simplified set of accounts:
  - i. the statement of expenditure and revenue and the annex showing assets and liabilities for the last two financial years for which accounts have been closed;
- c. In all cases, a statement of overall turnover provided over the last two financial years for which accounts have been closed.

### **III.1.3) TECHNICAL AND PROFESSIONAL ABILITY**

#### **Criteria relating to tenderers:**

#### **Criterion 1 - List of the main services properly provided**

Tenderers, in case of a joint tender the combined capacity of the group members, declared Subcontractors shall prove that in the last 5 years until the deadline for submission of the Tender they have properly provided at least **two similar projects** in scope and complexity completed in the last three years preceding the tender submission deadline, with a minimum value for each of them of €80.000 related to:

- 1) Design a new or upgrade of existing Level Crossings; and/or
- 2) Projects concerning design and draft of procurement documents for railway signalling where level crossings are involved.

For the purpose of this procedure:

- the reference to the last 5 years must always be calculated in reverse starting from the deadline for submitting the Tender;
- "properly provided services" must be understood as services provided within the limits of the agreement between the tenderer and the beneficiary of said services.

The evidence to be included in the tender includes:

- A list of projects meeting the minimum level of capacity. The list shall include details of their start and end date, total project amount and scope, role and amount invoiced. In case of projects still ongoing only the portion completed during the reference period will be taken into consideration if meeting cumulatively all other criteria.
- Statements issued by the clients confirming information for each project.

A Tenderer may invoke the support of a Supporting Third Party, regardless of the nature of the existing legal relations between the Tenderer and the Supporting Third Party in order to demonstrate the

fulfilment of the minimum level of capacity related to the relevant professional experience in terms of "the main services properly provided".

The Supporting Third Party shall:

- a) meet the minimum selection requirement regarding "main services properly provided";
- b) meet the requirements regarding grounds for exclusion;
- c) be registered in a relevant professional or trade register in the country where it is established/incorporated.

When the Tenderer relies on a Supporting Third Party, the Tenderer must prove to the TCT Secretariat that it will have the necessary resources at its disposal by presenting an unconditional commitment of the Supporting Third Party regarding technical support and professional which shall:

- i. be presented together with the Tender;
- ii. confirm to the TCT Secretariat that the Supporting Third Party will make available to the Tenderer the resources invoked and necessary for the provision of services as a Subcontractor;
- iii. guarantee to the TCT Secretariat that, in case the Tenderer encounters difficulties during the execution of the contract/framework agreement, the Supporting Third Party undertakes to ensure the full and correct fulfilment of all contractual obligations assumed by the Tenderer through its direct involvement;
- iv. include the following:
  - a. a list and description of the capacities that the Supporting Third Party will make available to the Tenderer for the proper provision of services (as a Subcontractor) and that cover at least the levels / thresholds for the minimum requirement;
  - b. the concrete way in which the Supporting Third Party will fulfil its obligations assumed by the Commitment and acting as a Subcontractor of the Tenderer, including but not limited to planning and monitoring the flow of information, documents, resources and the link between the Supporting Third Party as a Subcontractor and the Tenderer.

When the Supporting Third Party also fulfils the role of Subcontractor, the Tenderer shall submit together with the Tender the Sub-contract / Sub-contracting Agreement while mentioning the proportion (percentage) of subcontracting in the contract/framework agreement.

### III.1.3.a) SUBCONTRACTING

#### Information about proposed Subcontractors

Subcontracting is permitted but the Contractor will retain full liability towards the Contracting Authority for performance of the contract as a whole.

All contractual tasks may be subcontracted unless the Technical Specifications expressly reserve the execution of certain critical tasks to the sole tenderer itself, or in case of a joint tender, to a member of the group.

By filling in the form available in Annexe 2 tenderers are required to give an indication of the proportion of the contract that they intend to subcontract, as well as to identify and describe briefly the envisaged contractual roles/tasks of subcontractors meeting any of these conditions (referred to as Identified Subcontractors):

- on whose capacities the tenderer relies upon to fulfil the selection criteria as described under Sections III.1.2) and III.1.3);
- whose individual share of the contract, known at the time of submission, is above 20%.

Any such subcontractor must provide the tenderer with a commitment letter drawn up in the model attached in Annexe 3 and signed by its authorised representative.

During contract performance, the replacement of any Identified Subcontractor or additional subcontracting will be subject to the prior written approval of the Contracting Authority. Such approval might only be granted, providing that:

- any new subcontractor is not in an exclusion situation;
- the tenderer still fulfils the selection criteria and the new subcontractor fulfils the selection criteria applicable to it individually, if any;
- the terms of the originally submitted tender are not altered substantially, i.e. all the tasks assigned to the former subcontractor are taken over by another involved entity, the change does not make the tender non-compliant with the tender specifications, and the evaluation of award criteria of the originally submitted tender is not modified.

The Tenderer must submit at least the Subcontracting Contract(s) with the economic operator(s) acting as Supporting Third Party to demonstrate the minimum requirement of relevant professional experience in the main services which were previously accordingly provided.



### **III.1.3.b) QUALITY ASSURANCE AND ENVIRONMENTAL PROTECTION STANDARDS**

N/A

### **III.1.5) INFORMATION ABOUT RESERVED CONTRACTS**

N/A

### **III.1.6) REQUESTED GUARANTEES**

#### **Performance Guarantee**

A performance guarantee is requested in the form provided in Annexe 11.

The performance guarantee represents 10% of the value of the contract, without VAT.

The method of setting up the guarantee is through bank letter.

The draft contract included in the tender documentation (Annexe 10) contains additional information about the currency in which it is constituted, period of validity, method of setting up, the situations that determine execution, the situations in which it is released/returned.

The successful bidder might apply for pre-financing payment, in which case a pre-financing guarantee will have to be set-up as per the provisions of the draft contract, in the form provided under Annexe 12.

### **III.1.8) LEGAL FORM TO BE TAKEN BY THE GROUP OF THE ECONOMIC OPERATORS TO WHICH THE CONTRACT IS AWARDED**

Any economic operator has the right to participate jointly with other economic operators in the award procedure.

Associations of natural persons and/or legal persons may submit a joint tender without being obliged to adopt or establish a certain legal form, provided that all persons meet the requirement of legal establishment in the countries in which they are established/incorporated.

In case of joint tender, all members of the group assume joint and several liability towards the TCT Secretariat for the performance of the contract as a whole, i.e. both financial and operational liability. Nevertheless, Tenderers must designate one of the economic operators as a single point of contact (the leader) for the TCT Secretariat for administrative and financial aspects as well as operational management of the contract. The leader shall sign the Tender.

The TCT Secretariat reserves the right to request the economic operators jointly participating in the procedure whose Tender has been designated as the winner to adopt or constitute a certain legal form, such as an authentic declaration given before a notary, of an administrative authority or judicial or of a professional association that has powers in this regard, after signing the contract.

After the award, the Contracting Authority will sign the contract either with all members of the group, or with the leader on behalf of all members of the group, authorised by the other members via powers of attorney.

### **III.1.9) LEGAL BASIS**

The Treaty establishing the Transport Community (European Union, 2017) Official Journal of the European Union L 278/3 of 27.10.2017.

### **III.2) CONDITIONS RELATED TO THE CONTRACT**

#### **Information about a particular profession**

The execution of the services is not reserved to a particular profession.

#### **Specific requirements**

The execution of the contract is not subject to any other specific conditions than provided therein.

#### **Information about staff responsible for the performance of the contract**

The Tenderer has the obligation to specify the names and professional qualifications of the key staff assigned to perform the contract, as indicated under section IV.4.1.1 and section 8.1 of the Technical Specifications.

## **IV. SECTION IV: PROCEDURE**

### **IV.1) DESCRIPTION**

#### **IV.1.1) TYPE OF THE PROCEDURE**

Type of the procedure: Simplified

#### **IV.1.3) INFORMATION ABOUT A FRAMEWORK AGREEMENT**

N/A

#### **IV.1.6) INFORMATION ABOUT ELECTRONIC AUCTION**

N/A

#### **IV.1.8) INFORMATION ABOUT THE GOVERNMENT PROCUREMENT AGREEMENT (GPA)**

The procurement procedure is covered by the GPA.

#### **IV.2) ADMINISTRATIVE INFORMATION**

Prior Information Notice was published on 14 March 2023.

**Deadline for receipt of the Tenders:** 30 days

**Language of Tender** – The Tender and supporting documents shall be in English or translated in English.

**The minimum validity period of the Tender:** at least 3 months since the latest date for tender submission

#### **The Tender Opening**

The opening of the Tenders shall take place:

Date: 30.06.2023

Time: 13:00

Location: TCT Headquarters (Masarikova 5/8, 11000 Belgrade, Serbia)

Information about authorised persons and opening procedure.

The opening of the offers meeting is concluded with minutes recording the manner of the respective meeting, the formal aspects found when opening the offers, the main elements of each offer, also recording the list of documents submitted by each individual economic operator using the requirements in the award documentation as a reference.

The Contracting Authority will send a copy of the minutes to all economic operators participating in the award procedure and publish in the same way with the contract notice/invitation to tender within one working day after the opening.

#### **IV.4) TENDER**

##### **IV.4.1) TECHNICAL OFFER**

The Technical Offer must provide all the information needed to assess the compliance with the award criteria. It must include dedicated chapters for each award criterion, adequately backed-up by support documents.

The technical documents shall not contain any aspects related to prices.

**The requisites set-up below are minimum requirements for the content of the Technical Offer. Any missing part will result in the tender being rejected.**

#### **IV.4.1.1 Key staff**

The Technical Offer shall include the name and CV of the proposed key expert.

The CV shall be structured around the relevant information required to facilitate evaluation, proving:

- Compliance with minimum requirements described in section 8.1 of the Technical Specifications;
- Additional quality requirement, as described under section II.2.3 above.

No. of years of specific professional experience should be clearly indicated and supported by information on all relevant positions held, main tasks performed in such positions, name and contact details of the employers.

The list of relevant projects shall indicate details of their start and end date, client's name, information on the project's scope (including explicit confirmation that the requirements set-up under section 8.1 of the Technical Specifications are met), the expert's position in the project team and the activities performed.

#### **IV.4.1.2 Methodology**

The Technical Offer should describe in detail the activities and sub-activities (if any) that will be performed according to the Technical Specifications to achieve the expected results. Additional activities may also be suggested, and their need justified for the successful implementation of the assignment.

The Technical Offer should indicate the intended results in the realization of the respective (sub)activity by linking it to the specifics of the activity itself and the proposed way of its implementation and to clearly describe the chronological, technological, and logical interconnection of the processes in the implementation of the individual (sub)activities.

The Technical Offer should include a detailed schedule with specific deadlines for the implementation of specific activities in the individual stages and the assignment. The proposed timetable should comply with the overall deadlines stated in section the Technical Specifications and shall be presented in the form of a Gantt Chart.

The Contractor must apply a system for the management of the risks within this assignment. This risk management process of the Contractor must be explained in the Technical Offer, including, as a minimum, a risk analysis, identification of possible risks and the necessary actions to avoid, transfer, mitigate or accept them.

#### **IV.4.1.3 Quality Assurance**

The Technical Offer shall include details on the proposed Quality Assurance System and how the tenderer is going to apply it in order to meet the requirements of the assignment.

#### **IV.4.2) FINANCIAL OFFER**

The Financial Offer shall be drafted using the form provided in Annexe 5. **Tenders exceeding the estimated total value (EUR 120,000) will be considered unacceptable.**

The price of the tender must be quoted in euro. Tenderers from countries outside the euro zone must quote their prices in euro. The price quoted will not be revised in line with exchange rate movements. It is for the tenderer to bear the risks or the benefits deriving from any variation.

Price must be quoted free of all duties, taxes and other charges, including VAT, as the Contracting Authority is exempt from such charges under Article 10 of the Agreement between the Republic of Serbia and the Transport Community regarding the seat of the Permanent Secretariat of the Transport Community.

The quoted price must be a fixed amount (lump sum) which is deemed including all costs and charges related to the proper delivery of services, including (but not limited to) cost of key and back-office personnel, logistics, travel, surveys and subsistence. No expenses shall be separately refunded under this contract.

#### **IV.4.3) TENDERER IDENTIFICATION**

The Tender must include a cover letter (Annexe 6) signed by an authorised representative of the Tenderer or of the leader of the group/joint venture (the single contact point in relation to this procedure) which shall present the name of the Tenderer and/or names of the all members of the group/joint venture (in case of a joint tender), of the identified Subcontractors if applicable, and the name of the Supporting Third Party, if applicable.

In case of joint tender, the cover letter may be signed either by an authorised representative for each member, or by the leader authorised by the other members with powers of attorney.

The signed powers of attorney (Annexe 7) must be included in the Tender as well. Identified Subcontractors must provide a letter of intent (Annexe 3) signed by an authorised representative stating their willingness to provide the services presented in the tender and in line with the present tender specifications. Similar commitment letter should be provided by Supporting Third Party (Annexe 4)

Tender must also include the Tenderer Identification Form (Annexe 8) to be completed and signed by each member of the group/joint venture, and by Identified Subcontractor(s).

The Tenderer (including each member of the group in case of joint tender) must provide the following information in its Tender:

- For legal persons, a legible copy of the notice of appointment of the persons authorised to represent the tenderer in dealings with third parties and in legal proceedings, or a copy of the publication of such appointment if the legislation applicable to the legal person requires such publication. Any delegation of this authorisation to another representative not indicated in the official appointment must be evidenced.
- For natural persons, if required under applicable law, proof of registration in a professional or trade register or any other official document showing the registration number.

Tenderers that are already registered in the Contracting Authority's accounting system (i.e. they have already been direct contractors) are not obliged to provide such evidence.

The Tenderer (or the leader in case of joint tender) must provide a Financial Identification Form (Annexe 9) with its supporting documents. Only one form per tender should be submitted. No form is needed for subcontractors and other members of the group in case of joint tender.

<b>Summary of necessary documents (Part A – Identification of the tenderer)</b>		
<b>Document</b>	<b>Who should submit the document</b>	<b>Template available</b>
Cover letter	Sole Tenderer/Group leader	Annexe 6
Commitment Letter	Entities on whose support tenderer relies, Identified Subcontractors.	Annexe 3 Annexe 4
List of Identified Subcontractors	Sole Tenderer/Group leader	Annexe 2
Tenderer Identification Form	Sole Tenderer/Group leader and Members of the group, Identified Subcontractors	Annexe 8
Financial Identification Form	Sole Tenderer/Group leader	Annexe 9 <a href="http://ec.europa.eu/budget/contracts_grants/info">http://ec.europa.eu/budget/contracts_grants/info</a>

		<a href="#">contracts/legal_entities/legal_entities_en.cfm</a>
Power of Attorney	Members of the Group	Annexe 7
Evidence of the person authorized to represent the tenderer in dealings with third parties and in legal proceedings	Sole Tenderer/Group leader and Members of the group	N/A

#### IV.4.4) SPECIFY REQUIREMENTS REGARDING THE TENDER PRESENTATION

The tenders must be presented as follows:

Part A: Identification of the tenderer (containing information listed at section IV.3)

Part B: Non-exclusion (see section III.1.1.a)

Part C: Selection (see sections III.1.1.b, III.1.2 and III.1.3)

Part D: Technical offer (see section III.4.1)

Part E: Financial offer (see section III.4.2)

Part F: Power of attorney (for joint tenders only)

Tenders shall be submitted by electronic mail to [procurement@transport-community.org](mailto:procurement@transport-community.org) in two separate e-mails. Parts A, B, C, D and F (with all relevant annexes) shall be included in one e-mail, while part E (Financial Offer) shall be included in a separate e-mail. Tenders submitted by other means will not be considered.

All documents referred at above shall be submitted in pdf format.

The time and date displayed by the server clock within the Authority's system shall be the standard upon which compliance with tender submission deadlines shall be determined. Tenderers are strongly advised not to transmit their Tender immediately before the deadline for submission.

It is the Tenderer's sole responsibility to ensure that its Tender complies with the submission requirements and is received by the Contracting Authority by the date and time set out. The Contracting Authority accepts no liability whatsoever for any problems arising from issues such as (but not limited to) the Tenderer's IT software, infrastructure, internet connectivity, etc. that would result in the Tender not being properly or timely received.

#### **Tender Validity Period**

The Tender shall be valid for a minimum period of 3 months from the latest date for submission of the

tenders.

In exceptional circumstances, before the expiration of the validity period of the Tender, the TCT Secretariat may request the Tenderers to extend the validity period of the Tender.

If a Tenderer does not comply with this request, its Tender will be rejected as unacceptable.

**Deadline for submission of the Tender** – the Tenders shall be submitted not later than 30.06.2023 12:00 CET).

Tenders submitted to an address other than the one specified or received after the deadline for receipt of Tenders will not be considered.

The TCT Secretariat may extend the deadline for the receipt of Tenders. Any extension can be carried out no later than 6 working days before the deadline for receiving Tenders. In this case, all the rights and obligations previously established for the TCT Secretariat and for the Tenderers will be extended until the new term.

Before the deadline for submission of the Tenders, the Tenderers may redraw, modify and replace its Tender. After the deadline for submission of the Tenders, no modifications are possible.

### **Tender Opening**

The Tenders shall be opened on 30.06.2023 at 13:00 (CET) during the opening meeting by the Tender Evaluation Committee.

## **IV.5) TENDER EVALUATION**

### **Confidentiality of tenders**

Once the TCT Secretariat has opened a Tender, it becomes its property and shall be treated confidentially, subject to the following:

- For the purposes of evaluating the tender and, if applicable, implementing the contract, performing audits, benchmarking, etc., the TCT Secretariat is entitled to make available (any part of) the tender to its staff as well to other persons and entities working for the Contracting Authority or cooperating with it, including Contractors or subcontractors and their staff provided that they are bound by an obligation of confidentiality.
- The TCT Secretariat may disclose the submitted tender in the context of a request for public access to documents, or in other cases where the applicable law requires its disclosure. Unless there is an overriding public interest in disclosure, the TCT Secretariat may refuse to provide full access to the submitted tender, redacting the parts (if any) that contain confidential



information, the disclosure of which would undermine the protection of commercial interests of the tenderer, including intellectual property.

The TCT Secretariat will disregard general statements that the whole tender or substantial parts of it contain confidential information. Tenderers need to mark clearly the information they consider confidential and explain why it may not be disclosed. The TCT Secretariat reserves the right to make its own assessment of the confidential nature of any information contained in the tender.

### **Assessment of the grounds for exclusion and selection criteria**

Each Tender shall be assessed in accordance with the requirements stated in point III.1.

The minimum selection criteria and shall be verified for each of the economic operator involved in the Tenders received, irrespectively of their role (Individual Tenderer, member of a group/joint venture, Subcontractor, Supporting Third Party) based on the submitted evidence.

### **Evaluation of the Technical Offers**

The Tender Evaluation Committee shall verify if the Technical Offer:

- was submitted using the requested form;
- refers to the entire subject matter of the contract/framework agreement. Technical Offers that refer only to part of the subject matter of the contract/framework agreement will not be accepted;
- demonstrates compliance with all minimum requirements in the Tender Documents.

If necessary, the Tender Evaluation Committee shall formulate request for clarifications or additional information to which the Tenderers are bound to answer within the indicated period.

The result of the evaluation establishes what Tenders are admissible, and which are unacceptable or not compliant.

### **Evaluation of the Financial Offers/Proposal**

The opening and evaluation of the Financial Offers found acceptable shall take place after communication of the result of the evaluation of the Technical Offers.

The Tender Evaluation Committee shall verify if the Financial Offer:

- was submitted using the requested form;
- refers to the entire subject matter of the contract/framework agreement. Financial Offers that refer only to part of the subject matter of the contract/framework agreement are not accepted;

- is correlated with the information included in the Technical Offer. All elements described in the Technical Offer must be covered by prices in the Financial Offer.

The activities described in the Technical Proposal, but for which prices are not included, will be considered as included in the price of the activities presented in the Technical Proposal. For these services/activities, the TCT Secretariat shall pay only the price established in the Financial Proposal and nothing more, even if they are performed during the execution of the contract/framework agreement.

If necessary, the Tender Evaluation Committee shall formulate request for clarifications or additional information to which the Tenderers are bound to answer within the indicated period. When the financial offer of a tender seems to be abnormally low, the Tender Evaluation Committee shall require the Tenderer to clarify in writing that the offer is economically sustainable, and it can be carried out properly. TCT Secretariat may reject abnormally low tenders, in particular if it established that the tenderer or a subcontractor does not comply with applicable obligations in the fields of environmental, social and labour law.

#### **Application of the award criteria**

The Evaluation Tender Committee shall apply award criteria and shall establish the winner following the application of the algorithm stated in the Tender Documents.

#### **Clarifications and additional information**

The Evaluation Tender Committee may request clarifications and additional information. Both the request and the answers shall be in writing. The answers shall not have as effect substantial modification of the Tender.

The request for clarifications / additional information and the Tenderers' answers shall become part of the Tender Documents.

## **VI. SECTION VI: COMPLEMENTARY INFORMATION**

### **VI.1) Information about recurrence**

N/A

### **VI.2) INFORMATION ABOUT ELECTRONIC WORK FLOWS**

N/A

### **VI.3) ADDITIONAL INFORMATION**

N/A

### **VI.4) PROCEDURES FOR REVIEW**

#### **VI.4.1) Right to object**

An economic operator who considers itself injured by an act or decision issued during the procurement procedure may refer the matter to the Director of the TCT Secretariat for:

- annulment of the respective act,
- ordering a remedial action, and
- recognising the claimed right or legitimate interest,

within 10 days, starting from the day following the notification/communication of the challenged act or decision at the email address [procurement@transport-community.org](mailto:procurement@transport-community.org).

The objection against the contract award decision shall be submitted within 10 days, starting from the day following the notification/communication/publication of the contract award notice.

Objection shall include:

- identification of the procurement procedure
- identification of the contested act or decision
- sender's identification data;
- proof of interest;
- remedy sought;
- grounds or evidence supporting the objection.

The objection submitted after the deadline or at the wrong address shall be rejected.

A challenge or objection based on any other ground shall be inadmissible.

Objections shall be decided upon by a review panel to be appointed by the Director of the TCT Secretariat.

The review panel shall have an odd number and at least one of the members shall have a higher education degree (preferable legal) or specialisations in procurement.

The review panel shall analyse the objection and provide written and reasoned decision on the case within 5 days from their appointment.

When there are 3 (three) or more members, the decision shall be taken with 2/3 votes of the members. The decision of the review panel shall be final and binding for the TCT Secretariat and for the challenging interested person and for all other tenderers or possible tenderers.

The TCT Secretariat shall communicate the reply to the objection received from rejected or unsuccessful tenderers within 10 calendar days from the day of the receipt of such request.

The solutions may:

- confirm (fully or in part) or
- reject the objection

When the objection is confirmed, the panel shall decide:

- to annul the challenged decision
- to resume the tender procedure for the challenger from the moment of the annulled decision to award damages if the challenger suffered any harm.

#### **b) VI.4.2) Dispute resolution**

Disputes arising out of the Contracting Authority's decision on an objection shall be settled by final and binding arbitration by the Permanent Court of Arbitration in Hague in accordance with the Permanent Court of Arbitration Optional Rules for Arbitration Involving International Organizations and States, as in effect on the date of launching the tender, by one arbitrator appointed in accordance with these Rules by the Secretary General of the Permanent Court of Arbitration.

The arbitration proceedings shall take place in the Hague and the language used in the arbitral proceedings will be English. The arbitrator's decision shall be binding on all parties and there shall be no appeal.

## **VII. LIST OF ANNEXES**

Annexe 1 – Declaration on honour regarding exclusion criteria

Annexe 2 – List of Identified Subcontractors

Annexe 3 – Commitment letter by an Identified Subcontractor

Annexe 4 – Commitment letter by Supporting Third Party

Annexe 5 – Financial Offer Template

Annexe 6 – Tender cover letter

Annexe 7 – Power of attorney

Annexe 8 – Tenderer identification Form

Annexe 9 – Financial Identification Form

Annexe 10 – Draft Contract

Annexe 11 – Performance Guarantee template

Annexe 12 – Advance Payment Guarantee Template

Annexe 13 – Level Crossings Safety Improvement Project Report for the Western Balkan