

**EXECUTION OF PREPARATORY WORKS ON THE ARRANGEMENT OF THE
CONSTRUCTION SITE FOR THE CONSTRUCTION OF THE NEW UNIVERSITY CHILDREN'S
HOSPITAL TIRŠOVA 2 IN BELGRADE (PROCUREMENT NO. IOP/53-2021/UCH2)**

Clarification no. 7

Issued on June 21, 2021

Regarding the question that the Employer, Public Investment Management Office Belgrade, No. 11 Nemanjina street, has received from the potential bidder, concerning the procurement procedure: Execution of preparatory works on the arrangement of the construction site for the construction of the new university children's hospital Tiršova 2 in Belgrade no. IOP/53-2021/UCH2, we give you the following answers:

Question 1:

We believe that it is necessary to review the design solution of the foundation pit in the following aspects;

1. Construction of a retaining wall of piles along the entire perimeter of the pit, where the design emphasizes the construction of piles with protective steel casing, which is not needed in accordance with geotechnical study, and when the terrain is 60% in the rock because there is no risk of bore collapsing;
2. Acceptance of lateral influences or forces from the earth mass through geotechnical anchors, although there is a solution to support the piles in the underground concrete structure of the building, or to apply the method to support them. These two methods are more economically advantageous than the designed solution;
3. Installation of geotechnical anchors outside the cadastral parcel on which the works are performed is prohibited by law;
4. It is not feasible that the amount of over 100,000.00 m³ of excavated material is temporarily deposited next to the foundation pit, and to be subsequently loaded and transported to the city landfill. We emphasize that it is not objectively possible to execute this in the specific area. The only rational solution is direct loading of the excavated material into trucks and transport to the city landfill.

All the above remarks indicate the possibility and probability that the favored contractor will make changes and rationalizations of the solution after it is selected in the public procurement procedure, which is not possible for all other potential participants at this moment.

This indicates a certain collaboration of individual structures at the level of client, designer and contractor.

Answer 1:

1. Protective steel casing is predicted in the design to ensure the borehole stability, consequently the quality of pile structure. Related to this issue, the offerors should prepare offer according to bill of quantities and other parts of tender documentation.
2. It is an Investor's decision to accept the methodology for execution of works that are the subject of this public procurement defined by the given design documentation and the Tender documents. Design documentation for the works that are the subject of this public procurement accepted by the Investor's

decision has passed technical control and obtained the building permit from the relevant institutions. Consequently, the design solution in question can not be reconsidered at this moment.

3. We repeat that the design for this public procurement has passed technical control and that the building permit from the relevant institutions has been obtained.
4. The matter under point 4. is the issue of the organization of the construction site by the future contractor.

Having in mind all the above-mentioned, it follows that there is no collaboration of individual structures at the level of client, designer and contractor and that the allegations given in the above question which indicate distortion of competition, are unfounded.

Question 2:

The qualification criteria that the company has executed at least 20 km of geotechnical anchors, of which at least 10 km were prestressing anchors, is a violation of the principles of competition and non-discrimination, bearing in mind that geotechnical anchors will not be performed, or at least not in designed quantity, which can be concluded based on the above objections, and is unnecessary to state the same as a condition for proving the fulfillment of the criteria.

We request that this criteria is removed in order to ensure the greatest possible competition, in accordance with the Law on Public Procurement, and we especially emphasize that in the Republic of Serbia there is one company that meets the set criteria. In this way, the procuring entity restricts competition with the intention to unjustifiably put certain company in a more favorable position, and at the same time prevents all other bidders from participating in the public procurement procedure by using discriminatory criteria for qualitative selection of companies, technical specifications and contract award criteria.

Answer 2:

The Employer is allowed to set the qualification requirements ensuring that the bidders possess experience necessary to perform the public procurement contract to an appropriate quality level, and may require, in particular, that the bidders have sufficient experience in terms of contracts performed in the past.

The criteria for qualitative selection of bidders in public procurement procedure, technical specifications, contract award criteria and deadlines, as well as evidence, must be proportionate to the size, but also to the nature and complexity of given public procurement and the resulting contract.

This public procurement is conducted on the basis of the design that has passed technical control and the building permit from the relevant institutions has been obtained for this design. Qualification requirement in question is set having in mind the quantity of the subject works in the Bill of quantities and the time for completion of the works, but also having in mind the complexity of the project, the subject of procurement, i.e. the type and scope of works that are the subject of performance, as well as the specifics of the entire project.

Having in mind the quantity of the subject works in the Bill of quantities, but also the time for the completion of the works, the nature and complexity of the project and the fact that the requirement in question can be met by relevant experience in the last 10 years, the Employer considers that this qualification requirement is logically related and proportionate to the subject-matter of the public procurement, but also ensures that the bidders possess experience necessary to perform the public procurement contract to an appropriate quality level.

When question whether the qualification requirement in question is set in a manner to limit the competition and to eliminate the potential bidders, it is very important to have in mind the fact that the Employer defined this qualification requirement so that the evidence of the relevant works carried out in the period of the last 10 years will be taken into account, which is the twice time longer period for which the performed works will be taken into account than the period prescribed by the local and international regulations on public procurement for this matter, which is over a period at the most the past five years, all in order to provide the higher level of competition. Part of the qualification requirement in question related to prestressing anchors, is also set in proportion to the subject of the procurement, bearing in mind that the Bill of quantities envisages the performance of prestressing anchors in the length of 8,695 km.

The above listed statement regarding competition is neither official nor provable. When defining the qualification criteria for participation in the public procurement procedure, the Contracting Authority took into account the subject of procurement, i.e. the type and scope of works that are the subject of performance, as well as the specifics of the entire project. However, this is international tender, therefore there is no limitations for companies outside of Serbia to submit offer. Also, bidders may meet the required experience requirements collectively, as a joint venture.

Question 3:

The qualification criteria that the project manager, as well as the graduated structural engineer, executed in total at least 10 km of geotechnical anchors, according to the above stated, is an unnecessary criteria and we believe that it is necessary to remove it.

Answer 3:

Having in mind the project importance and complexity, as well as the subject of the procurement in question, it is necessary to engage the most experienced project manager and responsible contracting engineer, therefore the requested qualification criteria is justified. Furthermore, it is not explained from which reasons these qualification criteria are considered as unnecessary. It is also neglected the fact that the bidders are allowed to fulfill the requested qualification requirements by the relevant required experience in the period of last 10 years. We also point out that the qualification requirements in question can be fulfilled collectively, by joint venture.

Question 4:

We request that the conditions for proving the fulfillment of the criteria regarding the equipment capability be changed according to the following:

- Drilling rigs for anchors execution, No. of pieces 2:1 piece is proposed for the above stated reasons;
- Equipment for anchor injecting, No. pieces 2:1 piece is proposed for the above stated reasons;
- Truck load capacity up to 10 t: the capacity of the tipper truck with a capacity of up to 10 t is absolutely insufficient. For over a 100,000.00 m³ of excavated material, we believe that the capacity of a tipper truck over 10 t should be required.

Technical specifications must provide equal access to all companies and must not unduly restrict competition in the public procurement procedure.

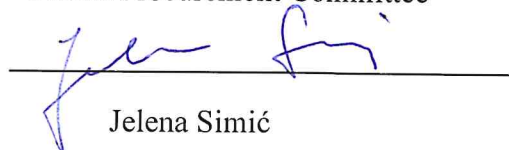
In the application of this law, the client is obliged to act in an economical and efficient manner, to ensure competition, equal position of all companies, without discrimination, as well as to act in a transparent and proportionate manner, and such criteria and elimination of potential bidders are inadmissible.

Answer 4:

Answer to this question will be published right after the Employer receives the appropriate guidance from the Council of Europe Development Bank.

According to all the above, we believe that there is no violation of the principles of competition and non-discrimination, as well as that there is no intention to put a certain company in a more favorable position, bearing in mind that all the qualification criteria and technical specifications fully correspond to the subject of procurement and the specifics of the project.

Public Procurement Committee

A handwritten signature in blue ink, appearing to read 'Jelena Simić', is written over a horizontal line. The signature is stylized and cursive.

Jelena Simić