



REPUBLIC OF BULGARIA
MINISTRY OF FINANCE

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MINISTER OF FINANCE:


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D O C U M E N T A T I O N

for

**participation in a procedure for conclusion of framework agreements with the following
subject matter:**

**“Procedural Representation and Legal Advice in International Arbitration Cases
and in Proceedings before Foreign Jurisdictions, as well as Legal Advice and
Representation in Negotiations and Mediation related to Resolution of Legal Disputes”**

Sofia
MINISTRY OF FINANCE
2018

C O N T E N T S

of the Documentation for participation in a procedure for conclusion of framework agreements
with the following subject matter:

“Procedural Representation and Legal Advice in International Arbitration Cases and in Proceedings before Foreign Jurisdictions, as well as Legal Advice and Representation in Negotiations and Mediation related to Resolution of Legal Disputes”

1. Order to open the procedure
2. Description of the subject matter of the procedure
3. Instructions to tenderers in the procedure
4. Methodology for ranking of tenderers
6. Enclosure No. 1 - Sample tender
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SUBJECT MATTER OF THE PROCEDURE

The Ministry of Finance (the “Contracting Authority”) wishes to enter into framework agreements with three law firms concerning procedural representation and legal advice in international arbitration cases and in proceedings before foreign jurisdictions, as well as legal advice and representation in negotiations and mediation related to resolution of legal disputes. The framework agreements will be concluded for a period of five years. Retainers entered into on the ground of a framework agreement will remain in force after the expiry of the framework agreement until the fulfilment of all obligations under each particular retainer.



INSTRUCTIONS TO TENDERERS
IN THE PROCEDURE FOR CONCLUSION OF FRAMEWORK AGREEMENTS

This Documentation contains information allowing tenderers to familiarise themselves with the subject matter of the procedure, the terms of participation, the requirements to tenderers and the rules of the procedure.

I. GENERAL PROVISIONS

1.1. Tenderers shall observe the time limits and terms stated in the Order and in this Documentation for the participation in the procedure for conclusion of framework agreements.

1.2. Costs arising in relation to the preparation and submission of tenders shall be borne by each tenderer concerned. The Contracting Authority shall in no way whatsoever contribute to these costs, irrespective of the way in which the procedure will be conducted or of the outcome thereof.

1.3. Law firms which fully accept all the requirements and conditions stated in this Documentation, and meet these requirements and conditions shall be admitted for participation in the procedure.

II. REQUIREMENTS TO TENDERERS

1. Any law firm meeting each and all of the following requirements **may** participate in the procedure for conclusion of framework agreements:

1.1. Has been duly registered as a law firm in accordance with its national legislation;

Legal forms in which tenderers in the procedure practice law are governed by their national legislation. Tenderers that are registered outside the Republic of Bulgaria are not required to be law firms within the meaning of Bulgarian law.

1.2. Can put forward the following partners:

Three partners, in total, in the following categories of arbitration cases:

- **First arbitration category – investment arbitration:** Two partners who have successfully represented parties in investment arbitration cases. Investment arbitration cases are cases in which claims under a bilateral or multilateral investment treaty have been filed regardless of the arbitration rules which apply (e.g. the Rules of Procedure for Arbitration Proceedings of the International Centre for Settlement of Investment Disputes (“ICSID”), Arbitration Rules of the ICSID Additional Facility, UNCITRAL Arbitration Rules, etc.). Each of

the partners must have been a **lead counsel in at least 4 (four) successfully concluded investment cases in 1 (one)** of which he/she must have represented a **state**.

The jurisdiction phase, the phase on the merits and proceedings pursuant to Articles 51 and 52 of the ICSID Convention in one and the same arbitration case will be considered one arbitration case.

- **Second arbitration category – commercial arbitration:** One partner who has successfully represented parties in international commercial arbitrations. The partner must have been a **lead counsel in at least ten (10) successfully concluded international commercial arbitration cases with at least 20 (twenty) million USD or EUR in controversy in 2 (two)** of which he/she must have represented a **state, a state organ or a state entity**. Arbitration cases must have been heard by renowned international arbitration courts, such as the Court of Arbitration with the International Chamber of Commerce in Paris, the London Court of International Arbitration, the Arbitration Institute with the Stockholm Chamber of Commerce, the American Arbitration Association and other similar, as well as ad hoc arbitrations under the UNCITRAL arbitration rules.

Cases in which the proposed partners have acted as arbitrators shall not be considered.

Law firms are allowed to participate only with three partners. Each partner put forward has to cover the minimum participation requirement for experience in the category in which he or she participates. Experience of additional partners are not required and allowed, and if provided will not be taken into consideration.

Partners put forward by a law firm for participation in the procedure may be based in several offices of the law firm in several states different than the registration state of the law firm.

1.3. Has a valid insurance covering professional liability for at least EUR 20 (twenty) million.

2. A tenderer in respect to whom any of the circumstances under this section exists **may not** participate in this procedure for conclusion of a framework agreement:

2.1. The tenderer has been declared bankrupt or is in open bankruptcy proceedings, or has entered into an out-of-court agreement with its creditors within the meaning of Art. 740 of the Commercial Act of the Republic of Bulgaria, or is in an open winding-up procedure, or has closed its business activities, and in cases where a tenderer is a foreign person – it is in any similar procedure in accordance with its national legislation;

2.2. The person/s representing the tenderer and the partners put forward by a law firm for participation are related persons within the meaning of § 1 (13) and (14) of the Additional Provisions of the Bulgarian Public Offering of Securities Act with the Contracting Authority (the Ministry of Finance) or with any civil servant on a senior position within its administration;

2.3. A tenderer which, at the time of submitting the tender, has a conflict of interest. A tenderer is deemed to have a conflict of interest if it represents a party in a litigation or arbitration case against Bulgaria, any Bulgarian state organ or agency, or any Bulgarian state-owned company (a company in which Bulgaria or any Bulgarian state organ, directly or indirectly, holds more than 50% shareholding), or if it has a conflict of interest under the bar rules applicable to the tenderer.

III. INSTRUCTIONS ON THE PREPARATION OF TENDERS

The tender has to be prepared in accordance with the conditions and requirements of this Documentation for participation.

1. When preparing the tender, each tender must accurately follow the terms announced by the Contracting Authority.

Each tenderer shall be entitled to submit only one tender. The latter shall be filed within the time limit and at the address stated in the Order for opening the procedure for conclusion of framework agreements, following the procedure described in these instructions.

The tender shall be submitted as an original paper document in the English language, in writing, without deletions and corrections, and it shall be signed by the person(s) representing the tenderer.

The samples attached to this Documentation for the participation and the conditions described therein shall be binding on the tenderers.

The period of validity of tenders shall be the time period for which tenderers are bound by the terms of the tenders they submit, and it must be in accordance with the time limit specified in the Order and the Documentation.

2. Each tender for participation in the open procedure must contain the **following documents**:

2.1. A **tender** in accordance with the sample (Enclosure No. 1).

2.2. A **price offer** in accordance with the sample (Enclosure No. 2).

Tenderers shall offer a price for their services by specifying the hourly fees of:

- a Partner.....;



- an Associate.....;

- a Legal Assistant.....

The price of the services offered must be specified in euro (EUR) and include any and all direct and indirect taxes and levies, including but not limited to VAT, which the law firm is required by law to include.

The price specified as hourly fees for each of the categories of persons in the price offer shall not be increased under any conditions whatsoever, if the tenderer is retained to provide a specific legal service.

The tenderer shall be responsible for any errors or omissions in the calculation of its price offer. In the event of mismatch between the price in figures and the price written out in words, the one written out in words shall be binding.

The tender and the price offer shall be submitted as an original paper document in the English language. They shall be signed by the person(s) representing the tenderer pursuant to its registration documents and the legal opinion under item III.2.4, or by one of the partners put forward for participation in this procedure by the tenderer, on the basis of a power of attorney by the person(s) representing the tenderer. The power of attorney must be an original document and, if possible witnessed by a notary public.

2.3. Documents showing that the law firm has been **registered** and is **in good standing** in accordance with its national legislation. If the documents are issued in a foreign state, they shall be submitted as original documents and have an apostille certifying the signature of the person who has issued the documents.

The registration and good standing of a law firm could be proved by the document/documents which are ordinary issued for this purpose in the jurisdiction where the firm is incorporated, provided that an external legal opinion explains their nature and legal significance and confirms their suitability to evidence registration and good standing.

2.4. **A legal opinion** by a lawyer who does not work for the law firm-tenderer in this procedure and who is licensed to practice law in the jurisdiction in which the said law firm is registered. The legal opinion must answer the following questions in short:

- a) in what legal form the law firm is organised;
- b) who may represent it and assume obligations in its name;
- c) what liability the firm and the partners have;

d) whether the documents submitted by that law firm in satisfaction of item III.2.3 and III.2.6 are the documents issued in the jurisdiction of the participating law firm as evidence of these circumstances.

The legal opinion shall be signed by the lawyer who prepared it.

2.5. Documents and evidence of the professional experience of the partners put forward for participation in the tenderer. Each tenderer shall submit a table summarising the following information:

Name of the partner who participated	Parties and reference number of the case	Amount in controversy	Case outcome
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Tenderers must submit reliable evidence that the partners put forward by them have indeed represented a party in the specified cases and that the representation was successful. The evidence submitted must allow the Contracting Authority to establish **beyond any doubt** that the partners put forward have indeed represented a party in the specified cases and that the representation was successful. Awards, correspondence with an arbitral institution or tribunal, case transcripts, dispositive parts (holding) of arbitration awards, parts of contracts and all other documents clearly evidencing the successful representation of a party by the partners put forward. The Contracting Authority shall keep the documents from arbitration cases provided to it confidential.

The required experience could be proved by sworn statement by a senior partner only in highly exceptional circumstances when due to reason beyond his or her control the partner objectively has no access to the arbitration documents. The confidentiality of arbitration is not such an exceptional circumstance.

The table summarizing the experience of the tenderers shall be signed by the person(s) representing the tenderer pursuant to its registration documents and the legal opinion under item III.2.4, or by one of the partners put forward for participation in this procedure by the tenderer, on the basis of a power of attorney by the person representing the tenderer.

2.6. Documents certifying the licence of the partners put forward for participation in the tender to practise law.

These documents shall be submitted as original documents and, if that is not possible, as copies thereof.

2.7. A document evidencing that the tenderer has a valid insurance covering professional liability of no less than EUR 20 (twenty) million.

These documents shall be submitted as original documents and, if that is not possible, as copies thereof.

2.8. Declarations certifying the absence of circumstances under item II.2, namely:

2.8.1. Declaration in the form of Enclosure No. 4. It shall be signed by the person(s) representing the tenderer pursuant to its registration documents and the legal opinion under item III.2.4, or by one of the partners put forward for participation in this procedure by the tenderer, on the basis of a power of attorney by the person(s) representing the tenderer.

2.8.2. Declaration in the form of Enclosure No. 5. It shall be signed by the person(s) representing the tenderer pursuant to its registration documents and the legal opinion under item III.2.4, or by one of the partners put forward for participation in this procedure by the tenderer, on the basis of a power of attorney by the person(s) representing the tenderer, **and** by each member of the team put forward that they are not related persons within the meaning of § 1 (13) and (14) of the Additional Provisions of the Bulgarian Public Offering of Securities Act with the Contracting Authority or any civil servants on a senior position within its administration.

2.8.3. Declaration of awareness of the terms of the procedure and acceptance of the terms of the draft contract (Enclosure No. 6). It shall be signed by the person(s) representing the tenderer pursuant to its registration documents and the legal opinion under item III.2.4, or by one of the partners put forward for participation in this procedure by the tenderer, on the basis of a power of attorney by the person(s) representing the tenderer.

2.9. Other documents that the tenderer considers appropriate.

2.10. A list of the documents contained in the tender (Enclosure No. 8). It shall be submitted as an original document in the English language. It shall be signed by the person(s) representing the tenderer pursuant to its registration documents and the legal opinion under item III.2.4, or by one of the partners put forward for participation in this procedure by the tenderer, on the basis of a power of attorney by the person(s) representing the tenderer.

2.11. Administrative information about the tenderer – a template document (Enclosure No.3).

IV. TERMS FOR THE SUBMISSION, ADMISSION AND EXAMINATION OF TENDERS

1. Requirements to the documents

All documents must be issued on a date preceding their submission by no more than **3 months** or be within the period of their validity where a validity period is expressly specified on them.

2. The tender and all other documents attached thereto must be submitted in a sealed non-transparent envelope with a preserved integrity reading “TENDER”. The envelope with label “TENDER” must contain 3 separate sealed, non-transparent, and labelled envelopes.

2.1. Envelope No.1 must be labelled “**Selection Documents**” and must contain:

- Documents concerning the good standing of the law firm in accordance with its national legislation pursuant to item III.2.3;
- The legal opinion pursuant to item III.2.4;
- Documents regarding the professional experience of the tenderer pursuant to item III.2.5;
- Documents certifying that the partners put forward have a right to practice law pursuant to item III.2.6;
- Document for a valid professional liability insurance;
- Declarations in the form of Enclosure No.4;
- Declarations in the form of Enclosure No.5;
- Declaration for acquaintance with the terms of the procedure (Enclosure No. 6);
- Administrative information about the tenderer (Enclosure No. 3);
- Other documents that the tender considers appropriate;
- A list of the documents submitted.

2.2. Envelope No. 2 must be labeled “**Tender to Perform the Contract**”. Enclosure No. 1 to these instructions (sample tender) must be placed in this envelope.

2.3. Envelope No. 3 must be labeled “**Price Offer**” and must contain the price offer of the tenderer (Enclosure No. 2 to these instructions).

2.4. The envelope labelled “Tender” must bear the following information:

- Ministry of Finance, Litigation Department, 102, G. S. Rakovsky str., Sofia;
- Name and address of the tenderer, phone, fax and e-mail;
- The following notice: “For participation in the procedure for conclusion of framework agreements with the following subject matter: ‘**Procedural Representation and Legal Advice in International Arbitration Cases and in Proceedings before Foreign Jurisdictions, as well as Legal Advice and Representation in Negotiations and Mediation related to Resolution of Legal Disputes**’”.

Where self-sealing envelopes are used, they should be sealed with an adhesive tape and the tenderer must sign across it.



3. The tender must be received at the Ministry of Finance, at 102, G. S. Rakovsky str., Secretariat, Office No. 7, not later than 5 p.m., Sofia Time, on **March 26, 2018**.

4. Tenders shall be submitted by the tenderer or its authorized representative in person, or by registered mail with a return receipt, or by courier. The Contracting Authority shall not be responsible in case tenders are not received in the event any other manner of submission has been used, but the ones specified above.

5. A tender submitted after the deadline shall not be admitted by the Contracting Authority and shall be returned to the tenderer.

6. Upon receiving the tender, its ordinal number and the date and time of receipt shall be noted, this data being entered into an incoming register.

7. Until expiry of the deadline for submission of tenders each tenderer may change, supplement or withdraw its tender. The withdrawal of a tender shall terminate any further participation of the tenderer in the procedure.

8. No tenderer shall be admitted for participation in the procedure if any of the following circumstances is present:

8.1. The tender is submitted in a non-sealed, transparent envelope or in an envelope with broken integrity;

8.2. The tender is received after the deadline for receipt of tenders;

8.3. The tender submitted does not meet the terms set in advance in this Documentation;

8.4. One of the required documents has not been submitted.

9. Time limits specified in this Documentation shall be calculated as follows:

9.1. Where a time limit is indicated in days, it shall expire at the end of the last day of the specified period.

9.2. Where the last day of a time limit coincides with an official Bulgarian holiday or a non-business day on which a particular act must be executed, the time limit shall expire at the end of the next business day.



10. Period of validity of the tender

Tenders should have a validity period of 90 calendar days from the day on which they are opened. Any tender with a lesser period of validity shall be rejected by the Contracting Authority for lack of compliance with the requirements.

11. Opening and evaluation of tenders

The examination, evaluation and ranking of tenders shall be made in accordance with the procedure set forth in this section.

The Contracting Authority shall appoint a commission for examination, evaluation and ranking of the tenders (the "Commission") by appointing its members, alternate members and setting a deadline for completion of the task. The Commission's members shall keep confidential the information they have learned in connection with their work in the Commission.

Decisions of the Commission shall be taken by simple majority. When a member of the Commission disagrees with a particular decision, s/he must sign the protocol and then submit her/his dissenting opinion in writing.

The Contracting Authority shall open the tenders at the time, date and place specified in the Order for opening of the procedure for conclusion of framework agreements.

11.1. Opening of the "**Selection Documents**" envelope.

11.2. Tenderers shall be invited to attend the opening of envelopes.

11.3. The Commission shall examine the documents submitted and their compliance with the terms announced in advance by the Contracting Authority.

11.4. The Commission shall be entitled to verify at any given point in time the information and facts submitted by the tenderers, as well as to demand within a given time limit additional evidence of or explanations regarding circumstances set forth in the tender. A tender which does not meet the participation requirements shall be rejected by the Contracting Authority, and the tenderer will not be allowed to correct it for the purposes of a second examination.

Tenderers shall submit to the Commission the relevant documents within 10 calendar days of receipt of the request.

The opportunity to provide additional documents at the request of the Commission cannot be used to change the tenders of the tenderers.



11.5. Throughout the procedure tenderers shall be obligated to inform the Contracting Authority of any changes in the circumstances under item II.2 of these instructions within 7 days of their occurrence.

11.6. The Commission reviews whether the documents in Envelope No. 1 conform with the selection criteria set by the Contracting Authority, and prepares a protocol.

A tenderer shall be disqualified from the procedure if:

- a) it has not submitted some of the documents required under this Documentation and fails to submit them within 10 calendar days of receipt of the protocol of the Commission;
- b) whose tender is incomplete or fails to meet the conditions of this Documentation, and the tenderer fails to supplement its tender within 10 calendar days of receipt of the protocol of the Commission;
- c) it has submitted a tender that does not meet the requirements of this Documentation;
- d) for whom any of the circumstances in item II.2 are present;
- e) which has submitted a tender that does not meet the requirements of items IV.1 and IV.2;
- f) The Commission has found that the tenderer has submitted false information to evidence that it meets the selection criteria set by the Contracting Authority.

Where submitted declarations have not been dated, or are incomplete and inaccurate, the respective tenderer shall be proposed for disqualification if it fails to complete or correct them within 10 calendar days of receipt of the protocol of the Commission.

11.7. The price offer shall not be opened where the tender does not meet the requirements of the Contracting Authority.

When the Commission opens the price offers it shall announce them and shall offer a representative of each attending tenderer to sign the price offers.

11.8. If a tenderer has made a price offer which is more than 20 per cent lower than the average of the price offers of the other tenderers, the Commission shall require that law firm to present a detailed written explanation of the proposed price. The explanation shall be submitted within five business days of receipt of the Commission's request.

The Commission may accept the written justification and not to propose the tender for disqualification when objective circumstances have been pointed out related to:

1. original approach to performing the job;
2. extremely favourable conditions for the tenderer;
3. the job will be performed in an economical way by the tenderer.

If the tenderer fails to submit the explanation within the deadline or if the Commission decides that the explanation is not objective, the Commission shall propose that tenderer to be disqualified from the procedure.

11.9. The evaluation of tenders received shall be made by the Commission members in accordance with the indicators specified in the “Methodology for evaluation” and their relative weight in the evaluation.

11.10. The Contracting Authority will announce by appropriate means on the website of the Ministry of Finance the date, time and place of opening and announcement of the tenders of the tenderers to perform the contract.

11.11. The Contracting Authority shall announce by appropriate means on the website of the Ministry of Finance the date, time and place for opening and announcement of the price offers of the tenderers (envelope “PRICE OFFER”).

11.12. The Contracting Authority shall invite the tenderers to attend the opening of the “PRICE OFFER” envelopes.

11.13. The evaluation of the offers in envelope No. 3 “PRICE OFFER” shall be made by the members of the Commission in accordance with the “Evaluation methodology” for this indicator and its relative weight.

11.14. Evaluation and ranking of tenders shall be made in accordance with the conditions of this Documentation. The Commission shall rank the tenderers in accordance with the compatibility of their tenders with the requirements of the Contracting Authority and the final evaluation of each tender.

11.15. The Commission shall prepare a protocol for review, evaluation and ranking of the tenders. The protocol shall contain the following:

11.15.1. members of the Commission and date of the protocol;

11.15.2. list of tenderers proposed for disqualification and the reasons for their disqualification;

11.15.3. results of the examination and evaluation of the admitted tenders, including a short description of the tenders and their evaluation per criterion;

11.15.4. ranking of the tenderers whose tenders were admitted for examination and evaluation by the Commission;

11.15.5. dissenting opinions with the relevant reasons of the members of the Commission.

The protocol of the Commission shall be signed by all members and shall be submitted to the Contracting Authority together with the entire file.



11.16. The Commission shall end its work by the receipt of the protocol by the Contracting Authority.

11.17. The Contracting Authority shall select the winners on the basis of the evaluation of the tenders in accordance with the criteria set in this Documentation.

11.17.1. The Contracting Authority shall terminate the procedure by an order when:

1. no tenders have been submitted, or no tenderer meets the requirements of this Documentation;

2. all tenders do not meet the requirements set in advance by the Contracting Authority;

3. there are violations in the opening and carrying out of the procedure that cannot be cured without changing the conditions of the procedure.

11.17.2. The Contracting Authority may terminate the procedure by an order when:

1. only one tender was submitted;

2. only one tenderer or only one tender meets the requirements set in advance by the Contracting Authority;

3. all winners ranked at the first three places refuse to enter into a framework agreement, and the other tenderers also refuse.

11.17.3. When there is missing, incomplete and/or inaccurate information, including an irregularity or a factual error, regarding the selection criteria of the tenderers, tenders are given an opportunity to submit new information, to supplement or clarify the information provided.

12. Conclusion of framework agreements

12.1. A framework agreement shall be concluded with each of the tenderers ranked in the first three places within not more than 30 days of the decision of the Contracting Authority for selecting a contractor, and after submission of all required documents.

12.2. The framework agreement shall have the following subject matter: procedural representation and legal advice in international arbitration cases and in proceedings before foreign jurisdictions, as well as legal advice and representation in negotiations and mediation related to resolution of legal disputes. Procedural representation and legal advice in cases shall include all possible phases of a case – jurisdictional phase, phase on the merits, provisional measures phase, appeal and/or set aside/annulment proceedings, proceedings for recognition and enforcement, and coercive enforcement proceedings.

If the administration of the particular case and/or the preparation and the performance of the procedural representation in the case require the retention of a Bulgarian attorney-at-law



and/or Bulgarian Law expert (local counsel), the law firm may retain such attorney-at-law and/or expert only after prior consultations with and approval by the Ministry of Finance.

12.3. The framework agreements shall be entered into for a period of five years. Retainers entered into on the ground of the framework agreement remain in force even after expiry of the later until fulfilment of all the obligations under the particular retainer.

12.4. A framework agreement will not be entered into with a winning tenderer that at the time of signing:

1. has not provided registration documents under item III.2.3.
2. has not provided documents from the relevant competent authorities showing that the circumstances under item II.2 are not present.

12.5. A retainer for providing legal advice and procedural representation in a specific case or a legal dispute will be entered into, at the discretion of the Contracting Authority, with any of the law firms parties to the framework agreement. Prior to entering into a retainer, the Contracting Authority will evaluate for each law firm whether there is a conflict of interest in the specific case, and the experience of the tenderer in the relevant category of cases.

If more than one law firm has no conflict of interests and the partners put forward by them have the relevant experience in such cases, the Contracting Authority will decide at its discretion which law firm to retain for the particular case.

13. Notification of the ranking and conclusion of framework agreements

13.1. Once the Commission has completed its work, the Contracting Authority shall announce the ranking of tenderers in a decision. In its decision it shall determine the tenderers ranked in the first three positions with which it shall conclude framework agreements. In the decision the Contracting Authority shall also specify the tenderers disqualified from participation in the procedure and the reasons for their disqualification.

13.2. The Contracting Authority shall send the decision to the tenderers and shall invite each tenderer ranked in the first three positions to conclude a framework agreement.

13.3. Until expiry of the validity of tenders, the addresses, the email addresses and faxes specified in the tender of the tenderer concerned shall be considered valid. In case the address, the email address or the fax is changed and the Contracting Authority has not been notified thereof, letters shall be considered duly served.

13.4. At signing of the framework agreement, the tenderers shall be obligated to submit the following documents:

a) Documents issued by a competent authority, or an abstract from a court register, or an equivalent document from a judicial or administrative authority of the state of their establishment to evidence the absence of circumstances under items II.2.1 – 2.3 of this Documentation.

Where in the relevant foreign state no documents are issued to certify to any of the circumstances under items II.2.1- 2.3, the tenderer shall submit a sworn declaration, provided that sworn declarations have legal significance and effect under the law of the state in which it is established.

Where sworn declarations have no legal significance and effect under the respective national law, the tenderer shall submit a formal statement made before a judicial or administrative body, a notary public or a competent professional or commercial authority in the state of its establishment.

Sworn declarations or formal statement shall be submitted in regard to items II.2.1 - II.2.3 by the person(s) representing the tenderer pursuant to its registration documents and the legal opinion under item III.2.4, or by one of the partners put forward for participation in this procedure by the tenderer, on the basis of a power of attorney by the person(s) representing the tenderer.

b) legal opinion by a lawyer who does not work for the law firm-tenderer in this procedure and who is licensed to practice law in the jurisdiction in which the said law firm is registered. The legal opinion must answer in short the question whether the documents submitted in satisfaction of items II.2.1-2.3 are the documents issued in the jurisdiction of the participating law firm as evidence of these circumstances, or to state that a document for certification of any of the circumstances in items II.2.1-2.3 is not issued in that jurisdiction.

V. ACTION TO BE TAKEN AFTER THE ANNOUNCEMENT OF RESULTS

Within 30 (thirty) days of the date of receipt of the decision of the Contracting Authority for selection of contractors, the parties to the contract will sign it.

In the event of refusal by the tenderer determined as contractor to conclude a contract, the Contracting Authority shall offer a framework agreement to the tenderer coming next in order.

Any attempt by a tenderer to influence the Commission members and the Contracting Authority in the process of evaluation of proposals and in making the decision on the conclusion of a framework agreement shall result in the rejection of that tenderer's tender.

The provisions of the Bulgarian legislation shall apply to any matter which has not been provided for explicitly in this Documentation.



M E T H O D O L O G Y

for

the evaluation of tenders for participation in the procedure for conclusion of framework agreements with the following subject matter “**Procedural Representation and Legal Advice in International Arbitration Cases and in Proceedings before Foreign Jurisdictions, as well as Legal Advice and Representation in Negotiations and Mediation related to Resolution of Legal Disputes**”

1. Indicators for final evaluation.

Each tender shall be evaluated on the basis of 2 (two) indicators:

- **Ai** - participation in international investment arbitration cases and in international commercial arbitration cases – **an indicator with a 60% relative weight in the final evaluation;**

- **Bi** - the price offered by the tenderer calculated as a sum of hourly fees of a partner, an associate and a legal assistant – **an indicator with a 40% relative weight in the final evaluation.**

In the evaluation of tenders first the participation in arbitration cases shall be examined, then the price offer made by the tenderer shall be examined and evaluated, and finally the evaluations shall be combined in a final evaluation of the tender.

In the evaluation of tenders, the participation in investment arbitrations and commercial arbitrations will be examined.

2. Evaluation of tenders

Commission members shall evaluate each tender on the basis of the evaluation indicators and their relative weight in accordance with the formulae below. The evaluation results shall be put down in a table.

2.1 The evaluation of tenders based on the Ai indicator shall be conducted on the basis of information provided by the tenderer in the information table under item III.2.5.

The evaluation of all tenders under this indicator shall be calculated using the following formula:

$Ai = (Ci + Di) \times 60$, where each of the elements shall be calculated using the following formulae:

INV_i

$C_i = \frac{\text{INV}_i}{\text{INV}_{\max}} \times 0.75$, where

INV_{max}

- **INV_i** is the total number of international investment arbitration cases in which the partners put forward by a particular law firm have successfully participated as lead counsels;
- **INV_{max}** is the largest total number of international investment arbitration cases in which partners put forward by one of the tenderers have successfully participated.

ARBi

$D_i = \frac{\text{ARBi}}{\text{ARB}_{\max}} \times 0.25$, where

ARB_{max}

- **ARBi** is the total number of international commercial arbitration cases in which the partner put forward by a particular law firm has successfully participated as a lead counsel. The total number of international commercial arbitration cases may not exceed 25 and cases above 25 shall not be considered;
- **ARB_{max}** is the largest total number of international commercial arbitration cases in which a partner put forward by one of the tenderers has successfully participated, but not more than 25.

2.2. The evaluation of tenders based on the Bi indicator shall be conducted on the basis of the price offer submitted by the tenderer, as drawn up in accordance with the sample Enclosure No. 2, "Price offer".

Price offers shall be inspected in order to establish that they have been prepared and submitted in compliance with the requirements of this Documentation for participation in the procedure.

Any errors in calculation shall be corrected subject to the following rule: in the event of mismatch of amounts in figures and words, the expression of the amount in words shall be taken as binding.

Where tenderers do not agree with such corrections, they shall be disqualified from participation in the procedure.

If a tenderer has made a price offer which is more than 20 per cent lower than the average of the price offers of the other tenderers, the Commission shall require that law firm to present a detailed written explanation of the proposed price. The explanation shall be submitted within

five business days of receipt of the Commission's request. If the tenderer fails to submit the explanation within the deadline or if the Commission decides that the explanation is not objective, the Commission shall propose that tenderer to be disqualified from the procedure.

The price offer (**Pi**) shall be the amount calculated as a sum of the hourly fees of a partner, an associate and a legal assistant, based on the formula: $P_i = p_i + a_{si} + l_{ai}$, where:

p_i is the hourly fee of a Partner;

a_{si} is the hourly fee of an Associate;

l_{ai} is the hourly fee of a Legal assistant.

The evaluation of the individual price offer (**Bi**) obtained as specified above, shall be calculated using the following formula:

Pmin

Bi = ----- x 40, where:

Pi

Pmin is the lowest price offer;

Pi is the price offer of a particular law firm.

2.3 Final evaluation

The integrated final evaluation of the tender shall be determined as the sum of evaluations under each of the above two indicators using the following formula:

$$F_i = A_i + B_i$$

3. Final ranking of tenderers

3.1. The final ranking of tenderers shall be made on the basis of the number of points obtained by each tenderer.

3.2. Tenderers with the highest final evaluation shall be ranked in the first three positions.

3.3. If two or more tenderers have the same final evaluation, the Commission shall give an open vote to elect the tenderer that shall be ranked in higher position. The tenderer with more votes shall be ranked higher.

3.4. Once the Commission has completed its work, its Chairperson shall present the protocol signed by all its members for approval to the Contracting Authority. The table of evaluation shall be an integral part of the protocol.