

TENDER NOTICE/ PUBLIC WORKS CONCESSION

Form: Attachment no. 10 pursuant to Commission Implementing Regulation no. 842/2011

SECTION I: CONTRACTING AUTHORITY

I.1) NAME, ADDRESSES AND CONTACT POINT(S)

the Ministry of Transport, Construction and Regional Development of the Slovak Republic

National ID: 30416094

Námestie slobody 6, 810 05 Bratislava – district Staré Mesto

Slovak Republic

Contact point (s):

Námestie slobody 6, 810 05 Bratislava

Contact person: Ing. Nina Kurtulíková

Telephone number: +421 259494785

Email: nina.kurtulikova@mindop.sk

Internet address (es)

General address of the contracting authority: <http://www.mindop.sk>

Address of the buyer profile: <http://www.uvo.gov.sk/profily/-/profil/zdokumenty/2350/147419>

Electronic access to information: <http://www.d4r7.sk>

Further information can be obtained from:

The above mentioned contact point(s)

Specific documentation can be obtained from:

The above mentioned contact point(s)

Applications must be sent to:

The above mentioned contact point(s)

I.2) TYPE OF THE CONTRACTING AUTHORITY

Type of the contracting authority

Ministry or any other national or federal authority, including their regional or local sub-divisions

I.3) MAIN ACTIVITY

The main object (objects) of activities: General public services

I.4) CONTRACT AWARD ON BEHALF OF OTHER CONTRACTING AUTHORITIES

The contracting authority is purchasing on behalf of other contracting authorities

No

SECTION II: OBJECT OF THE CONCESSION

II.1)

DESCRIPTION OF THE CONCESSION

II.1.1)

Title attributed to the contract by the contracting authority

The concession for the design, construction, financing, operation and maintenance of the Jarovce – Rača sections of the D4 motorway and the Bratislava Prievoz – Holic sections of the R7 expressway, a PPP Project

II.1.2)

Type of contract and location of works

Design and execution

Main site or location of works: The D4 motorway: Jarovce – Ivanka, sever, Ivanka, sever – Rača, Bratislava Region, the R7 expressway: Bratislava Prievoz – Ketelec, Ketelec – Dunajská Lužná, Dunajská Lužná – Holice, Bratislava and Trnava Region

Code NUTS: SK 02

II.1.3)

Short description of the contract

The design, construction, financing, operation and maintenance of part of the zero bypass of the D4 motorway, (in the Jarovce – Ivanka sever and Ivanka sever – Rača sections) and the R7 expressway, (in the Prievoz – Ketelec, Ketelec – Dunajská Lužná and Dunajská Lužná – Holice sections), in a total length of approximately 59.1 km (hereinafter referred to as the “Project”). The Project has been planned as a PPP Project (Public-Private Partnership Project) in the form of a DBFOM (design, build, finance, operate, maintenance) contract. The design, construction, financing, operation and maintenance should be focused on achieving and maintaining the required quality of the Project motorway and expressway sections, and on providing additional high quality services during the concession contract together with user comfort and the reduction of road accidents. The Project includes the transfer of certain risks to the concessionaire, mainly construction and availability risks. Payments of the contracting authority to the concessionaire will be based on the availability of the Project motorway and expressway to end users in the agreed standards and quality. Deductions from the availability payments shall be automatically applied in the event of the concessionaire’s failure to comply with the performance and quality parameters. The length of the concession period will be no longer than 30 years.

II.1.4)

Common procurement vocabulary (CPV)

Main object

Main vocabulary: 45233100-0

Additional object(s)

Main vocabulary: 45233110-3, 71311220-9, 63712200-5

II.2) QUANTITY OR SCOPE OF THE CONTRACT

II.2.1)

Total quantity or scope: the Jarovce – Rača sections of the D4 motorway and the Prievoz – Holice sections of the R7 expressway, a PPP Project: design, construction, financing, operation and maintenance. The Project includes bridges and other structures which will be specified in the concession documentation.

The value: 4 530 000 000,0000 EUR

SECTION III: LEGAL, ECONOMIC, FINANCIAL AND TECHNICAL INFORMATION

III.1)

CONDITIONS FOR PARTICIPATION

III.1.1)

Personal situation of economic operators, including requirements relating to enrolment on professional or trade registers

Information and formalities necessary for evaluating if the requirements are met: The candidate shall fulfil the conditions of participation related to its personal status pursuant to section 26, subsection 1 of Act no. 25/2006 Coll. on Public Procurement, as amended (hereinafter referred to as the "Public Procurement Act"). The candidate demonstrates the fulfilment by submitting documents specified in section 26 of the Public Procurement Act:

- 1.1 The candidate proves the fulfilment of the conditions of participation related to the personal status pursuant to section 26, subsection 1 of the Public Procurement Act in a manner pursuant to section 26, subsection 2 of the Public Procurement Act or section 128 of the Public Procurement Act. If the candidate participating in the public procurement consists of a group of suppliers, the fulfilment of conditions of participation related to the personal status for each member of the group of suppliers is required. Each member of the group of suppliers is only required to prove the condition of participation pursuant to section 26 subsection letter f) of the Public Procurement Act in relation to the part of the subject of the contract that it will provide.
- 1.2 Papers and documents submitted by the candidate to demonstrate its personal status must be originals or certified copies.
- 1.3 If a tenderer or candidate is not established in the Slovak Republic and the country of its establishment does not issue any of the documents referred to section 26, subsection 2 of the Public Procurement Act or any equivalent documents, they may be replaced by a sworn affidavit pursuant to the laws in effect in the country of its seat.
- 1.4 If a tenderer or candidate is established in a Member State other than the Slovak Republic and the law of that Member State does not regulate the concept of sworn affidavits, a statement made before a court, administration authority, notary, any other professional institution or commercial institution pursuant to the laws in effect in the country of origin or in the country of seat of the tenderer or candidate, may be submitted in its place.

Justification of the appropriateness of the specific condition of participation pursuant to point 1.1 in line with section 26 of the Public Procurement Act related to the subject of the contract and the need for inclusion in the conditions of participation pursuant to section 32, subsection 6 of the Public Procurement Act: All of the prescribed conditions of participation related to the personal status mentioned above must be fulfilled under the law. This fact justifies their necessity and proportionality.

III.1.2) Economic and financial ability

Information and formalities necessary for evaluating if the requirements are met:

2.1 The candidate must demonstrate its financial and economic standing by submitting originals or certified copies:

2.1.1 Pursuant to section 27, subsection 1, letter c) of the Public Procurement Act, the candidate must demonstrate its financial and economic standing by submitting a balance sheet or statement of assets and liabilities or its data.

Minimum required standards:

The minimum equity at the end of the financial year must be EUR 100 000 000 (in words: one hundred million euros). The candidate must prove the equity by submitting complete financial statement or balance sheet from which the equity is clear for the last closed accounting period preceding the call for the tender, and for which the candidate has the

duty to have financial statement verified by an auditor and which was prepared according to International Financial Reporting Standards (hereinafter referred to as “IFRS”) applicable for the given accounting years. If the candidate does not have statements prepared according to IFRS, it must convert the data from the statements using the conversion algorithm to IFRS, after which these converted data shall be verified by the auditor or demonstrated by an equivalent document. Foreign currencies shall be converted to EUR based on the exchange rate issued by the European Central Bank on 31 December of each year.

Justification of the appropriateness of the specific condition of participation pursuant to point 2.1.1 in line with section 27 of the Public Procurement Act related to the subject of the contract and the need for inclusion in the conditions of participation pursuant to section 32, subsection 6 of the Public Procurement Act: The contracting authority assesses the ability of the candidate to fulfil its financial liabilities and prove its financial stability by requiring this condition of participation. Equity, as the candidate’s own resources for financing its commercial property, provides information about its credibility, reveals the ability of the candidate to fulfil the obligations under the contract and provides information on the ability of the candidate to temporarily demonstrate to the contracting authority its own financing of the subject of the contract. The candidate must have its own financing resources or be able to obtain external financial resources (for example, from a bank) for the performance of the subject of the contract, as the availability payments will be paid during the operation phase without advanced payments, except for potential payments according to the concession documentation and thus the candidate must prove the ability to cover financial costs related to the fulfilment of the subject of the contract. The condition of participation is appropriate to the subject of the contract in terms of the estimated value of the contract, the scope of the subject of the contract and the length of the contract.

2.1.2 Pursuant to section 27, subsection 1, letter d) of the Public Procurement Act, the candidate shall demonstrate its compliance with the conditions for participation by submitting an overview of its total turnover or an overview of its turnover in the field covered by the contract for the three preceding financial years which are available, depending on the formation or establishment of the business; the maximum turnover for one financial year shall not exceed three times the estimated value of the contract calculated for a period of 12 months, if it is below the threshold limit or it shall not exceed the estimated contract value calculated for a period of 12 months if it is above the threshold limit.

Minimum required standards:

The minimum turnover is EUR 150 000 000 without VAT (in words: one hundred and fifty million euros without VAT) jointly for the preceding three financial years. The candidate shall demonstrate the turnover by presenting complete annual financial statements for each of the last three financial years for which they are available depending on the date of creation or commencement of operation, verified by an auditor and prepared according to IFRS as applicable for the given accounting years. If the candidate does not have statements prepared according to IFRS, it must convert the data from the accounts using the conversion algorithm to IFRS, after which this converted data shall be verified by the auditor or by presenting an equivalent document. Foreign currencies must be converted into EUR based

on the exchange rate determined by the European Central Bank on 31 December of each year.

Justification of the appropriateness of the specific condition of participation pursuant to point 2.1.2 in line with section 27 of the Public Procurement Act related to the subject of the contract and the need for inclusion in the conditions of participation pursuant to section 32, subsection 6 of the Public Procurement Act: The contracting authority assesses the ability of the candidate to fulfil its financial liabilities and financial stability by requiring this condition of participation. The condition of participation is appropriate for the subject of the contract in terms of the amount of the estimated value of the contract, the scope of the subject of the contract, the length of the concession contract and payments from the contracting authority which will be provided during the operation phase, except for potential payments according to the concession documentation. The turnover calculated for the period of one economic year does not exceed the estimated value of the contract calculated for 12 months according to the Public Procurement Act. The candidate must submit documents which prove its financial and economic standing and that it was able to successfully implement contracts in the previous period based on its own financial and economic standing.

2.2 The group of suppliers must jointly prove the fulfilment of the conditions of participation related to the financial and economic standing for all members of the group.

2.3 The candidate may use the financial resources of another person, regardless of their legal relationship, to prove its financial and economic standing. In such event, the candidate must prove to the contracting authority that it is able to use the resources of the person that has proved its financial and economic standing throughout the implementation of the contract. The candidate must prove this fact by presenting a written contract concluded with this person which includes the commitment of such person whose financial and economic standing is intended to be used to prove the candidate's financial and economic standing, and that the candidate will use its resources during the whole legal relationship. The person whose resources will be used for proving the financial and economic standing must meet the conditions of participation pursuant to Section 26, subsection 1 of the Public Procurement Act in relation to the part of the subject of the contract to which these resources were provided to the candidate. If the candidate or tenderer has proved its financial and economic standing through the resources of another person and during the duration of the contract the performance of that part of the contract occurs the candidate or tenderer is entitled to provide the performance either by itself or by that person by which the financial and economic standing has been demonstrated by the submission of a written contract, the possibility of the change of the subcontractor is not affected.

2.4 In the case of a contract above the threshold limit according to section 32, subsection 3, letter d) of the Public Procurement Act with an estimated value of at least 10 million euros, the contracting authority is authorized to accept only documents pursuant to section 27, subsection 1, letter a) of the Public Procurement Act for the purpose of demonstrating the candidate's fulfilment of the financial and economic standing by the financial resources of another person.

2.5 Pursuant to section 27, subsection 3 of the Public Procurement Act, the contracting authority may accept another document which demonstrates the candidate's financial and economic standing.

III.1.3) Technical capacity

Information and formalities necessary for evaluating if the requirements are met:

3.1. The candidate must demonstrate its technical or professional capacity by submitting the following documents:

3.1.1. Pursuant to section 28, subsection 1, letter a) of the Public Procurement Act, a list of provided services in the preceding three years accompanied by quality confirmations with an indication of prices, delivery periods and customers; if the customer was

1. a contracting authority or a contracting entity pursuant to this act, the document is a reference,
2. a person other than a contracting authority or contracting entity, evidence of performance confirmed by the customer; if this is not possible, the tenderer or candidate's declaration of delivery accompanied by documents which prove their delivery or contractual relationship according to which they were delivered.

The preceding three years are considered 2012, 2013 and 2014.

Minimum required standards:

The candidate must submit a list of provided services whose fulfilment is of the same or similar character as the subject of the contract, in the minimum standard, as follows:

3.1.1.1 The candidate must demonstrate the preparation of project documentation for a building permit or similar documentation for motorways or expressways of a total length of at least 20 kilometres, the candidate fulfils the condition by submitting a list showing that in the specified period it prepared project documentation for at least 20 kilometres of motorways or expressways.

3.1.1.2 The candidate must demonstrate the preparation of design documentation or similar documentation for motorways or expressways of a total length of at least 20 kilometres, the candidate fulfils the condition by submitting a list showing that in the specified period it prepared design documentation for at least 20 kilometres of motorways or expressways.

3.1.1.3 The candidate must demonstrate the preparation of design documentation or similar documentation of a motorway or expressway bridge structure of at least 300 meters.

3.1.1.4 The candidate must demonstrate the realization of the comprehensive operation and maintenance of a motorway or expressway of at least 20 kilometres, and of which the total uninterrupted length of the motorway or expressway must be at least 10 kilometres and the total length of motorway or expressway bridges must be at least 1 kilometre and the operation and maintenance of that motorway or expressway project provided by the candidate was carried out for at least 12 consecutive calendar months and the maintenance involved or involves at least regular and uninterrupted maintenance of the structures and facilities of the motorway or expressway, including winter maintenance.

3.1.1.5 The candidate must prove that it obtained project financing with project funding of at least EUR 200 000 000 (in words: two hundred million euros). Project financing means that at the time of obtaining the project financing the candidate held at least 20% of the voting rights of the project company for which the project financing was obtained.

Justification of the appropriateness of the specific condition of participation pursuant to point 3.1.1 in line with section 28 of the Public Procurement Act related to the subject of the contract and the need for inclusion in the conditions of participation pursuant to section 32, subsection 6 of the Public Procurement Act: The contracting authority assesses the candidate's ability to provide services in the extent and quality required by the contracting authority according to the appropriate requirements in terms of the amount and length of the subject of the contract. The candidate must demonstrate its ability to execute the subject of the contract in the required quality based on its experience in the past three years. The candidate must prove its reliability, technical capability and practical experience with the performance of contracts that are the same as or similar to the subject of the contract. By submitting a list of provided services for the preceding three years the candidate demonstrates ability to professionally fulfil the contract taking into account the expected scope of required services, which includes design, financing, operation and maintenance. Since the contract will include project work, the candidate must demonstrate its experience with the drafting of project documentation for building permits, design documentation or documentation of a similar character for motorways or expressways according to points 3.1.1.1 and 3.1.1.2 of this tender notice. In particular, the candidate must have experience with the drafting of design documentation for the bridge structures, because the Project includes the construction of several bridges including a large bridge over the river Danube (point 3.1.1.3 of this tender notice). After the execution of construction works, the concessionaire will be responsible for the operation and maintenance of the D4 motorway and R7 expressway during the concession period. Therefore, the candidate must demonstrate according to point 3.1.1.4 of this tender notice its experience with the operation and maintenance of at least 20 kilometres of the motorways or expressways, i.e., only one third of the length of the project roads which are the subject of the contract. The role of the successful tenderer will be to ensure financing, which means a complicated range of managing and negotiating activities, risk allocation and interaction with financing subjects. For this purpose, the candidate must demonstrate its experience with project financing in the amount of at least EUR 200 000 000 according to point 3.1.1.5 of the tender notice. The condition related to financing is appropriate in terms of the estimated value of the contract, since, except for potential payments specified in the concession documentation, the contracting authority will not pay any payments to the concessionaire before the preliminary occupation of the motorways or expressways. Customer confirmations and references related to the contracts by which the candidate demonstrates the conditions of participation according to points 3.1.1.1 to 3.1.1.5 of this tender notice do not have to be realized through PPP projects; which allows for broader competition.

3.1.2 Pursuant to section 28, subsection 1, letter b) of the Public Procurement Act, the candidate must submit a list of building works executed in the preceding five years, accompanied by certificates of their satisfactory execution with an indication of prices, sites and delivery periods of the completion and assessment of the works performed according to the business conditions; if the customer was

1. a contracting authority or a contracting entity pursuant to this act, the document is the reference;
2. a person other than a contracting authority or contracting entity pursuant to the Public Procurement Act, evidence of performance confirmed by the customer. If this is not possible, a tenderer or candidate's declaration of delivery accompanied by documents proving their delivery or contractual relationship according to which they were delivered.

The preceding five years are considered 2010, 2011, 2012, 2013 and 2014.

Minimum required standards:

The candidate must submit a list of performed construction works of a character that are the same or similar to the subject of the contract, and that fulfil the following minimum standards:

3.1.2.1 The candidate must demonstrate the completion of building works of at least 20 kilometres of a motorway or expressway, and the completion of at least one motorway or expressway construction project with an uninterrupted length of at least 7 kilometres.

3.1.2.2 The candidate must demonstrate the completion of the construction of a bridge on a motorway or expressway, where the total length of that bridge was at least 300 meters and the span of at least of one section of the bridge was at least 80 meters.

3.1.2.3 The candidate must demonstrate its participation in the implementation of PPP projects in the field of road transport infrastructure in which it held at least a 20% share in the voting rights in the project companies implementing these PPP projects. For the relevant project company is considered the company with which the contracting authority concluded the contract for realization of PPP project. Each PPP project, for which the reference is submitted, must involve construction, financing, operation and maintenance, the project must have reached at least the financial closing phase and total construction costs of at least EUR 100 000 000 without VAT (in words: one hundred million euros without VAT), and the candidate should have had the required participation in the company before the transfer of the road transport infrastructure into the preliminary occupation/occupation.

Justification of the appropriateness of the specific condition of participation pursuant to point 3.1.2 in line with section 28 of the Public Procurement Act related to the subject of the contract and the need for inclusion in the conditions of participation pursuant to section 32, subsection 6 of the Public Procurement Act:: The contracting authority assesses the candidate's ability to perform construction works in the necessary extent and quality by requiring appropriate conditions in terms of the amount and length of the subject of the contract. The candidate must demonstrate its ability to ensure the complete performance of the subject of the contract in the required quality based on its experience in the previous five years. By fulfilling abovementioned conditions the candidate demonstrates that it is reliable, technically capable and experienced in the performance of construction works of a character that is the same as or similar to that of the subject of the contract. By providing a list of performed works for the preceding five years, the candidate demonstrates its experience with the performance of contracts/projects of the same or similar character,

taking into account the expected extent of construction of the motorways, expressways and bridge structures. The contracting authority assesses the candidate's experience with the performance of similar contracts due to the fact that a great part of the Project includes the performance of construction works. According to point 3.1.2.1 of this tender notice, the candidate must demonstrate its experience with the performance of the works on a motorway or expressway in an uninterrupted length of at least 7 km and a total length of at least 20 km, i.e., just one third of the length of the planned project road. The contracting authority requires proof of experience with the performance of bridge structure due to the fact that the Project includes the construction of several bridge structures, including a large bridge with a total length of approximately 900 metres over the river Danube pursuant to point 3.1.2.2 of this tender notice. Pursuant to points 3.1.2.1 and 3.1.2.2 of this tender notice, the conditions of participation do not limit experience to the performance of construction works in the area of PPP projects, which allows for broader competition. However, PPP projects differ from regular contracts from the phase of public procurement to the phase of the operation and transfer of the infrastructure to the contracting authority's use. For this reason, pursuant to point 3.1.2.3 of this tender notice, the contracting authority requires that the candidate proves its experience with the performance of PPP projects in the value of construction costs of at least EUR 100 000 000 without VAT. The minimum amount of construction costs required in point 3.1.2.3 of this tender notice is appropriate for the total construction costs of the Project. The concession relates to priority road infrastructure which is specific by its construction, operation and maintenance as well as legal environment and technical standards. Because of these facts, the contracting authority requires proof of experience with the performance of PPP road infrastructure projects.

Lists of provided services and construction work contracts pursuant to point from 3.1.1.1 to 3.1.1.4, from 3.1.2.1 to 3.1.2.2; each confirmation shall include:

- a) name/business name and seat of the customer,
- b) name/business name and seat of the supplier,
- c) brief summary of the provided services or executed works,
- d) sites,
- e) delivery period,
- f) price of the contract in euros not incl. VAT,
- g) length of the motorway or expressway,
- h) length of the bridge structures, including the length of the span (if relevant),
- i) name and contact details (tel. number, function, email) of the customer, who can verify information,
- j) confirmation of the customer.

Confirmations related to conditions of participation pursuant to point 3.1.1.5 of the tender notice shall also include:

- k) brief project summary including project phase,
- l) value of the project financing,
- m) percentage of voting rights in the project company.

Confirmations related to conditions of participation pursuant to point 3.1.2.3 of the tender notice, shall also include:

- n) percentage of voting rights in the project company,
- o) identification whether the candidate held voting rights in the relevant period,
- p) brief project summary including project phase and definition of the PPP form,
- q) total construction costs of the project.

The contracting authority reserves the right to verify each contract and, in the event of unconfirmed information submitted by the candidate, not accept the confirmation of this contract.

Foreign currencies shall be converted to EUR based on the exchange rate issued by the European Central Bank on 31 December of the year in which the relevant event for demonstrating the fulfilment of the relevant condition of participation occurred – date of conclusion or performance of the contract. In the case of the condition of participation pursuant to point 3.1.1.5 of this tender notice, the relevant event is the date of the financial close; in the case of the condition of participation pursuant to point 3.1.2.3 of this tender notice, the relevant event is the date of completion of construction works.

3.1.3 Pursuant to section 28, subsection 1, letter k) of the Public Procurement Act, the candidate must indicate the share of contract performance which it intends to supply through a subcontractor, if known, with the identification data of the subcontractor, i.e., name and surname, business name or name, permanent address or seat, ID no. or date of birth, if the ID no. was not assigned.

Minimum required standards:

The candidate must submit a list of subcontractors who will participate in the supply of at least 30% of the value of the contract. If the candidate is not aware of such subcontractors at the time of proving its fulfilment of the conditions of participation, it must submit a sworn affidavit declaring that it is not aware of that.

Justification of the appropriateness of the specific condition of participation pursuant to point 3.1.3 in line with section 28 of the Public Procurement Act related to the subject of the contract and the need for inclusion in the conditions of participation pursuant to section 32, subsection 6 of the Public Procurement Act: Information about subcontractors shall ensure the overview of the contracting authority about the bodies who will participate in the subject of the contract. The intention of the contracting authority is to ensure that the fulfilment of the contract will be performed in the required extent and quality by a competent contractual partner.

3.2 If a tenderer or candidate is not established in the Slovak Republic and the country of its seat does not issue any of the documents referred to in paragraph 3.1, they may be replaced by equivalent documents pursuant to the regulations in effect in the country of its seat.

3.3 The group of suppliers must jointly demonstrate the fulfilment of the conditions of participation related to the technical capacity or professional suitability for all members of the group.

3.4 Pursuant to section 155m of the Public Procurement Act, in the case of fulfilment of the condition of participation pursuant to section 28 subsection 1 letter a), if the customer was a contracting authority or contracting entity, it may be up to three years from the day following the date of establishment of the evidence of references pursuant to section 9a and publishing of the template of the reference pursuant to section 9a subsection 6, proved by confirmed evidence of the fulfilment in the case of contracts that were procured according to the Public Procurement Act in force until 30 June 2013. In the case of fulfilment of the conditions of participation pursuant to section 28 subsection 1 letter b), if the customer was a contracting authority or contracting entity, it may be to up five years from the day after the establishment of evidence of references pursuant to section 9a and the publishing of the template of the reference pursuant to section 9a subsection 6, proved by confirmed evidence of fulfilment, in the case of contracts that were procured according to Public Procurement Act in force until 30 June 2013.

3.5 Candidates may use the technical and professional capacities of another person to prove their technical capacity or professional suitability regardless of their legal relationship. In such event, the candidate must prove to the contracting authority that during contract performance it will be able to make valid use of the capacities of such person. The candidate must demonstrate this fact by submitting a written contract concluded with such person that stipulates that the candidate may use such person's abovementioned capacities during the entire legal relationship related to the Project. The person whose resources will be used to prove the candidate's technical capacity or professional suitability must meet the conditions of participation pursuant to Section 26, subsection 1 of the Public Procurement Act in relation to that part of the subject of the contract to which these sources were provided by the candidate. If the candidate or tenderer has proved its technical capacity or professional suitability by listing the technical or professional capacities of another person and during the duration of the contract the performance of that part of the contract occurs the tenderer or candidate is entitled to provide the performance either by itself or by that person by which the capacity or suitability has been demonstrated by the submission of a written contract, the possibility of the change of the subcontractor is not affected.

SECTION IV: PROCEDURE

IV.1)

AWARD CRITERIA

The contracting authority will evaluate bids on the basis of the most economically advantageous bid. A detailed specification of the criteria for the evaluation of bids, their relative weight as well as their evaluation will be specified by the contracting authority in the informative document.

IV.2)

ADMINISTRATIVE INFORMATION

IV.2.1)

File reference number attributed by the contracting authority

02611/2015/D150-OVO

IV.2.2)

Time-limit for the submission of applications

Date: 13/03/2015 Time: 10:00 h.

IV.2.3)

Language(s) in which applications may be submitted

Other:

Slovak

Czech

SECTION VI: COMPLEMENTARY INFORMATION

VI.1)

INFORMATION ABOUT EUROPEAN UNION FUNDS

The contract is related to a project and/or programme financed by European Union funds

Yes

Reference to project(s) and/or programme(s): The financial instruments using the European Union funds may be used for the project financing.

VI.2)

ADDITIONAL INFORMATION:

VI.2.1 The documents forming the request to participate that are submitted by the candidate must be originals or certified copies unless specified otherwise. If the papers and documents by which the candidate proves its fulfilment of the conditions of participation are issued in a language other than the state language or Czech, they must be submitted along with translations into the state language (Slovak), unless specified otherwise.

Templates of sworn affidavits, contracts and additional information will form part of the Information memorandum that will be available to the candidate on request and delivered to the contact point pursuant to point I.1 of this tender notice. The information memorandum and its annexes will also be published at <http://www.obchvatbratislavy.sk>, <http://www.d4r7.sk> or <http://www.uvo.gov.sk/profily/-/profil/zdokumenty/2350/147419>.

VI.2.2 Pursuant to methodology and interpretative opinion no. 6/2014 of the Public Procurement Office, the contracting authority will evaluate the conditions of participation based on the specific papers and documents submitted in the request to participate or on call of the contracting authority after the submission of the request to participate.

VI.2.3 If not specified otherwise in this tender notice, the following terms have the meaning hereby assigned to them:

A "Motorway" is a road for transport links between major centres of state and international importance, a dual carriageway, with limited access and limited connectivity, reserved for motor traffic with a permitted speed according to the law; with multi-level crossings and intersections only. Motorway also means a road specially designed and built for motor traffic, which does not serve adjacent properties, and which:

a) except for special sites or temporarily, has separate carriageways for the two-way traffic, separated from each other by a dividing strip not intended for traffic or, exceptionally, by other signs;

b) does not cross any road, railway or tram track, or footpath at the same level; and
c) is specially identified with a road sign as a motorway.

According to this tender notice, motorway also fulfils the following minimum specifications: 4-lane dual carriageway road with an overall width of at least 24.5 m and a designated speed of at least 80km/h.

A “Bridge structure” or “„bridge” is a traffic structure which transfers a road or railway across rough terrain (valley, gorge, ravine) or a water surface (river, stream, sea, lake) or other barriers.

A “PPP project” includes long-term contractual relationships (with a contractual duration of at least twenty years) between the public and private sectors in the area of infrastructure investment and the provision of public services related to that infrastructure; it consists of at least a “Design-Build-Finance-Operate” contract pursuant to which the private party provides the design and construction of the structure, project financing and during the agreed period, its operation and maintenance. PPP is characterised by (i) the allocation of risks between the public sector and private sector, where the private party takes some economic risks of the project (for example, the risk of construction and availability/demand), (ii) the consideration of the private party which includes direct payments from the contracting authority in the operation phase and/or payments from the users of the infrastructure, (iii) the establishment of a special company, i.e., SPV (Special Purpose Vehicle) or “joint venture”. A PPP project includes concessions for construction works which fulfil the abovementioned characteristics and services concessions only in the event that the project included construction or reconstruction works which represented at least 40% of the value of the contract.

“Operation and maintenance” means the maintenance of the road in a good operational and safe condition, the provision of services for the road’s functionality, reliability and safety of road traffic. It also means restoring the original functional properties to the road by repairing defects. Maintenance also includes the cleaning of the road and road structures, minor repairs, planting and winter maintenance, i.e., works preventing ice formation and snow and ice removal, all maintenance works and related tasks.

“Project financing” includes the financing of the project in the area of infrastructure for duration of at least ten years, managed by project companies established for this purpose. Project companies are financed by private equity and external resources in the form of loans.

“Performance of the construction” means construction works on expressways and motorways or roads of a similar nature and all related and caused works which are necessary for the execution of works. Performance of the construction means at least its transfer to preliminary occupation/occupation.

A “Span” is the distance between the abutment axes of the main supporting structure.

An “Expressway” is a road for motor vehicles with limited connectivity and access, reserved for motor traffic with a designated speed defined by a specific law, with multi-level crossings, or exceptionally, same level crossings and intersections. Expressway also means a road reserved for motor traffic accessible only from two-level crossings or controlled crossings and on which, in particular, stopping and parking are prohibited. An expressway is also at least a 4-lane dual carriageway road with an overall width of 22.5 m and a designated speed of at least 80km/h according to this tender notice.

“Equity” means the difference between assets and liabilities (external sources) of the company; the presentation (reporting) of the equity is regulated by International

Accounting Standard IAS 1 "Presentation of Financial Statements" for the purposes of reporting under IFRS.

VI.2.4 The request to participate must include:

- a) content – list of confirmations, papers and documents with listed numbers pursuant to point VI.2.8,
- b) identification data of the candidate (in the case of a group of suppliers, the identification data of each member of the group of suppliers). The document must be signed by the person empowered to act on behalf of the candidate or the member of the group of suppliers,
- c) sworn affidavit pursuant to point VI.2.7,
- d) declarations, confirmations, papers and documents by which the candidate proves the fulfilment of the conditions of participation,
- e) in the case of a group of suppliers, the power of attorney for one member of the group of suppliers pursuant to point VI.2.6,
- f) if the candidate or group of suppliers considers it appropriate, a power of attorney for a natural person, who will be empowered to receive instructions regarding this public procurement and act on behalf of the candidate or group of suppliers.

VI.2.5 The candidate's request to participate must include the following: (i) name of the candidate (members of the group of suppliers), (ii) seat or place of business of the candidate (members of the group of suppliers), (iii) telephone number and fax number of the candidate (members of the group of suppliers), (iv) contact email address of the candidate (members of the group of suppliers), (v) complete list of members of the group of suppliers (in the case of a group of suppliers). The request to participate must be signed by the candidate. In the case of a group of suppliers, the request to participate must be signed by all of the members of the group of suppliers. The candidate and each member of the group of suppliers must submit a commercial register excerpt or the equivalent document according to the country of its seat or place of business.

VI.2.6 In the case of a group of suppliers, the request to participate must also contain a special power of attorney for a member of the group of suppliers with a legal capacity for communication with the contracting authority on behalf of the group of suppliers and for legal acts on behalf of the group of suppliers in the public procurement process. The acts of the empowered representative of the group of suppliers will be binding on the contracting authority. A written power of attorney must be signed by all of the members of the group of suppliers.

VI.2.7 The request to participate must include an attachment comprising a special sworn affidavit which states that the candidate understood the tender notice and that all declarations, confirmations, papers, documents and information provided in the request to participate for the subject of the contract are both truthful and complete, and which is signed by the candidate.

VI.2.8 The contracting authority recommends that the individual documents in the request to participate be numbered and that content (itemized list of individual documents) be included. The documentation shall be firmly bound (for example, bookbinding will be supplemented by a twine connection, which is sealed and stamped by the candidate, a

quick-binder supplemented by a twine connection, which is sealed and stamped by the candidate) in order to prevent the unsolicited substitution of individual parts.

VI.2.9 Further information will form part of the Information memorandum which will be available to the candidate on request and delivered to the contact point pursuant to point I.1 of this tender notice. The Information memorandum and its annexes will be published at <http://www.obchvatbratislavy.sk> or <http://www.d4r7.sk> and also will be published on the address of the contracting authority: <http://www.uvo.gov.sk/profily/-/profil/zdokumenty/2350/147419>.

VI.2.10 The period for the request for an explanation will expire on: 27/02/2015 at 14:00.

VI.2.11 All documents required by this tender notice, including the request to participate, documents which demonstrate the fulfilment of the conditions of participation (all parts of them) and other additional documents according to this tender notice, shall be simultaneously delivered in (i) paper form and (ii) electronic form on a DVD or CD (s) in 3 copies as scanned photocopies of documents submitted in paper form. In the event of differences in content, the paper form will prevail.

VI.2.12 The candidate must insert the documents mentioned in the above points in a non-transparent envelope or packaging. The envelope or packaging must be closed and sealed against any unsolicited opening, and marked with the following data:

- (a) official name and seat of the contracting authority;
- (b) official name and seat or place of business of the candidate (members of the group of suppliers);
- (c) labelled as: Koncesia PPP - žiadost' o účasť - neotvárať!;
- (d) code: PPP - D4 R7.

VI.2.13. The contracting authority will invite no more than 4 candidates who fulfilled and demonstrated the conditions of participation for a competitive dialogue. The contracting authority may invite fewer candidates, who fulfilled the conditions of participation, to participate in the dialogue if the conditions of participation were fulfilled by less than 4 candidates. If more than 4 candidates fulfil the conditions of participation, the contracting authority will use the criteria referred to in VI.2.14. and VI.2.15. to reduce the number of candidates. In this case, the 4 candidates, who fulfilled and demonstrated the conditions of participation and achieved the highest score on the basis of the evaluation of criteria referred to in VI.2.15., will be invited to participate in the process by which the concession contract will be concluded.

VI.2.14. Evaluation criteria for candidates, who fulfilled and demonstrated the conditions of participation and who will participate in the process by which the concession contract will be concluded (hereinafter referred to as "criteria") and their weight:

- a) References and confirmations of customers which fulfil the minimum criteria referred to 3.1.1.1 of this tender notice with a relative weight of 4%,
- b) References and confirmations of customers which fulfil the minimum criteria referred to 3.1.1.2 of this tender notice with a relative weight of 3%,
- c) References and confirmations of customers which fulfil the minimum criteria referred to

- 3.1.1.3 of this tender notice with a relative weight of 3%,
- d) References and confirmations of customers which fulfil the minimum criteria referred to 3.1.1.4 of this tender notice with a relative weight of 10%,
- e) References and confirmations of customers which fulfil the minimum criteria referred to 3.1.1.5 of this tender notice with a relative weight of 10%,
- f) References and confirmations of customers which fulfil the minimum criteria referred to 3.1.2.1 of this tender notice with a relative weight of 10%,
- g) References and confirmations of customers which fulfil the minimum criteria referred to 3.1.2.2 of this tender notice with a relative weight of 10%.
- h) References and confirmations of customers which fulfil the minimum criteria referred to 3.1.2.3 of this tender notice with a relative weight of 50%,

Evaluated data within the criteria are:

- a) pursuant to point 3.1.1.1 of this tender notice – total length of motorways and expressways for which the project documentation for a building permit or similar documentation was prepared,
- b) pursuant to point 3.1.1.2 of this tender notice - total length of motorways and expressways for which design documentation or similar documentation was prepared,
- c) pursuant to point 3.1.1.3 of this tender notice - total length of bridge structures, on a motorway or expressway for which design documentation or similar documentation was prepared,
- d) pursuant to point 3.1.1.4 of this tender notice - total length of motorways and expressways, on which comprehensive operation and maintenance was performed,
- e) pursuant to point 3.1.1.5 of this tender notice – total value of obtained project funding,
- f) pursuant to point 3.1.2.1 of this tender notice – total length of motorways and expressways,
- g) pursuant to point 3.1.2.2 of this tender notice - total length of bridge structures on motorways and expressways,
- h) pursuant to point 3.1.2.3 of this tender notice – total amount of construction costs of the PPP project.

VI.2.15 The criteria have following method of application:

- a) All references and confirmations of customers will be evaluated according to the candidate's allocation into the groups mentioned above in the request to participate. For this purpose, the contracting authority recommends that the candidate identify which references for the relevant period should be subsumed to which point from 3.1.1.1 to 3.1.1.5 and from 3.1.2.1 to 3.1.2.3 of this tender notice. During the evaluation of the criteria for the selection of candidates who will be invited to participate in the dialogue, the contracting authority will consider only those confirmations of customers or references that fulfil the minimum standards according to this tender notice.
- b) The candidate whose references within the relevant group of references achieve the highest score among the evaluated data will obtain the maximum number of points (100).
- c) Any other candidates within the relevant group of references will obtain points proportionally and their number will be determined as a ratio of the relevant value of the candidate whose confirmations and references are evaluated and the best candidate in the same reference group multiplied by 100. The resulting value will be rounded to two decimal places and the number at the third decimal place will be rounded up from the number of five.

d) The final score calculated pursuant to the abovementioned letter c) will be multiplied by the percentage value of the criteria weight according to point VI.2.14 of this tender notice within the relevant group of references. The final value will be rounded to two decimal places; the number at the third decimal place will be rounded up from the number of five.

e) The final score relevant for the selection of candidates who will be invited by the contracting authority to participate in the dialogue will be calculated as the total score of all points obtained within the reference groups or customer confirmations according to points from 3.1.1.1 to 3.1.1.5 and from 3.1.2.1 to 3.1.2.3 of this tender notice according to the calculation provided pursuant to the abovementioned points from VI.2.13 to VI.2.15 of this tender notice.

f) in the event of an identical score for the 4th and 5th places, the relevant criterion in accordance with point 3.1.2.3 of this tender notice will be the total amount of construction costs of PPP projects. In the event of an identical score for the total amount of construction costs of PPP projects, the relevant criterion will be the total length of motorways and expressways according to point 3.1.2.1 of this tender notice.

VI.2.16 The contracting authority is only authorized to conclude the concession contract with the prior consent of the Government of the Slovak Republic pursuant to section 19, subsection 15 of Act no. 523/2004 on Budget Rules of Public Service as amended. The contracting authority reserves the right not to enter into a concession contract without the consent of the Government of the Slovak Republic.

VI.2.17 If any document includes personal data pursuant to Act no. 122/2013 on Personal Data Protection as amended by Law no. 84/2014 Coll., the candidate is required to ensure that such data are unreadable on the relevant paper or document in electronic form or to ensure its consent to the processing of such personal data for purposes of the public procurement by the contracting authority. Any trade secrets included in a candidate's documents must be labelled.

VI.2.18 The minimum period during which bids are binding shall be determined in the Information document.

VI.2.19 The contracting authority will require the submission of the list of all shareholders and known shareholders owning at least 30% of the shares of this company, if the shareholder or known shareholder is a legal person, and all shareholders and known shareholders owning at least 30% of the shares of this legal person, not older than 60 days with a specification of their names and surnames, business name or name, permanent residence or seat, ID no. or date of birth if the ID no. has not been assigned, during the evaluation of the fulfilment of the conditions of participation of candidates and members of the group of suppliers who are companies in the public procurement process.

VI.2.20 Competitive dialogue will be the procedure for the selection of the successful tenderer with whom the concession contract will be concluded.

VI.2.21 The contracting authority is allowed to extend the Project about structures or reduce the Project about structures and/or sections.

VI.3) PROCEDURES FOR APPEAL

VI.3.1) Body responsible for appeal procedures

Public Procurement Office

National identification number: 31797903

Dunajská 68, P.O.BOX 58, 820 04 Bratislava 24

Telephone number: +421 250264176

Fax: +421 250264219

Internet address (URL): <http://www.uvo.gov.sk>

VI.3.3) Service from which information about the lodging of appeals may be obtained

Public Procurement Office

National identification number: 31797903

Dunajská 68, P.O.BOX 58, 820 04 Bratislava 24

Telephone number: +421 250264176

Fax: +421 250264219

Internet address (URL): <http://www.uvo.gov.sk>

VI.4) DATE OF DISPATCH OF THIS NOTICE

28.01.2015