**PREQUALIFICATION DOCUMENT**

**REQUEST FOR PARTICIPATION**

**First phase**

 Date of preparation of the Prequalification Document:

|  |
| --- |
| ***15.12.2023*** |

|  |  |
| --- | --- |
| **Procurement No[[1]](#footnote-1)** | **IL-SHEE-23-001** |

**Title: Selling of electrical energy**

THIS DOCUMENT IS COMPOSED OF FOUR PARTS:

Part I: Instructions to Applicants

Part II: Prequalification Data Sheet

Part III: Application Submission Form

Part IV: Annexes

**This document has been prepared in Albanian, Serbian and English language.**

**In the event there is a discrepancy among the language versions, the *Albanian*****language version shall prevail over others.**

**SUBJECT: INVITATION TO PARTICIPATE for Prequalification for the procurement activity S*elling of electrical energy***

Thank you for your interest regarding the participation on the above-mentioned procurement activity.

Further to your request please find enclosed the documents, which constitute the Prequalification Document. The purpose of the Prequalification process is to permit interested Economic Operators to submit applications to be considered for inclusion on the list of qualified Economic Operators to be invited to tender for the procurement activity.

The procurement process will be conducted in two phases:

* **In the first phase of the procedure**, **qualification phase**, economic operators are requested to meet the conditions for participation and the selection criteria determined in this document. Request to participate will be evaluated on the basis of the criteria determined in thisdocument. The purpose is to qualify companies capable of carrying out such type of assignments.
* **In the second phase of the procedure,** **the tendering phase**, all qualified economic operators will receive the draft contract and will be invited to sign the agreement of framework contract”.

You are expected to examine carefully all parts and sections of this document and its annexes and to comply with all requirements and conditions contained therein.

We, as Contracting Authority, will not accept any reservation.

Failure to submit your application to the contracting authority within the deadline specified and/or is not in compliance to all requirements set in this document shall be rejected and shall be considered as *“not qualified”.*

No costs incurred by you in preparing and submitting the application will be reimbursed and no liability shall be incurred by the Contracting Authority in case the procedure is cancelled.

The present tender procedure is regulated by the Law on Electricity, Procurement Procedures for Electricity, Transmission Network Code and Market Regulations.

Applications shall be submitted at the address specified in the “Instruction to applicants”, before ***21.12.2023*** time 14:00 e-mail: ***trading@iber-lepenc.org*, *Behar.shaqiri@iber-lepenc.org*** ***&*** ***ernest.kerqeli@iber-lepenc.org***

We look forward to receiving your application.

If you decide not to submit your application, we would be grateful if you could inform us in writing, stating the reasons for your decision.

Yours sincerely,

NH “Ibër Lepenc” Sh.A.

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# PART I: Instructions to Applicants (ITA)

|  |  |
| --- | --- |
|  | General |
| 1. Scope of Application | * 1. In connection to the Invitation for Prequalification, the Contracting Authority as **indicated in the Prequalification Data Sheet (PDS),** issues this Prequalification Document (PQD) to the applicants interested in tendering for this procurement activity.
	2. The contract title and identification number of this procurement activity are **indicated in the PDS.**
	3. The procurement procedure used for this procurement activity is **indicated in the PDS.**
	4. Information on the publication of the Contract Notice is **indicated in the PDS.**
	5. Applications shall be submitted in the address of the contracting authority **indicated in the PDS.**
	6. Throughout this Prequalification Document:
1. the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt;
2. if the context so requires, “singular” also means “plural” and vice versa;
3. “day” means calendar day;
4. you are referred as the “economic operator” “applicant” or the “tenderer”;
5. the issuer of this document is referred to as the “contracting authority”; and
6. “Application” means submission of documents in order to be pre-qualified.
 |
| 2. Type of the Contract  | 2.1 The type of the Contract is **indicated in the PDS.** |
| 3. Object of the contract | * 1. The Classification of Common Procurement Vocabulary **is indicated in the PDS.**
	2. The object of the contract **is indicated in the PDS.**
	3. Estimated contract value is **indicated in the PDS**.
 |
| 4. Delivery Requirement and conditions | 4.1 Place of implementation of the contract **as indicated in the PDS**. |
|  | REQUIREMENTS which should be met by APPLICANTS |
|  | **Applicants have to meet the following requirements. Any failure in any requirement will eliminate their applications from the competition.** |
|  | Eligibility requirements |
| 5. Eligibility of the Economic Operators | **5.1 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator, or any employee, executive, manager or director thereof:**a. participated in the preparation of the concerned contract notice or tender dossier, or any part thereof, being used by the concerned contracting authority; b. received assistance in preparation of its tender or requests to participate from a person or undertaking who or that participated in the preparation of the concerned contract notice or tender dossier, or any part thereof; orc. being in any case in a conflict of interest, as described in Article 4, paragraph 1.75**5.2 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator, or any executive, manager or director thereof, has, in the past ten (10) years:**a**. been determined by a court of competent jurisdiction** to have committed a criminal or civil offence involving corrupt practices, money laundering, bribery, kickbacks or activities described, or similar to those described, in Article 130.1 of the PPL under the laws or regulations applicable in Kosovo or any country, or under international treaties or conventions;b. **been declared ineligible**, where the contracting authority finds this to constitute grave professional misconduct, verified by a competent court;c. **been determined by a court of competent jurisdiction** to have committed a serious offence by participating in the activities of a criminal organization, defined as a structured association established over a period of time and operating in a concerted manner to achieve financial gain through activities that are criminal or otherwise illegal where they take place; d. **been determined by a court of competent jurisdiction** to have committed an act of fraud or an act equivalent to fraud;e. **been determined** **to have engaged in unprofessional conduct by a court of competent jurisdiction**, administrative agency or organization responsible for enforcing standards of professional conduct; orf. **been determined by a court of competent jurisdiction** to have made serious misrepresentations to any public authority in Kosovo or elsewhere.**5.3 An economic operator shall not be eligible to participate in a procurement activity or in the performance of any public contract if such economic operator:**a. has, in the past two (2) years, been adjudged to be bankrupt or insolvent by a court of competent jurisdiction, or is currently the subject of proceedings: (i) for a declaration of bankruptcy, (ii) for an order for compulsory winding up or administration by the court or (iiii) of any other similar proceedings under the law of Kosovo or any other jurisdiction;b. is being wound up or administered, or its affairs are being wound up or administered, by a court of competent jurisdiction;c. currently has in place an agreement or arrangement with its creditors providing for extended or reduced terms of payment if such terms were agreed to by such creditors because the economic operator had previously been unable to satisfy its obligations as they came due;d. is in any situation analogous to sub-paragraphs a, b or c of this paragraph arising from a similar procedure under the laws of its place of establishment or of a place where it conducts business;e. is currently the subject of a judicial or administrative order suspending or reducing payments by or to such economic operator and resulting in the total or partial loss of the economic operator’s right to administer and/or dispose of its property;f. is currently the subject of legal or administrative proceedings that may result in a judicial or administrative order suspending or reducing payments by or to such economic operator if such proceedings may also result in the economic operator being adjudged bankrupt or insolvent;g. has, in the past three (3) years, been adjudged by a court of competent jurisdiction to have seriously breached a contract with any public entity, public authority or public undertaking in Kosovo or elsewhere;h. is currently delinquent in the payment of any social security or tax contributions in Kosovo or the economic operator’s country of establishment, except where such debt is deemed to be insignificant in Kosovo;i. is more than ninety (90) days’ delinquent in the payment of any wages owed to employees or in the payment of any amount owed to a public service operator in Kosovo;j. has not yet complied with an order issued by a court of Kosovo; k. has made false statements in relation to the procedure for the award of a public contract, if these are related to the lack of grounds for disqualification, or the fulfillment of the selection criteria; or***Time limits set in this section, are related to the period that immediately precede publication date of the contract notice.***5.4 In order to prove that the economic operator is eligible to participate in the procurement procedure the economic operator should submit the documentary evidence **indicated in the PDS.**  |
|  | Minimum qualification requirements |
| 6. Professional suitability requirements | 6.1 The economic operator shall meet the professional suitability requirements **indicated in the PDS.**6.2 In order to prove that the economic operator is suitable to participate in the procurement procedure the economic operator should submit the documentary evidence **indicated in the PDS.** |
| 7. Economic and financial standing requirements | 7.1 The economic operator shall meet the minimum economical and financial requirements **indicated in the PDS.**7.2 In order to prove that the economic operator meets the minimum economicaland financial requirements the economic operator should submit the documentary evidence **indicated in the PDS.** |
| 8. Technical and/or professional capability requirements | 8.1 The economic operator shall meet the minimum technical and/or professional capability requirements **indicated in the PDS.**8.2 In order to prove that the economic operator meets the minimum technical and/or professional capability requirements the economic operator should submit the documentary evidence **indicated in the PDS.**8.3 The contracting authority, at its own expenses, may carry out an inspection with the economic operators company for the purpose of verification. |
| **9.Confidential business information** | 9.1 If the economic operator desires that any provided information relating to the economical /financial standing and technical/professional capability is treated as confidential business information a written request must be submitted by using the form set out in this document, see Annex 2. |
| 10. Establishing a Group of economic operators | 10.1 If an application is submitted by a group of economic operators, the group is required to **nominate one of the members** of the group as the contact economic operator, and shall submit with its qualification documents, documents **indicated in the PDS.**10.2 Such a group shall not be required to assume a specific legal form in order to submit the prequalification document but the Contracting Authority reserves the right, if such requirement is necessary for the satisfactory performance of the contract, to request from the selected group to do so if the contract is awarded to such a group as a pre-condition to the signing of the contract.10.3 Applicants are not allowed to apply at the same time individually and as a member of a group or as a member of different groups. In such cases both the applicant and the groups concerned shall be deemed as ineligible. |
| 11. Subcontracting | 11.1 Applicants must indicate in their application any part of the contract that the Economic Operator intends to subcontract to third parties and shall submit with its application documents **indicated in the PDS.** |
|  | Contents of the Prequalification Document |
| 12. Sections of the Prequalification Document | * 1. The Prequalification Document consists of:

Part I: Instructions to ApplicantsPart II: Prequalification Data SheetPart III: Application Submission Form Part IV: Annexes, and should be read in conjunction with any Addendum issued in accordance with the Instructions to Applicants Section 14. |
| 13. Clarification of the Prequalification Document | 13.1 The applicants are allowed to make a written request to the contracting authority for additional or clarifying information which they believe is needed to prepare or submit a responsive application. Such a request may be made by use of the request form, see Annex 3, and submitted to the contracting authority by electronic means, letter or fax. The Contracting Authority will respond in writing to any request for clarification, provided that such request is received no later than the time limit **indicated in the PDS.** The Contracting Authority shall forward copies of its response to all those who have acquired the Prequalification Document including a description of the inquiry but without identifying its source. Should the Contracting Authority deem it necessary to amend the Prequalification Document as a result of a clarification, it shall do so following the procedure under Instructions to Applicants Section 14.  |
| 14. Amendment of the Prequalification Document | 14.1 At any time prior to the deadline for submission of applications, the Contracting Authority may amend the Prequalification Document by issuing an addendum.* 1. Any addendum issued shall be part of the Prequalification Document and shall be communicated in writing to all economic operators who have obtained the Prequalification Document.
 |
|  | Preparation of APPLICATIONS |
| 15. Language of Applications | 15.1 Economic operators may prepare and submit their applications and related documents in Albanian, Serbian or English language. |
| 16. Documents Comprising the Application | 16.1 The Application shall comprise the following:1. Application Submission Form by using the form furnished in Part III of this Prequalification document;
2. Documentary evidence in accordance with Instructions to Applicants Section 5 evidencing the Applicant’s eligibility;
3. Documentary evidence in accordance with Instructions to Applicants Section 6, evidencing the Applicant’s professional suitability, *if applicable;*
4. Documentary evidence in accordance with Instructions to Applicants Section 7, evidencing the Applicant’s economical and financial standing, *if applicable*;
5. Documentary evidence in accordance with Instructions to Applicants Section 8, evidencing the Applicant’s technical and professional capability, *if applicable*;
6. Documentary evidence in accordance with Instructions to Applicants Section 10 and 11, *if applicable*; and
7. Any other document **required in the PDS.**
 |
| 17. Sealing and Marking of Application  | * 1. The Applicant shall prepare one original of the documents comprising the application as described in Instructions to Applicants Section 16 and clearly mark it “**Original.”** In addition, the Applicant shall submit copies of the application, in the number **indicated in the PDS** and clearly mark them **“Copy.”**
	2. Prequalification Qualification Documents may be submitted as a physical copy or by e-mail to the contact person specified in the TDS
	3. The applicant shall seal the original application and each copy ***in separate envelopes*** and shall on the front of each one of such envelopes:
* Mark clearly as ***“Original”*** or ***“Copy”;***
* Indicate the Procurement number as stated in the Prequalification Document; and
* Indicate the name and address of the Applicant.

17.3 The envelopes shall then be sealed in an outer envelope marked with:* The address of the place for submission of applications;
* The Procurement number;
* Warning that the envelope should not be opened before the date and time of the opening of the application; and
* The name and address of the applicant.
 |
|  | Submission and Opening of Applications |
| 18. Deadline for Submission of Application | * 1. Applications must be received by the Contracting Authority at the address and no later than the date and time **indicated** **in the** **PDS.**
 |
| 19. Late Applications | * 1. The Contracting authority shall not consider any application that arrives after the deadline for submission of applications. Any application received by the Contracting Authority after the deadline for submission of applications shall be declared late, rejected, and returned unopened to the Applicant.
 |
|  | Procedures for Evaluation of Applications |
| 21. Confidentiality | 21.1 Information relating to the evaluation of Applications, and recommendation for prequalification, shall not be disclosed to Applicants or any other persons not officially concerned with such process until the notification of prequalification is made to all Applicants. |
| 22. Evaluation of Applications | 22.1 **Timely** received applications will be examined and evaluated according to the requirements of the Prequalification Document.22.2 All candidates having submitted the required documentation demonstrating or affirming that the candidates are eligible and meet the minimum qualification requirements shall be considered pre-qualified and selected to receive an invitation to sign the framework contract. |
| 23. Clarification of Applications | 23.1 To assist in the evaluation of Applications, the Contracting Authority may, at its discretion, ask any Applicant for a clarification of its application which shall be submitted within a stated reasonable period of time. The Contracting Authority may invite economic operators to supplement or clarify the certificates and documents submitted. However, securing missing information or provision of information will apply only to documents whose existence is fixed before the deadline for submission of tenders expires, and may be verified objectively. Any request for clarification and all clarifications shall be in writing.23.2 If an Applicant does not provide clarifications of the information requested by the date and time set in the Contracting Authorities’ request for clarification, its Application shall be rejected. |
| 24. Notification of Prequalification | 24.1 Once the Contracting Authority has completed the evaluation of the Applications it shall notify all Applicants in writing of the names of those applicants who have been prequalified. |
| 25. Invitation to Tender | 25.1 Promptly after the notification of the results of the prequalification, the Contracting Authority shall invite tenders from all the Applicants that have been prequalified.25.2 And sign the Framework Contract. Signature of the Contract does not oblige CA – HE “Iber Lepenc” J.S.C. to definitely buy energy from the party. |
| 26. Award Criteria | 26.1 The contract will be awarded as per the contract award criteria **indicated in the in the PDS.** |
| 27. Complains | 27.4 Against any decision taken by the contracting authority any interested party may lodge a complaint at the HE “Iber Lepenc” J.S.C. The complaint should be submitted only after a preliminary procedure for resolution of the dispute was conducted. |

# PART II: PREQUALIFICATION DATA SHEET (PDS)

The following specific data shall complement, supplement, or amend the provisions in the Instructions to Applicants. Whenever there is a conflict, the provisions herein shall prevail over those in Instructions to Applicants.

|  |  |
| --- | --- |
| Instructions to Applicants | Amendment/Modification of relevant Section in the Instructions to Applicants |
| Sectiondescription  | Sec. No. |  |
| Scope of the Application | 1.1 | **The Contracting Authority (CA) is:** **Name of CA**: *HE “Iber Lepenc” J.S.C.***Address of CA**: *Square “Bill Klinton” no. 13***Town:** *Pristina***Postal code**: *10000***Electronic address:** [*www.iber-lepenc.org*](http://www.iber-lepenc.org)**Contact person**: Behar Shaqiri*& Ernest Kërçeli***E-mail:** ***trading@iber-lepenc.org*, *Behar.shaqiri@iber-lepenc.org*** ***&*** ***ernest.kerqeli@iber-lepenc.org*****Telephone:** +383 38 524 081**Fax:** *n/a* |
|  | 1.2 | The contract title and identification number of the procurement activity is: **Selling of electrical energy IL-SHEE-23-001** |
|  | 1.3 | Date of submission of Contract Notice on website of Iber Lepenc: **15.12.2023** |
|  | 1.5 | Applications shall be submitted at the address mentioned under 1.1 |
| Type of the Contract | 2.1 | The establishment of framework agreement The purpose of the Contracting Authority is to sign a framework contract with the trading party which offers the highest price for 1 MWh for the sale of electricity from IL and as a result the demand for the offer will be issued by Iber Lepenc to the prequalified operators. |
| Object of the contract | 3.1 | The purpose of this contract is **Selling of electrical energy** |
| Contract value | 3.3 | ***There is no*** *estimated contract value* |
| Delivery Requirement and conditions | 4.1 | terms of delivery are: **DAB (Delivery At Border)**insurance and payment of transmission capacities are provided by the Economic Operator  |
| Eligibility of the Economic Operators | 5.4 | 1. A written declaration under Oath signed by the Applicant by using the form in Annex 1.
 |
| Professional suitability requirements | 6.1 | **Commercial parties must present relevant evidence that the Commercial parties are Part of the Framework Agreement for Access to Market regulations.** |
| Economic and financial standing requirements | 7.1 | The Economic Operator must provide satisfactory evidence that the annual income of the EO, during the last 3 years, all together for three years has been in value, not less than: 500,000 Euro.Evidence must be in one of the following forms:* Annual tax declarations submitted to TAK or place of origin for the last three years;
* Certified copies of one or more balance sheets or parts of the balance sheet; or Copies of financial reports and management reports certified by a licensed control firm or a licensed independent auditor
 |
|  | 7.2 | *n/a* |
| Technical and/or professional capability requirements | 8.1 | The Economic Operator shall present a list of references in the field of electricity trading concluded during the last three years issued by the employer on the successful implementation of the contracts for the three years from the date of publication of the contract notice, |
|  | 8.2 | *n/a* |
| Establishing a Group of economic operators | 10.1 | *n/a* |
| Subcontracting | 11.1 | *n/a* |
| Clarification of the Applications | 13.1 | ***19.12.2023 time 12:00*** *through e-mail:* ***trading@iber-lepenc.org*, *Behar.shaqiri@iber-lepenc.org*** ***&*** ***ernest.kerqeli@iber-lepenc.org*** |
| Sealing and Marking of Applications | 17.1  | **Submission can be done electronically or physically*** If submitted as physical copy, In addition to the original Application, the number of copies is 1. on the address of CA.
* Submission of documents in electronic form is done by e-mail to the contact person. ***trading@iber-lepenc.org*, *Behar.shaqiri@iber-lepenc.org*** ***&*** ***ernest.kerqeli@iber-lepenc.org***
 |
| Deadline for Submission of Applications | 18.1 | The deadline for submission is ***21.12.2023 time 14:00*** |
| Opening of Applications | 20.1 | The applications will be opened by the Estimation Commission |
| Complains | 27.3 | *NH “Ibër Lepenc” Sh.a.***Address:** *Sheshi “Bill Klinton” nr. 13 – Prishtinë* |

#

# PART III: APPLICATION SUBMISSION FORM

**To:** *NH “Ibër Lepenc” Sh.a.*

 (hereinafter “the Contracting Authority”)

Title of contract: selling of electrical energy

1. We have examined and accept in full the content of the Prequalification Document No **IL-SHEE-23-001**. We hereby accept its provisions in their entirety, without reservation or restriction.
2. We confirm that:

#### a) We are entitled to participate in the procurement activity or to implement a public contract according to the requirements of the declaration UNDER OATH

#### b) We are registered in the relevant professional register and/ or we have the right to conduct professional activity;

In order to prove that we are qualified, we present this list of documents required:

* *Declaration* Under Oath
* *A copy of the agreement on access to Market Rules*
1. We are making this application, for this tender in our own right led by ourselves. We confirm that we are not applying for the same contract in any other form.
2. We will inform the Contracting Authority immediately if there is any change in the above circumstances at any stage during the procurement process. We also fully recognise and accept that any inaccurate or incomplete information deliberately provided in this application may result in our exclusion from this and other contracts.
3. We emphasize that the contracting authority is not obliged to proceed with this pre-qualification process and can at any time and without giving explanations to terminate the process. The CA will not incur any kind of obligation to us if it does so

**SUBMITTED BY**

|  |
| --- |
| **Economic Operator Identification** |
| **Company Name[[2]](#footnote-2)** |  |
| **Full Address** |  |
| **Represented by:** |
| **Name & Surname** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

# PART IV: ANNEXES

# Annex 1. DECLARATION UNDER OATH

I, the undersigned, representing: [*the submitting economic operator*] declare under oath that I am eligible to be part of the framework contract agreement

I acknowledge to have read the eligibility requirement in Article 5 of the Instructions to the Applicants, and fulfil eligibility requirements to participate in this tender process.

I acknowledge the possibility of criminal and civil sanctions, penalties and damages if I intentionally or negligently submit any document, declaration or statement containing materially false or misleading information.

|  |
| --- |
| **Economic Operator Identification (EO)** |
| **Name of EO:** |  |
| **Full Address:** |  |
| **Represented by:** |
| **Name** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

# Annex 2. REQUEST FOR CONFIDENTIALITY

To: *NH “Ibër Lepenc” Sh.a.*

 (Hereinafter “the Contracting Authority”)

WHEREAS *[insert name of economic operator]* (hereinafter “the Economic Operator”), meeting the requirements of the Prequalification Document under the above mentioned Procurement No., Section 7 and 8 of the Instructions to Applicants, has furnished business confidential information as follows:

|  |
| --- |
| *Identification of the confidential information and reference to sections of furnished documents:* |

AND WHEREAS the said information hereby is declared (i) not to be in the public domain, and (ii) to be protected from intentional or negligent disclosure by the Economic Operator;

AND WHEREAS public access to the said information would result in material harm to the legitimate commercial interests of the Economic Operator from the following reasons:

|  |
| --- |
| *Statement of the nature of such material harm and the reasons why it would occur:* |

THEREFORE, I, the undersigned, representing the Economic Operator hereby express the desire that the Contracting Authority classify and maintain the said information as business confidential information.

|  |
| --- |
| **Economic Operator Identification** |
| **Company Name** |  |
| **Full Address** |  |
| **Represented by:** |
| **Name** |  |
| **Position** |  |
| **Signature** |  |
| **Date** |  |
| **Stamp** |  |

# Annex 3. REQUEST FOR ADDITIONAL INFORMATION

To: *NH “Ibër Lepenc” Sh.a.*

WHEREAS [name of economic operator] (hereinafter “the Economic Operator”), having received the Prequalification Document under the above mentioned Procurement Number., believes that additional or clarifying information is needed as follows:

|  |
| --- |
| *Identification of needed additional or clarifying information, including reference to section(s) of the Application* |

THEREFORE, I, the undersigned, representing the Economic Operator, hereby request the receipt of the identified information.

|  |
| --- |
| **Economic Operator Identification (EO)** |
| **Name of EO:** |  |
| **Full Address:** |  |
| **Full Address:** |
| **Name:** |  |
| **Position:** |  |
| **Signature:** |  |
| **Date:** |  |
| **Stamp:** |  |

1. To be reported on any document or request concerning this procurement activity. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)