



REPUBLIC OF BULGARIA
MINISTRY OF FINANCE

Translation from Bulgarian

ORDER

No. 3MΦ-173

City of Sofia, 21 February 2018

Whereas pursuant to Art. 13 (6) and (7) of the Public Procurement Act (PPA), arbitration and conciliation services, legal services related to procedural representation in court, arbitration and conciliation proceedings, and legal advice on issues which may become subject matter of the above proceedings fall outside the scope of the PPA;

Whereas in 2013, following an open public procurement procedure under the repealed Public Procurement Act for the conclusion of a framework agreement with the following subject matter: “Procedural representation and legal advice in international arbitration cases”, the Ministry of Finance concluded framework agreements with two international law firms, and these agreements expired in December 2017;

Whereas there is an increasing number of international arbitration proceedings initiated against the Republic of Bulgaria represented by the Minister of Finance, and an increasing number of legal disputes which may become subject matter of potential arbitration cases, as well as a need of high-standard professional legal advice and defense in this specialized area of international law;

Whereas public bodies have an obligation to ensure openness and transparency when spending public funds regardless of the type of the procedures where the funds are being spent;

In compliance with recitals 24 and 25 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

I HEREBY ORDER THE FOLLOWING:

1. I hereby open a procedure for the 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”.
2. I hereby approve the Documentation for participation in the procedure for the 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”, together with the attachments thereto.

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

3.1. 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.

3.2. 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.

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

4. Tenders shall be evaluated on the basis of 2 (two) indicators forming a complex evaluation:
 1. Experience in international investment arbitration cases and international commercial arbitration cases – the relative weight of this indicator in the complex evaluation is 60%; and
 2. Price offered by the tenderer calculated as the sum of the hourly fees of a partner, an associate and a legal assistant – the relative weight of this indicator in the complex evaluation is 40%. The methodology for ranking the tenders and detailed formulae for calculation of the indicators are set forth in the Documentation for participation.
5. Tenderers shall submit their tenders at the Ministry of Finance, 102, G. S. Rakovsky str., Secretariat, Office No. 7, not later than 5 p.m., Sofia Time, on March 26, 2018.
6. Tenders received shall be opened on March 27, 2018, at 2 p.m. Sofia time, in the building of the Ministry of Finance in Sofia, 102, Rakovsky street.
The opening of the tenders shall be public, and all tenderers or their representatives may attend, as well as the media.
7. All tenderers shall be notified about the results of the procedure.
8. The Documentation, as well as all the notices concerning the procedure, shall be publicly announced on the website of the Ministry of Finance.
9. I hereby appoint Mr. Ivan Kondov, Head of Litigation Department, telephone: + 359 2 9859 2800; facsimile: + 359 2 9859 2329; email: i.kondov@minfin.bg as the contract person regarding this procedure.
10. I hereby assign the implementation of this order to the Secretary General of the Ministry of Finance.
11. The procedure shall be conducted in compliance with the principles of openness, transparency, equality and non-discrimination.

This order shall be notified to the persons responsible for its implementation.

MINISTER: */signature illegible/*
/VLADISLAV GORANOV/