

QUALIFICATION CRITERIA

Requirements to be fulfilled by the participants in tender procedure: “IN PLACE OIL SUPPLY OF FLOATING THERMO POWER PLANTS, TRIPORT, VLORA”

1. TENDER PROCESS

The procedure will be made according to the steps mentioned below:

- The procedure will be separated into this steps:
 1. Qualification / Economical offer
 - 1.1 Legal and economical requirements
 - 1.2 Economical offer
 2. Contract
- The interested subjects shall send their documentation according to the requirements in this document no later than 09.02.2024, 14:00 hour in scanned electronic copy in the mail address trading@kesh.al. The email will not be opened or monitored during this phase of documentation delivery. The documentation will only be opened after the expiring of the deadline.
- According to the above mentioned requirement the interested parties shall deposit the documentation and the offer as requested. However, the winner shall deposit in APC (Albanian Power Corporation) within the agreed date after the announcement all the physical documentation which must be original or notarized, equipped with apostille and translated into English or Albanian.
- For questions or clarification during the process please contact on info@kesh.al.
- The expression of interest can be submitted by any subject who meets the conditions for the participation in the procedure. For the purpose of this procedure the expression of interest may also be carried out by a temporary union of companies. The group of companies must determine a company to perform actions in the procedure on behalf of the group companies. The union of companies is considered to meet the criteria when at least one of the companies meets it. The union of companies submits to Kesh the Joint Venture agreement.
- In case the winner does not deliver the physical documentation according to the above mentioned criteria APC holds the right to terminate the contract negotiation process without any liability for any of the parties.

2. PHASE 1.1; REQUIREMENTS FOR INTERESTED PARTIES, REQUIRED LEGAL AND FINANCIAL DOCUMENTATION. PREQUALIFICATION

Entities interested in participating in an energy purchase agreement must submit, along with the expression of interest, the documentation that proves compliance of the following criteria:

- Documentation certifying company's registration in the respective commercial registers and complete (historical) extract of the commercial register of respective country where the company has been registered.
- License on electricity trading/supplying issued by relevant bodies.
- Documentation issued by the competent institutions of the relevant country, which certify that:
 - a. The company is not under bankruptcy proceedings;
 - b. The company is not convicted for criminal offenses;
 - c. The company has not been declared bankrupt and its capital/assets are not subject to bailiff proceedings;
- Company's financial statements (balance sheets), of the last three years (2020-2022), certified audited copies according to the rules of the respective country where the company operates.
- The results (earnings / losses) before taxes of any 3 (three) out of 5 (five) fiscal years (2018-2022) must be positive (>0), as shown in the audited financial statements. For Joint Venture of enterprises, each member shall fulfill this requirement.
- Company shall declare that each person (persons) acting as a member of an administrative body, director or supervisor, shareholder or partner, or having representative role, decision-making or controlling role within the Company (or each member of the Joint Venture), is/are not convicted or has not been convicted by a final court decision of any criminal offense.

This criteria can be fulfilled as a self-declaration from the company/ companies.

- Meet the below listed criteria in terms of the overall integrity of the company:
 - a. The Company (or each company under JV) should not be listed as an entity which cannot conduct commercial activity in Albania or EU states and should not be blacklisted by the International Financial Institutions' (IFIs) lists;
 - b. The Company (or each company under JV) shall not appear on any United Nations list of persons suspected to be involved in terrorist activities or any other relevant national or international blacklists;
 - c. The Company (or each company under JV) and any shareholder in its ownership chain, including its ultimate beneficial owner, or any of its subordinates or principals, shall not reside, have activities in, trade with or have links to the countries embargoed by the OFAC or subject to EU or UN sanctions or a country that is blacklisted by the EU;

This criteria can be fulfilled as a self-declaration from the company/ companies.

- Documents submitted in languages different than English or Albanian shall be accompanied by a certified translation in English;
- In the case of a joint venture of companies, each member of the group shall submit the below- mentioned documents.
 - a. The notarized agreement under which the joint venture of companies is officially established. Cooperation agreements between companies, where a representative is assigned, the percentage of joint participation, and the components each member of the union undertakes to execute.
 - b. The Special Power of Attorney.

- c. The decision of the decision-making parties of the company or the Joint Venture of the Companies and / or the Consortium.
- The company, or in the case of a Consortium, each member of the consortium shall provide a declaration including an up- to-date list of shareholders and information on ultimate beneficiaries of the company who ultimately owns or controls the company and/or the natural persons on whose behalf a transaction or project is being conducted, and/or those persons who exercise ultimate effective control over a legal person or arrangement, have substantial economic interest in or receive substantial economic benefit from the company. This information shall encompass in particular individuals who meet one or more of the five following conditions:
 - directly or indirectly hold more than 10% of shares in the company;
 - directly or indirectly hold more than 10% of voting rights in the company;
 - directly or indirectly holds the right to appoint or remove the majority of the directors of the company;
 - has the right to exercise, or actually exercises, significant influence or control over the company; and/or
 - where a trust or firm would satisfy one of the first four conditions if it were, any individual holding the right to exercise, or actually exercising, significant influence or control over the activities of that trust or firm.

Information on each beneficial owner shall include:

- the present full name and any former name;
- nationality and national identity number
- country of residence;
- the date and place of birth;
- level of beneficial ownership;
- details of how the ownership, control or economic interest is exerted.

If all such details have been filed on a centralized beneficial ownership register in the country of registration, the application may fulfill this requirement by cross-referencing and attaching such filing.

- Expression of interest from the decision making parties of the company or companies in case of a JV

Specific requirements as below :

- Net Worth of the Company (or cumulative in cases of Joint Ventures) shall not be lower than 2 Million Euro, and...
- The company (or Joint Venture) shall have successfully supplied at least 50 % of the required oil quantity within the last 3 years through one or multiple sources of reliable HFO producer (refinery) or suppliers. For this the company or the Joint Venture shall deposit the documentation as below:
 - a. Successful contract of supply (only the part where the contract dates, product and quantities are mentioned), by censoring the confidential information

- b. Letters confirming the successful competition of the supply service (with one of the approved forms from the client towards the service provider)
- c. Any other form that proves the fulfillment of this criteria.

Or...

- The company (or Joint Venture) shall have successfully supplied similar products at least 50 % of the quantity within the last 3 years through one or multiple sources of reliable producer (refinery) or suppliers. For this the company or the Joint Venture shall deposit the documentation as below:
 - a. Successful contract of supply (only the part where the contract dates, product and quantities are mentioned), by censuring the confidential information
 - b. Letters confirming the successful competition of the supply service (with one of the approved forms from the client towards the service provider)
 - c. Any other form that proves the fulfillment of this criteria.
 - d. Engagement letter from a trusted source of production (refinery) / supplier / reseller where it shall be clearly stated the engagement for supplying 100% of the required quantity and product type as requested by APC.

Cases of failure to submit a document or submission of false and incorrect documents shall be considered as conditions for disqualification.

For this phase the companies should provide to APC:

- All the documentation above.
- Any other documentation that is considered valuable for the procedure

3. PHASE 1.2; ECONOMICAL OFFER

- The interested parties shall deposit their offer together with the required documentation mentioned above in electronic copy no later than 09.02.2024, 14:00 hour in trading@kesh.al. The email will not be opened or monitored during this phase of documentation delivery. The documentation will only be opened after the expiring of the deadline.
- The validity of the offers shall be 5 days (until 14.02.2024, 12:00 hours)
- For this phase all the bidders should send to APC no longer than 1 hour after the deadline of receiving the bids the bid bond.
- **The bid bond shall be 2% of the offered total value of the contract** issued as a Bank Guarantee or Insurance
- The bid bond shall clearly state the value, the client, the beneficiary and should be available through the whole timing of the validity of the offer.
- Non issuance of a bid bond or issuance of a not correct bid bond shall be considered as a reason for disqualification of the company.
- Withdrawal of the bidder from its bid within the validity time of the offer shall give immediately the right to APC to execute the bid bond.
- The offered price shall not include VAT and local taxes.
- Offers will be evaluated as per the principle : Lowest successful bidder.

4. PHASE 2; CONTRACT NEGOTIATION, FINANCIAL AND GUARANTEES

For successful contract signature APC will need the guarantees as follow:

- For the successful contract signature the winning company / companies shall deposit the below performance guarantees:
 - a) Performance guarantee issued in the form of a Bank Guarantee or Insurance for 10% of the total value of the contract for the whole period of supply.
- Contract negotiation will be according to world bank oil supply contract template.
- All issued documentation will be part of the contract as Annexes
- The quantity, delivery period, unit price, terms of payment or any other element part of this EOI and procedure cannot be negotiated during this phase.

Bank Guarantee means a autonomous bank guarantee in a form acceptable to APC

Cases of failure to submit a document, guarantee or submission of false and incorrect documents shall be considered as conditions for disqualification and non-signage of the contract.

5. THE DEADLINES FOR OIL SUPPLY PROCEDURE

- First phase, qualification documentation, economical offer starting from 01.02.2024 until 09.02.2024
- Evaluation of documentation and announcement of winner from 09.02.2024 to 16.02.2024
- Contract negotiation and issuance of relevant guarantees from 16.02.2024 to 23.02.2024
- First date of supply to be negotiated in the contract but not later than first week of March 2024 according to the schedule refereed in the terms of reference.

All documentation, communication, acting or any other type of misconduct that will be considered as fraud, pressure, constraint, conflict of interest or any other legal issue will be followed as per Albanian Legislation in the respective Prosecutors Office and Court.

All documentation, including EOI will be part of the contract with the winner/ winners. No negotiation will be made over the terms pre specified in this EOI.

Albanian Power Corporation will be held responsible for non-disclosure of all sensitive documentation of the companies that will be part of the process. Please specify according to your company's policy which information shall be classified as sensitive / confidential. All other documentation shall be made public upon request of the interested parties.

The name of the company and bid shall remain confidential until the end of phase 2. The name of the company and the bid will be made public at the end of phase two due to requirements of public information for a state owned entity as APC (According to relevant Albanian legislation).

APC can cancel the procedure at any time before the winner is announced (even during the offer validity period) without having any additional obligations or costs for any of the participants.

APC at any time can accept quantities less than the requested quantity for each of the lots. In cases that APC reaches the required maximum quantity with a part of your offered quantity an official request will be made to your company if you have interest to trade a part of the offered quantity with the same price.

The unit/price includes the value of fiscal obligations, but does not include the value of VAT. Only for comparison and evaluation reasons, the classification of the offers will be based on the lowest unit/price that does not include the value of VAT

APC requires all companies to be represented by only ONE independent entity, which should have a unique legal name, a unique headquarter, unique legal representatives and all distinguished criteria of an independent commercial company, according to regulations connected to “Protection of competition”.

Companies blacklisted from KESH / Albanian Power Corporation and companies directly related to those cannot participate in the procedure. Please find list of blacklisted companies in www.kesh.al

Helpful links:

<https://www.kesh.al/>

<https://www.kesh.al/en/about-us/>

<https://www.kesh.al/assetet-gjeneruese/>

<https://www.kesh.al/programi-i-transparences-i-kesh/programi-i-transparences/>

https://www.drejtesia.gov.al/wp-content/uploads/2018/08/Ligj_119_2014_18.09.2014.pdf

<https://www.infrastruktura.gov.al/>

<https://www.infrastruktura.gov.al/energjetike/>