

**TENDER DOCUMENTS**

**Tendering procedure for the provision of services**

awarded in accordance with the procedure pursuant to Section 66 of Act No. 343/2015 Coll. on Public Procurement and on Amendments and Additions to Certain Acts, as amended (hereinafter referred to as the "Public Procurement Act")

Name of the contract:

**"Digitisation of the fleet, collection planning system and electronic recording and confirmation of tipping"**

Bratislava July 2023

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# PART I. General information

## Identification of the contracting authority

* 1. Basic information

**Name of the organisation:**  **Odvoz a likvidácia odpadu a.s. v skratke: OLO a.s.**

**Address of the organisation:**  Ivanská cesta 22, 821 04 Bratislava

**ID:** 00 681 300

**VAT** 2020318256

**Country:**  Slovak Republic

**Contact person:**  Mgr. Adam Kasak

**Phone:**  +421 918 110 644

**E-mail:**  [kasak@olo.sk](mailto:kasak@olo.sk)

**Website:** [www.olo.sk](http://www.olo.sk)

(hereinafter referred to as "the contracting authority" or "OLO a.s.")

* 1. Electronic means

**Communication interface:** <https://josephine.proebiz.com>

**Internet address of the contract:** <https://josephine.proebiz.com/sk/tender/44058/summary>

## Subject of the contract

* 1. Name of the subject of the contract:

"Digitisation of the fleet, collection planning system and electronic recording and confirmation of tipping"

* 1. The code number for the main subject of the contract from the Common Procurement Vocabulary (CPV):

72222300-0 - Information technology services

51612000-5 - Installation of information processing equipment

42961300-3 - Vehicle location system

### 38112100-4 - Global navigation and positioning systems

### Detailed definition of the subject of the contract, technical requirements of the subject of the contract:

In particular, the subject of this contract is the provision of services on the basis of the draft contract for the provision of services in the field of IT solutions, which is attached as Annex 1 to these tender documents. The subject of this service is the provision of a software solution in the form of PaaS/IaaS, from which the contracting authority expects a system that will enable efficient planning using modern tools for data collection and evaluation. The solution is divided into 2 main parts :

**a. Hardware -** devices that will be installed on the collection equipment and will be used to collect data from the vehicle and send it to a central system for processing. OLO aims to collect data from vehicles. The Provider is required to deliver the equipment and its operation in the form of IaaS service, i.e. The Solution Provider operates the equipment to ensure the collection of data from vehicles and sends the collected data to the System for further processing.

**b. System - a** software platform that will be used to collection, processing, analysis, prediction of data from vehicles and other data that have an impact on the evaluation and planning and optimization of collection activities. This system is also one of the 4 inputs required to achieve electronic STASky. As part of the forthcoming change to Pay as You Throw, this system is key to creating a clear record of confirmation of tipping, against which fees can be charged, hereafter referred to as the "Platform".

The objectives of the solution are:

From the perspective of the company's management

* increasing the efficiency of transport operations
* reducing fleet operating costs
* the possibility of targeted maintenance planning based on actual vehicle utilisation
* the fulfilment of the shareholder's stated objectives
* data inputs for BI and management

From a workforce and process management perspective

* instant access to relevant data
* long-term data collection and processing for planning
* KPIs for driver evaluation
* tracking vehicle fuel consumption
* choosing the right technique (CNG/Diesel) according to the consumption on a specific section/region
* comparison of refuelling - filling station and on-board tank
* avoiding PHL leakages
* digitisation of the logbook
* data synchronisation with OLO systems
* simplification of outputs

In terms of working with the system

* one-stop processing of vessel service data
* one-stop processing of vehicle data
* processing of the collection plan in one place

A detailed definition of the subject-matter of the contract is set out in Annex 2 to these tender documents, 'Description of the subject of the contract'. The performance of the subject matter of the contract shall be provided to the Contracting Authority on the basis of the draft contract attached as Annex 1 to these tender documents, including all its annexes (one of the annexes shall be the 'Description of the subject matter of the contract') and on the basis of the 'SLA, Support and Penalties' document attached as Annex 5 to these tender documents and on the basis of the Schedule attached as Annex 6 to these tender documents.

* 1. The contracting authority recommends the tenderers to read carefully the terms and conditions of the Framework Contract, since by submitting its tender the tenderer accepts in full and without reservation all the terms and conditions of the contracting authority relating to this contract, as set out in the contract notice and these tender documents.

**In accordance with the relevant legislation, the tender submitted by the tenderer must be drawn up in accordance with the terms and conditions set out in the notice of invitation to tender and these tender documents and must not contain any reservations concerning the terms and conditions of the contract, with the exception of changes made to these documents by the contracting authority before the expiry of the time limit for the submission of tenders.**

* 1. The process for awarding this contract is determined by the provisions of the Public Procurement Act. The contract will be awarded through the procedure for awarding over-limit contracts by the contracting authority pursuant to Section 66 of the Public Procurement Act.

## Division of the subject of the contract

* 1. The subject-matter of the contract is not divided into parts. The tenderer shall submit a tender for the whole of the subject of the contract as described in these tender documents including their annexes,
  2. Justification for not splitting the contract:

### The contracting authority did not divide the contract into parts because it considers that the subject of the contract represents a complex and integrated solution combining the use of software and hardware, which cannot be divided into several separable units without disrupting or without significantly complicating the process of its implementation, maintenance, support and, in particular, its seamless and efficient use.

### The solution required by the contracting authority will create a single data model based on data from the integrated interfaces, from the hardware included in the subject of this contract, within which all modules of the solution described in Annex 2 of these tender documents will be interconnected. In order to meet the requirements of the contracting authority as defined in the description of the subject of the contract, it is not possible to divide the subject of the contract into several parts while maintaining the required functionalities of the solution and its comprehensive implementation and support during the term of the contract, in accordance with the preceding sentence.

## Variant solution

* 1. Bidders are not permitted to submit a variation to the requested solution.
  2. If a variation is included in the tender, it will be disregarded and will not be included in the evaluation, it will be considered as if it had not been submitted.

## Electronic auction

* 1. The evaluation process does not include an electronic auction.

## Place of delivery of the subject-matter of the contract and delivery times

* 1. The place of provision of the service shall be the seat of the contracting authority.
  2. The time limits for performance are set out in the attached draft contract. The length of the "basic" duration of the contract is 60 months. The contracting authority reserves the right to exercise an option in the draft contract under which the duration of the contract may be extended for a further period of 24 months.

## Source of funds

* 1. The subject of the contract will be financed from the contracting authority's own resources.
  2. Invoices shall be due 30 days after delivery to the Contracting Authority in accordance with the payment terms set out in the Draft Contract attached as Annex 1 to these tender documents.

## Contract

* 1. Type of contract for the supply of the subject of the contract:

The tender will result in the conclusion of a contract for the provision of services in the field of IT solutions between the contracting authority and the successful tenderer.

## Time limit for submission of tenders

* 1. The deadline for submission of tenders is indicated in the contract notice and in the josephine system <https://josephine.proebiz.com/sk/tender/44058/summary>
  2. Tenders must be received electronically in the system <https://josephine.proebiz.com> no later than the deadline for submission of tenders specified in the notice of invitation to tender.
  3. A tenderer's tender submitted after the deadline for the submission of tenders will not be opened electronically and will not be included in the tender evaluation process.

## Binding period of the offer

* 1. The tenderer shall be bound by its tender from the expiry of the time limit for the submission of tenders until the expiry of the time limit for the submission of tenders laid down by the contracting authority in the notice of the call for tenders.
  2. The contracting authority reserves the right to notify tenderers in writing of an appropriate extension of the time limit for the submission of tenders if such extension is permissible under the Public Procurement Act.

## Information on previous pre-market consultations

* 1. The launch of this tender was preceded by a preparatory market consultation within the meaning of Section 25 of the Public Procurement Act.
  2. Pursuant to Section 25(2) of the Public Procurement Act, the contracting authority has taken the following measures to ensure that the application of the pre-market consultation does not distort competition:
* The contracting authority makes available to all interested parties or tenderers the web interface of the pre-market consultation in question, which is available at the following link: <https://josephine.proebiz.com/sk/tender/29581/summary>, where all the information provided to individual candidates during the pre-market consultation, all the questions asked by the candidates as well as all the answers provided by the contracting authority to these questions are available to all potential candidates.
* The contracting authority provides all potential tenderers with summary records of the pre-market consultations in question, which are attached as Annexes 17 and 18 to these tender documents
* The contracting authority has set a reasonable time limit for the submission of tenders in excess of the minimum requirements set by the Public Procurement Act of 40 days.

# Part II. Communication and explanation

## Communication between the contracting authority and candidates/candidates

* 1. Communication between the contracting authority and the candidates/ tenderers shall be carried out in a manner and by means which ensure the completeness of the information given in the tender and guarantee the protection of confidential and personal data contained in these documents.
  2. The contracting authority provides for electronic communication when awarding the contract and will proceed in communication with tenderers or candidates in accordance with Section 20 of the Public Procurement Act through the communication interface of the JOSEPHINE system. This method of communication refers to all communications and submissions between the contracting authority and candidates/ tenderers throughout the procurement process.
  3. The contracting authority (the Tender Evaluation Committee) may, or in the actual case will, ask tenderers to clarify or supplement their tender (documents) after the submission of tenders via the JOSEPHINE system.
  4. Letters of the type 'Request for rectification' or 'Objection' shall be submitted by the candidates or tenderers to the contracting authority via the JOSEPHINE system. The contracting authority will provide opinions or comments on these documents to the candidates or tenderers concerned via the JOSEPHINE system.
  5. Communication in the procurement process is required in Slovak or Czech or English.
  6. **Rules for delivery** - a consignment shall be deemed to have been delivered to the candidate/candidate when the addressee has an objective opportunity to become acquainted with its contents, i.e. as soon as the consignment is in his/her sphere of possession. In JOSEPHINE, the moment of delivery shall be deemed to be the moment of transmission in the JOSEPHINE system, in accordance with the functionality of the JOSEPHINE system.
  7. If the sender of the consignment is the contracting authority, the information that there is a new consignment/message for the contract in question will be sent immediately to the candidate/candidate's designated contact email (entered when registering in the JOSEPHINE system). The bidder/offeror logs into the system and the communication interface of the contract will display the content of the communication - mailings, messages. The interested party/ tenderer can view the entire history of his/her communication with the contracting authority in the communication interface.
  8. If the sender of the information is a candidate/candidate, after logging into the system and the contract in question, he can send messages and necessary attachments to the contracting authority via the communication interface. Such a consignment shall be deemed to have been delivered to the contracting authority at the moment of its dispatch in the JOSEPHINE system in accordance with the functionality of the system.
  9. All contract information is publicly available on the contract overview. If the interested party wants to receive e-mail notifications about possible updates to the contract, it must comply with one of the following options: download documents from the contract overview as a logged-in bidder/interested party, communicate with the communication module, click the "I'm interested" button, or submit a bid. We therefore encourage all interested parties who have not yet actively participated in the procurement to click on the "I'M INTERESTED" button.
  10. The contracting authority strongly recommends that the interested parties carefully read the published manual in the JOSEPHINE system - Candidate/Bidder Manual, where they will find all the essential information for working with the JOSEPHINE system. The manual can be found on the josephine.proebiz.com homepage on the top right.
  11. The contracting authority shall allow unrestricted and direct access by electronic means to all documents/information provided for the contract in question. The contracting authority will publish all documents as electronic documents in the JOSEPHINE system.

## Clarification of information and completion of tender documents

* 1. The address of the website where the contract documents can be accessed: [https://josephine.proebiz.com.](https://josephine.proebiz.com)
  2. The contracting authority's profile set up in the electronic repository on the website of the Public Procurement Office includes information on the JOSEPHINE public portal in the form of a link, where all the information will be available.
  3. In the event of any ambiguity or need for clarification of any information necessary for the preparation of the tender provided within the time limit for the submission of tenders (conditions of participation or information given in the contract notice, tender documents or other supporting documentation), any interested party may request clarification via the JOSEPHINE communication interface in accordance with the communication rules set out above. The interested party shall deliver its question to the contracting authority in sufficient time (a request for clarification/question will be deemed to be received in time if it is received within 8 days before the expiry of the deadline for submission of tenders) to enable the contracting authority to provide an explanation in accordance with Article 48 of the Public Procurement Act.
  4. The contracting authority shall provide clarification of the information necessary for the preparation of the tender to all tenderers without delay via the JOSEPHINE system, but at the latest six days before the expiry of the time limit for the submission of tenders, provided that the tenderer requests the clarification sufficiently in advance.
  5. The economic operator may ask the contracting authority for clarification. The contracting authority requests that any clarifications in the tender be incorporated by the tenderers in their tenders.
  6. The contracting authority requests that any clarifications to the questions raised and documents provided in the contract be incorporated by the tenderers in their tenders.
  7. Submissions and documents related to the application of the review procedures shall be delivered between the contracting authority and the candidates/ tenderers via the communication interface of the JOSEPHINE system.

## General information about the JOSEPHINE system

* 1. For the purposes of this procurement, JOSEPHINE is the software for the computerisation of public procurement. JOSEPHINE is a web application on the domain [https://josephine.proebiz.com.](https://josephine.proebiz.com)
  2. To use the JOSEPHINE system smoothly, you must use one of the supported web browsers:
* 13.2.1. Mozilla Firefox version 13.0 and higher,
* 13.2.2. Google Chrome or
* 13.2.3. Microsoft Edge.

## Inspection of the place of delivery of the subject of the contract

* 1. There will be no inspection of the place of delivery of the subject-matter of the contract.

# Part III. Preparation of the offer

## Making an offer

* 1. The tender must be made in writing and in an electronic form that ensures the permanent capture of its content, using the JOSEPHINE system.
  2. The offer is entered into the JOSEPHINE system when the envelope processing is completed (the system shows the processing progress by percentages next to the corresponding button). The system confirms the entry of the offer with the message "Saved" and the offer itself is displayed in the Offers and Requests tab. The**submitted offer is displayed for the bidder in the *Bids and Applications*tab** with the date of insertion. Once the bid has been successfully submitted to the JOSEPHINE system, a notification email is sent to the bidder informing them of the submitted bid.
  3. The certificates, documents and other tender documents required in the notice of invitation to tender by which the request for tenders was issued and in these tender documents must be submitted in electronic form in the tender as simple scans of the originals or certified true copies thereof, unless otherwise specified. The tender must be accompanied by the required scanned documents/documents as separate files.   
     The tenderer may also submit copies of documents in the tender, including copies in electronic form. The contracting authority or contracting entity may, at any time during the tendering procedure, require the tenderer to produce the original of the document concerned, an officially certified copy of the original of the document concerned or a certified true copy if it has doubts as to the authenticity of the document submitted or if this is necessary to ensure the proper conduct of the tendering procedure. Documents and supporting documents which constitute the tenderer's tender and which were not originally drawn up in electronic form, but in paper form, shall be submitted in scanned .pdf format unless otherwise specified in these tender documents.
  4. The documents and supporting documents which constitute the tenderer's tender and which were originally drawn up in electronic form shall be submitted in their original electronic form.
  5. The provisions of the Public Procurement Act concerning the demonstration of the fulfilment of the conditions of participation of the personal status through the list of economic operators are not affected by this.
  6. The documents and supporting documents submitted in the JOSPEHINE system must correspond to the original document so that the contracting authority can faithfully assess the fulfilment of the conditions of participation, the requirements for the subject-matter of the contract and the requirements for the tender.
  7. The documents and documents forming the content of the tender, as required in these tender documents, must be valid and up-to-date at the time of submission of the tender.
  8. If the tender contains information which the tenderer considers to be confidential or a trade secret, the tenderer shall mark this information as confidential or a trade secret. The contracting authority recommends that the tenderer's tender include a **'Confidential Information List'** prepared by the tenderer, identifying the page number, paragraph number, paragraph and text containing the confidential information.
  9. All **costs and expenses** associated with the preparation and submission of the tender shall be borne by the tenderer, without any financial or other claim on the contracting authority, even if the contracting authority does not accept any of the tenders submitted or cancels the procurement procedure.
  10. Tenders received in paper form at the address of the contracting authority and submitted within the deadline for submission of tenders shall not be returned to the tenderers; they shall form part of the tender documentation.
  11. If the tenderer has not drawn up the tender himself, he shall indicate in the tender the person whose services or documents he has used in drawing up the tender. The data referred to in the first sentence shall be given by the applicant in the following format: first and last name, business name or name, address of residence, registered office or place of business and identification number, if any.
  12. The documents drawn up by the tenderer which constitute the tender must be signed by the tenderer's statutory body or a member of the statutory body, or may be signed by a representative of the tenderer who is authorised to act on the tenderer's behalf in a contractual relationship, in which case the tenderer shall also submit a **power of attorney**authorising him to do so in the tender submitted by the tenderer. All pages of the tender on which additional entries and corrections have been made must be signed by the person or persons who signed the tender.

## Language of the offer

* 1. Tenders and other documents and documents in the public procurement shall be submitted in the Slovak language or in the Czech language or in the English language.
  2. If a document or a document is drawn up in a foreign language other than the Czech language or the English language, it shall be submitted together with its official translation into the Slovak language; this shall not apply to tenders, documents and documents drawn up in the Czech language and the English language. If there is a difference in their content, the official translation into the Slovak language shall prevail.

## Currency and prices quoted in the offer, currency of the financial consideration

* 1. The tenderer's proposed contract price for the provision of services, as set out in the tenderer's offer, shall be expressed in euro (€), to two decimal places, and the total price for each item shall be calculated as the product of the quantity and the unit price rounded to two decimal places.
  2. The price of the subject of the contract must be determined in accordance with the Act of the National Assembly of the Slovak Republic No. 18/1996 Coll. on prices as amended, Decree of the Ministry of Finance of the Slovak Republic No. 87/1996 Coll. implementing the Act of the National Assembly of the Slovak Republic No. 18/1996 Coll. on prices as amended. The determination of the price and the method of determining the price must be clear and understandable.
  3. The "total price" (as per Annex 2 of these tender documents, which will become Annex 2 of the framework agreement) must include all costs associated with the execution of the subject of the contract, including all related services and fees. Before submitting its tender, the tenderer shall take into account everything necessary for the full and proper performance of the contract, including in its prices all costs associated with the performance of the contract, as specified in the description/specification of the subject of the contract and in the contract. The tenderer shall not be entitled to reimbursement of additional costs not included in the tender for the subject of the contract.
  4. If the tenderer is a taxable person for VAT within the meaning of the relevant regulations (hereinafter referred to as 'taxable person'), it shall indicate the proposed contract price in the proposal for the fulfilment of the criteria in Annex 2 to these tender documents:
* the proposed contract price in EUR excluding VAT,
* the amount of VAT in EUR,
* the proposed contract price in EUR including VAT.
  1. If the tenderer is not a taxable person for VAT purposes, he shall indicate the proposed contract price in EUR. **The fact that the tenderer is not a taxable person for VAT purposes shall be stated in the tender.** Enter "0" in the column "amount of VAT in EUR". The contracting authority points out that if the successful tenderer, who stated in the tender that he will not be subject to VAT after the conclusion of the contract, becomes subject to VAT after the submission of the tender or after the conclusion of the contract, he is not entitled to an increase in the price by the value of the VAT.
  2. The relevant VAT will be paid in accordance with the applicable legislation. In the event that the price in the tender does not comply with the VAT Act or other generally binding legal provisions, the breach or non-compliance with which would affect the final price of the contract, the contracting authority shall ask the tenderer to correct it. Such an act will not be considered a change to the offer.
  3. If the tenderer is based outside the territory of the Slovak Republic and is subject to VAT, the contracting authority shall check whether the tender was quoted at a price excluding VAT. If the contracting authority is obliged to pay VAT under generally binding legal regulations, it shall add the VAT applicable in the Slovak Republic to the price.
  4. It is the sole responsibility of the tenderer to carefully examine the notice of invitation to tender, the tender documents and any documents provided by the contracting authority which may in any way affect the price and nature of the tender or the delivery of the subject of the contract. The proposed price must be set in accordance with the applicable legislation. In the event that a bidder is successful, no claim by the bidder to change the bid price due to errors and omissions will be accepted.

## Collateral of the offer

* 1. A bid security is required. The contracting authority has set a security of EUR 70 000,00,-.
  2. The security shall ensure that the tender is binding during the period for which tenders are due.
  3. Methods of lodging a tender security:
* by providing a bank guarantee for the tenderer
* by depositing funds in the contracting authority's bank account; or
* warranty insurance.
  1. Conditions for lodging a tender security:

Provision of a bank guarantee on behalf of the tenderer:

The provision of the bank guarantee must comply with the provisions of Sections 313 to 322 of Act No. 513/1991 Coll. of the Commercial Code, as amended. The letter of guarantee may be executed by a bank, a branch of a foreign bank or a foreign bank (hereinafter referred to as the "bank"). The Bank guarantees the fulfilment of the secured obligation up to the amount and under the conditions specified in the guarantee document. The bank cannot object to the creditor. The bank shall fulfil its obligation under the bank guarantee only when called upon to do so in writing by the creditor. The Bank Guarantee shall be governed by the laws of the Slovak Republic and shall be subject to the exclusive jurisdiction of the courts of the Slovak Republic to adjudicate disputes.

The letter of guarantee executed by the bank must show that:

- the bank shall satisfy the creditor (the contracting authority as referred to in point 2 of these tender documents) on behalf of the debtor (the tenderer) in the event of forfeiture of the tender security in favour of the contracting authority,

- the bank's performance to the extent that the bank has provided performance on behalf of the tenderer for the benefit of the contracting authority,

- by revoking the bank guarantee at the written request of the contracting authority,

- the expiry of the period of validity, if the contracting authority has not requested the contract before the expiry of the period of validity

- has not asserted its claims against the bank arising from the guarantee issued.

- the bank security shall be used to cover the tender security,

- the bank undertakes to pay the resulting claim within 10 days after receipt of the contracting authority's request for payment, to the account of the contracting authority,

- the bank guarantee shall take effect on the date of its execution by the bank and shall be created upon delivery of the guarantee document to the contracting authority,

- the validity of the bank guarantee expires on the expiry of the time limit for the submission of tenders.

The bank guarantee will lapse:

the bank's performance to the extent that the bank has provided performance on behalf of the tenderer for the benefit of the contracting authority,

- by revoking the bank guarantee at the written request of the contracting authority,

- the expiry of the period of validity, if the contracting authority has not requested the contract before the expiry of the period of validity

- has not asserted its claims against the bank arising from the guarantee issued.

A letter of guarantee in which the bank declares in writing that it will satisfy the contracting authority on behalf of the tenderer up to the amount of the security required must be included in the tender. If the bank guarantee is provided by a foreign bank which does not have a branch in the Slovak Republic and the guarantee document is drawn up by the foreign bank in a foreign language, such bank guarantee must also be accompanied by an official translation into the Slovak language.

The contracting authority will accept a bank guarantee in electronic form, signed by a qualified electronic signature of the bank itself, or of a person authorised to sign these documents on behalf of the bank, or submit the original bank guarantee / letter of guarantee, which the tenderer delivers within the deadline for submission of tenders in a sealed envelope with the address of the tenderer marked "Tender - do not open" and supplemented with a password: "Bank Guarantee - Digitisation" to the postal address indicated in point 2 of these tender documents, in case of personal delivery to the Registry at the same address.

The guarantee document must be included in the tender. If the letter of guarantee is not included in the electronic tender or if it is not delivered in writing to the tender office within the deadline for submission of tenders, the contracting authority shall act in accordance with the principle of proportionality. If the guarantee document is not included in the electronic tender and at the same time the original document is not delivered in writing to the tender office within the deadline for submission of tenders, i.e. the tenderer fails to prove the deposit of the bank guarantee in accordance with these tender documents, the contracting authority shall proceed in accordance with Section 53 of the Public Procurement Act.

Deposit of funds in the contracting authority's bank account

The funds must be deposited in the contracting authority's account:

Bank: ČSOB, a.s.

IBAN: SK95 7500 0000 0000 2597 4063

Variable symbol: Applicant's registration number

Additional data: "Collateral - digitisation"

The funds must be credited to the contracting authority's account no later than one (1) working day before the deadline for the submission of tenders.

If the funds are not deposited in the contracting authority's account by the deadline for the submission of tenders, the tenderer will be excluded from the tender.

The period of validity of the tender security provided by the deposit of funds in the account of the contracting authority shall last until the expiry of the time limit for the submission of tenders.

Warranty insurance

The tenderer shall provide evidence of the insurance of the guarantee by submitting a document drawn up by the insurance company for the purpose of insuring the guarantee, containing or annexed to it the rules and information relating to the enforcement of such tender security for forfeiture in favour of the contracting authority and the rules and information relating to its release or return to the tenderer in the event of the relevant legal grounds being met.

In the event that, in order to claim such tender security for forfeiture in favour of the Contracting Authority, the rules relating to such insurance of the guarantee require the original document executed by the insurance company to be submitted (returned) to the insurance company in a paper form, the original (and official translation, if required) of such document shall also be submitted in a paper form to the office of the Contracting Authority within the deadline for submission of tenders in a sealed envelope bearing the address of the tenderer and marked 'Tender - do not open' and supplemented with a password: "Bank Guarantee - Digitailization" to the postal address indicated in point 2 of these tender documents, in case of personal delivery to the Registry at the same address.

The security shall be forfeited to the contracting authority in accordance with Section 46(6) of the Public Procurement Act.

The contracting authority shall release or return the security to the tenderer pursuant to Section 46(7) of the Public Procurement Act. If the tenderer provides a bank guarantee, the contracting authority shall return the original guarantee document to the tenderer or the bank concerned. In the event that the tenderer deposits a security in the form of an insurance guarantee, the contracting authority shall carry out the necessary acts which, according to the rules relating to the insurance guarantee, will be necessary for the release or return of the security to the tenderer in accordance with Article 46(6) or (7) of the Public Procurement Act and of which it will be informed on the basis of the relevant documents (in particular the document drawn up by the insurance company) submitted by the tenderer in its tender.

## Eligible applicants

* 1. All economic operators (natural or legal persons or a group of natural or legal persons acting jointly towards the contracting authority) may submit a tender.
  2. The use of the term 'tenderer' in these Tender Documents shall also mean/include the term 'group of suppliers'.
  3. Where a tender is submitted by a group of suppliers within the meaning of Section 37 of the Public Procurement Act, such tenderer shall be required to submit a document (Annex 6) signed by all members of the group nominating a lead member authorised to act on behalf of the other members of the group in relation to this contract.
  4. In the event that this group of suppliers is the successful tenderer, the contracting authority shall require the successful tenderer to establish a legal relationship between the members of this group of suppliers, e.g. pursuant to Section 829 et seq. of Act No. 40/1964 Coll., the Civil Code, as amended - a contract of association, or a similar legal relationship pursuant to the relevant provisions of private law, prior to the conclusion of the contract, in order to ensure the proper performance of the contract.
  5. The documentation evidencing the formation of the association (or other legal form of cooperation between natural or legal persons) must be clear and obvious as to which member of the group of suppliers is authorised to act for the group of suppliers, how the mutual rights and obligations are determined, who will participate in the performance and in what part, and the fact that all members of the association are jointly and severally liable for the obligations of the association. The original or an officially certified copy of this contract or of the documentation proving the establishment of legal relations between the members of the group of suppliers must be provided by the successful tenderer to the contracting authority at the latest at the time of conclusion of the contract.
  6. A legal person whose founder, member or partner is a political party or political movement may not participate in the competition.

### [Pursuant to Section 20(5) of Act No. 85/2005 Coll. on Association in Political Parties and Political Movements, a legal entity of which a party or movement is a founder, member or partner may not be a tenderer for public procurement contracts.]

# pART IV. Conditions of participation and documents proving compliance with the conditions of participation

1. **Conditions of participation of personal status**
   1. General conditions of participation:

It must be clear from the documents submitted that the tenderer fulfils the conditions for participation:

* for documents pursuant to § 32, § 33 and § 34(1)(g) and (k) of the Public Procurement Act on the date of expiry of the deadline for submission of tenders,
* for documents pursuant to Article 34(1)(a) of the Public Procurement Act as of the date of the call for tenders (i.e., the reference service must take into account the specified reference period).

Thus, it is also permissible that the documents proving compliance with the conditions of participation pursuant to Sections 32, 33 and/or 34 of the Public Procurement Act. be issued after the date of submission of the tender or after the date on which the time limit for tenders has expired, however:

* in the case of documents pursuant to Sections 32, 33 and 34(1)(g) and (k) of the Public Procurement Act, they must contain information on the fulfilment of the conditions of participation as of the date on which the deadline for the submission of tenders expired, or it must be otherwise evident from these documents that the condition of participation has been fulfilled as of the date on which the deadline for the submission of tenders expired;
* in the case of documents pursuant to Section 34(1)(a) of Act No. 343/2015 Coll., they must contain information on the fulfilment of the conditions of participation as of the date of the public procurement announcement, or it must be otherwise evident from these documents that the condition of participation has been fulfilled as of the date of the public procurement announcement - in other words, the relevant period of 3 years shall be assessed as of the date of the public procurement announcement.

The above does not preclude the obligation of the tenderer to comply with the specified conditions of participation during the whole process of evaluation of tenders, i.e. from the expiry of the deadline for submission of tenders to the signing of the contract with the successful tenderer.

* 1. The documents and/or documents submitted by the tenderer proving compliance with the conditions of participation must also show that the minimum level of the individual conditions of participation identified above has been met.
  2. The applicant must meet the following conditions for participation:
  3. CONDITIONS OF PARTICIPATION PURSUANT TO SECTION 32 OF THE PUBLIC PROCUREMENT ACT (RELATING TO PERSONAL STANDING):

In accordance with Section 32(1) of the Public Procurement Act, only those who meet the following conditions of participation relating to personal standing may participate in the public procurement:

* + neither he, nor his statutory body, nor a member of the statutory body, nor a member of the supervisory body, nor a proxy has been finally convicted of a criminal offence of corruption, an offence of damage to the financial interests of the European Communities, an offence of money laundering, an offence of establishment, the offence of establishing, organising or supporting a criminal group, the offence of establishing, organising or supporting a terrorist group, the offence of terrorism and certain forms of participation in terrorism, the offence of trafficking in human beings, an offence the substance of which is related to business or the offence of rigging public procurement and public auctions,
  + does not have any registered arrears of social insurance premiums and the health insurance company does not register any overdue claims against him/her according to special regulations (Social Insurance Act, Health Insurance Act) in the Slovak Republic and in the state of his/her registered office, place of business or habitual residence,
  + has no registered tax arrears to the tax office and customs office under special regulations (the Tax Administration Act and the Customs Act) in the Slovak Republic and in the state of the registered office, place of business or usual residence,
  + it is not bankrupt, restructured, in liquidation or has not had bankruptcy proceedings against it discontinued for lack of assets or bankruptcy annulled for lack of assets,
  + is entitled to supply goods, carry out construction work or provide a service,
  + has not been banned from participating in public procurement confirmed by a final decision in the Slovak Republic and in the state of its registered office, place of business or habitual residence.

In accordance with Section 32(2) of the Public Procurement Act, the tenderer shall demonstrate compliance with the conditions of participation pursuant to Section 32(1):

* + (a) supported by a criminal record extract not older than three months,
  + (b) supported by a certificate from the health insurance company and the Social Insurance Institution not older than three months,
  + (c) supported by a certificate from the local competent tax office and the local competent customs office not older than three months,
  + (d) supported by a certificate from a competent court not older than three months,
  + (e) accompanied by proof of authorisation to supply goods, to carry out works or to provide a service corresponding to the subject-matter of the contract,
  + (f) accompanied by an affidavit.

Pursuant to Section 32(3) of the Public Procurement Act, if the contracting authority or contracting entity is authorised to use data from public administration information systems pursuant to a special regulation, then the tenderer is not obliged to submit documents pursuant to Section 32(2) of the Public Procurement Act

NOTICE:

The contracting authority does NOT currently have access to public administration information systems according to Act No. 177/2018 Coll. on certain measures to reduce the administrative burden through the use of public administration information systems and on amending and supplementing certain acts (Anti-Bureaucracy Act), therefore the bidder CANNOT proceed according to Section 32(3) of the Public Procurement Act. The tenderer MUST submit in the tender documents pursuant to Section 32(2) of the Public Procurement Act or prove to the contracting authority a valid registration in the list of economic entities maintained by the Public Procurement Office or a registration in a similar register in the state of the candidate's seat (in the Czech Republic, e.g. Seznam kvalifikovaných dodávatelů) to the extent of the registered facts.

The Authority maintains a list of economic operators who have demonstrated compliance with the conditions of participation of personal status pursuant to Section 32 of Act No. 343/2015 Coll., and who have applied to be included in the list of economic operators. An economic operator in a public procurement procedure may prove compliance with the conditions for participation of a personal capacity referred to in the first sentence by entry in the list of economic operators (or entry in a similar list of another Member State to the extent of the facts entered).

Link to information for interested parties on the list of economic operators:

<https://www.uvo.gov.sk/zaujemcauchadzac/registre-o-hospodarskych-subjektochvedene-uradom/informacie-k-zoznamu-hospodarskych-subjektov-2ff.html>

The group of suppliers shall demonstrate compliance with the conditions for participation in the public procurement relating to:

1. personal status for each member of the group separately. The authorisation to supply goods, works or services shall be demonstrated by a member of the group only in relation to that part of the subject-matter of the contract which it is required to provide.

financial and economic standing is demonstrated jointly (i.e. it is sufficient if at least one member of the group of suppliers demonstrates the condition of participation, it is not necessary that all members of the group of suppliers demonstrate it).

technical competence or professional competence is demonstrated jointly (i.e. it is sufficient if at least one member of the group of suppliers demonstrates the participation condition, it is not necessary that all members of the group of suppliers demonstrate it).

The group of suppliers may use the resources of the participants of the group of suppliers or other persons pursuant to Section 33(2) of Act No. 343/2015 Coll., as well as the capacities of the participants of the group of suppliers or other persons pursuant to Section 34(3) of Act No. 343/2015 Coll.

Possibilities of using the Single European Document (formalised affidavit):

The tenderer or the members of the group of suppliers may temporarily replace the required documents by a single European document. In such a case, the tenderer/group of suppliers shall submit the temporarily replaced documents at the request of the contracting authority. ~~The rules and recommendations for the use of the Single European Document are set out in Chapter 4 of this Annex.~~

1. **Conditions of participation financial and economic standing**
   1. CONDITIONS OF PARTICIPATION PURSUANT TO § 33 OF THE PUBLIC PROCUREMENT ACT:

In the tender, the tenderer shall submit the following information and documents to demonstrate its economic and financial standing:

The contracting authority shall apply the condition of participation pursuant to Article 33(1)(a) of the EC Treaty for the assessment of economic and financial capacity. (c) of the Public Procurement Act concerning the financial health of the bidder's undertaking as verified/established by the INDEX N05 index (Czech credit-scoring model) **requires the bidder to submit a profit and loss account for the last three completed financial years or an income and expenditure account for the last three completed years, or for the years available depending on the date of establishment, commencement of operations or end of the tax period**. The completed financial year is the year for which the tenderer's accounts have been approved.

* + Bidder - a legal entity established in the territory of the Slovak Republic, whose financial statements in the Register of Financial Statements of the Slovak Republic are published:
    - does not submit any document to demonstrate compliance with this condition of participation.
    - the value of the financial indicators required by the contracting authority from the financial statements published in the public part of the Register of Financial Statements is also calculated by several analytical companies ( e.g. FinStat, a.s.).  The calculated value of the financial indicators is available on their websites or portals.

* + Bidder - a legal entity established in the territory of the Slovak Republic, which is not obliged to publish its financial statements in the Register of Financial Statements of the Slovak Republic or established outside the territory of the Slovak Republic:
    - submit in the tender a profit and loss account or an income and expenditure account for the last three completed financial years or for the years available depending on the beginning, commencement or end of the taxable year.
    - In case the documents are submitted by a candidate established outside the territory of the Slovak Republic, he/she must submit documents equivalent to the profit and loss account or income and expenditure account for the last three completed economic years, or for the years available depending on the origin, commencement of the activity or the end of the tax period, which demonstrate compliance with this condition of participation in the original language and at the same time they must be translated into Slovak (this obligation does not apply to documents in Czech). In case of differences in the content of the documents submitted in the original language and the translated documents, the official translation in the Slovak language is decisive.
  + In the case of candidates - natural persons with registered office in the Slovak Republic, candidates with registered office outside the Slovak Republic or legal persons with registered office in the Slovak Republic who do not have their financial statements published in the Register of Financial Statements, the bidder is obliged to submit together with the financial statements:
    - a statement specifying, for each indicator, the relevant lines of the profit and loss account or income and expenditure account whose values enter into the formulae for calculating each indicator, for each of the years under consideration,
    - a declaration that the profit and loss account or income and expenditure account for the period requested which it submits is the only one for the period requested and that the tenderer has no other accounts filed for the period requested,
    - in case the tenderer has filed corrective financial statements, i.e. profit and loss account or income and expenditure account for the required period, the tenderer is also obliged to submit these corrective profit and loss accounts or income and expenditure accounts to the Contracting Authority.

The contracting authority shall calculate the required value of the data from the documents submitted (by entering the data into the formulae set out in these tender documents), i.e. from the profit and loss account or the income and expenditure account for the years requested.

In the case of candidates - legal entities with registered office in the Slovak Republic, which have their financial statements published in the Register of Financial Statements, the contracting authority shall verify the fulfilment of the participation condition on publicly available websites of analytical companies dealing with economic analyses and evaluation of economic indicators of enterprises and shall include in the procurement documentation the evidence of fulfilment/non-fulfilment of this participation condition by the candidate or shall calculate it by itself by entering the data from publicly available documents from the Register of Financial Statements into the formulas specified in this Tender documents.

In the event that the tenderer has published in the public part of the register of financial statements several financial statements for the last three completed years, or for the years available depending on the origin, commencement of the activity or the end of the tax period, the Contracting Authority shall consider as valid for the purpose of fulfilling the participation condition only the financial statements that have been drawn up and approved in accordance with Act No 431/2002 Coll. on accounting. In this case, the Contracting Authority shall verify the fulfilment of the participation condition directly from the financial statements in question, which have been drawn up, approved and published in the register of financial statements in accordance with Act No 431/2002 Coll. on Accounting, by entering the data from the financial statements into the formulas for calculating the INDEX N05 indicator.

The formula and the data that go into the formula for calculating the INDEX N05 indicator are given below.

The contracting authority also provides the specification of individual lines from the relevant statements, as it is possible that in some of the years under consideration the lines in the financial statements may have changed (both for legal entities and natural persons) or are numbered differently, in the case of legal entities or natural persons based outside the territory of the Slovak Republic.

INDEX N05 - a credit model used to assess the financial health of a company. It is determined by comparing economic indicators from the balance sheet and profit and loss account for legal entities and from the statement of assets and liabilities and income and expenditure account for natural persons entrepreneurs.

Calculation for legal entities (domestic and foreign):

S =balance sheet or equivalent document of the foreign legal person

P&L = profit and loss account or equivalent document of a foreign legal entity

Formula for calculating INDEX N05 for legal entities:

|  |
| --- |
| Calculation in the format of the financial statements: |
| Y1 - Assets/ Foreign resources = (yr.1 S) / (yr. 1 S - yr.80 S)  Y2 - EBIT/Interest expense = (r.49 VZaS + r.57 VZaS + r.61 VZaS) / r.49 VZaS  Y3 - EBIT/Assets = (r.49 LFS + r.57 LFS + r.61 LFS) / (r.1 S)  Y4 - Total Revenue/Assets = (yr.3 EAA + yr.4 EAA + yr.5 EAA + yr.8 EAA + yr.46 EAA) / (yr.1 S)  Y5 - Current assets/Short-term debt = (y.33 S) / (y.122 S + y.139 S)    INDEX N05 = 0.13\*Y1+0.04\*Y2+3.97\*Y3+0.21\*Y4+0.09\*Y5  it means  INDEX N05= 0,13 ∗  AssetsForeign resources  + 0,04 ∗  EBITInterest expense  + 3,97 ∗  EBITActive  + 0,21 ∗  RevenueAssets  + 0,09 ∗  Current assetsCurrent debt |

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| --- |
| Calculation in the financial statements format micro: |
| Y1 - Assets/ Foreign resources = (y.1 S) / (y.1 S - y.25 S)  Y2 - EBIT/Interest expense = (y.31 AOP + y.36 AOP + y.38 AOP) / (y.31 AOP)  Y3 - EBIT/Assets = (yr.31 A/R + yr.36 A/R + yr.38 A/R) / (yr.1 S)  Y4 - Total Revenue/Assets = ( yr.2 EAA + yr.3 EAA + yr.6 EAA + yr.28 EAA) / (yr.1 S)  Y5 - Current assets/Short-term debt = (y.14 S) / (y.38 S+ y.44 S)    INDEX N05 = 0.13\*Y1+0.04\*Y2+3.97\*Y3+0.21\*Y4+0.09\*Y5  it means  INDEX N05= 0,13 ∗  AssetsForeign resources  + 0,04 ∗  EBITInterest expense  + 3,97 ∗  EBITActive  + 0,21 ∗  RevenueAssets  + 0,09 ∗  Current assetsCurrent debt |

Calculation, which is a natural person - entrepreneur:

VMaZ = statement of assets and liabilities or equivalent document of a foreign natural person-entrepreneur

IRS = income and expenditure account or equivalent document of a foreign natural person-entrepreneur

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| --- |
| Formula for calculating INDEX N05 for a natural person - entrepreneur: |
| Y1 - Assets/ Foreign resources = (yr 15 of the MTOA, this is total assets) / (yr 20 of the MTOA, this is total liabilities )    Y2 - EBIT/Cost interest = ( yr.10 IRR cost interest charged to other expenses + income tax is not recorded in the statements but can be read from the tax return and it is the tax liability line from the tax return + yr.12 IRR i.e. the difference between income and expenses ) / from yr.10 IRR cost interest charged to other expenses.    Y3 - EBIT/Assets = (from r. 10 of the IRR, interest expense charged to other expenses + income tax is not recorded in the statements, but can be read from the tax return, and this is the tax liability line from the tax return) / (r. 15 of the IRR, this is total assets)    Y4 - Total Income/Assets = (yr.04 Total Income i.e. Total Income) / (yr.15 Total Assets i.e. Total Assets)    Y5 - Current assets/Short-term debt = (y. 04 MVA i.e. inventories + yr 08 MVA receivables all + yr 09 MVA i.e. financial assets) / (from yr 17 MVA current liabilities due within 1 year + from yr 18 current bank loans, i.e. overdrafts, authorised overdrafts, or parts of loans due within 1 year)    INDEX N05 = 0.13\*Y1+0.04\*Y2+3.97\*Y3+0.21\*Y4+0.09\*Y5  it means  INDEX N05= 0,13 ∗  AssetsForeign resources  + 0,04 ∗  EBITInterest expense  + 3,97 ∗  EBITActive  + 0,21 ∗  RevenueAssets  + 0,09 ∗  Current assetsCurrent debt |

Specified ranges of values (general economic analyses) applicable to domestic and foreign legal entities and natural persons - entrepreneurs:

>1.6-a thriving company

>0.9 and <1.6 - medium interface

<0.9 - not prosperous company

Minimum level required:

The condition of economic and financial standing shall be fulfilled by the tenderer whose value of the economic indicator INDEX N05 is greater than 0,90 for all the last three completed financial years, or for the years available depending on when the activity was established or started.

Important notice!!!!

In accordance with Section 33(3) of the Public Procurement Act, the contracting authority requires that the tenderer and the other person whose resources are to be used to demonstrate financial and economic standing shall be jointly responsible for the performance of the contract. To this end, the contracting authority requests that the contract required under Section 33(2) of the Public Procurement Act include, inter alia, a provision making it unquestionably clear that the tenderer and any other person whose resources are to be used to demonstrate financial and economic standing are jointly liable for the performance of the contract concluded with the contracting authority. For the avoidance of any ambiguity, the Contracting Authority states that joint liability for the performance of the Contract shall be understood to mean, in particular, the liability for the monetary obligations of the Provider (the successful tenderer) which may arise against the Contracting Authority on the basis of the Contract.

To this end, the contracting authority strongly recommends that the following clause (recommended text) be included in the contract expressing the commitment of the person providing resources to the tenderer:

"Candidate .................................... (add interested party's details) and .............................. (fill in the details of the person whose resources are being used) in the capacity of the person whose resources are to be used to demonstrate financial and economic standing in the above-limit service contract published in the Official Journal of the European Union No ............................, on ........................, entitled 'Digitisation of the fleet, collection planning system and electronic recording and confirmation of tipping', announced by the contracting authority (hereinafter referred to as the contracting authority

"Contracting Authority"),

we are aware that the Public Procuring Entity, in accordance with Section 33(3) of Act No. 343/2015 Coll. on Public Procurement and on Amendments and Additions to Certain Acts, as amended, at 12.17 The Service Contract requires that the Bidder and another person whose resources are used to demonstrate any of the conditions of financial and economic standing pursuant to Section 33 of Act No. 343/2015 Coll. on Public Procurement and on Amendments and Additions to Certain Acts, as amended, are jointly liable for the performance of the Contract. Joint liability for the performance of the Contract means in particular the liability for the monetary obligations of the Candidate in its capacity as service provider under the Service Contract, which may arise against the Contracting Authority on the basis of the Service Contract. Evidence of compliance with this obligation shall be submitted by the tenderer to the contracting authority on the date of signing the Service Contract."

Possibilities of using the Single European Document:

The tenderer or the person whose capacities the tenderer will use to demonstrate compliance with a given condition of participation may temporarily replace the required documents by a single European document. In this case, the tenderer shall submit the temporarily replaced documents at the request of the contracting authority. The rules and recommendations for the use of the Single European Document are set out in these tender documents.

1. **Conditions of participation of technical and professional competence**
   1. CONDITIONS OF PARTICIPATION PURSUANT TO § 34 OF THE PUBLIC PROCUREMENT ACT

 In the tender, the tenderer shall submit the following information and documents to demonstrate technical and professional competence:

1. condition of participation:

List of services provided (pursuant to Section 34(1)(a) of Act No. 343/2015 Coll.) of the same or similar nature as the subject of the contract for the preceding 3 years from the date of the public procurement notice (the so-called "relevant period"), with indication of prices, delivery times and customers; if the customer was the contracting authority/procuring entity, then the document is a reference issued pursuant to Section 12 of Act No. 343/2015 Coll.

Minimum level required:

The tenderer shall fulfil this condition of participation if it demonstrates that, within the last 3 years from the date of the call for tenders, it has provided software solution implementation services to entities that carry out waste collection in cities/municipalities/regions/other legal entities as part of their activities, where the relevant software solution for the purposes of this condition of participation is considered to be a software solution provided on a cloud-based or web-based platform, implemented for the purpose of optimising the management of the waste collection and collection process and which includes, as a minimum, the registration of collection bins and collection points, the registration of tipping points and the functionality to allow for the automatic real-time scheduling of waste collection based on a set of input parameters.

The tenderer shall fulfil this condition of participation if it demonstrates that it has provided/implemented 3 services according to the preceding paragraph with an aggregate value (sum of the values of the individual services provided) of at least EUR 1 300 000,00 excluding VAT during the relevant period. All components of the performance, i.e. hardware, software, including SLA, may be included in the reference amount.

In the list submitted, the tenderer shall indicate for the service provided:

* + the name of the customer (i.e. the other party);
  + the contact person of the customer/responsible employee and the contact details (for the purpose of verifying the information provided)
  + The time and place of provision of the service; and
  + a brief description of the performance of the contract, including a specific description of the implemented solution referred to in the reference
  + the contract value per reference performance.

The contracting authority (or a person authorised by it) will verify the information and the accuracy of the data with the purchasers indicated in the list.

If the subject of the reference is also services of a nature other than the provision of hardware, software and support/SLA (other activities/services/works) other than the required reference services, the contracting authority requires the list of services/references to separate the provision of services of the required nature from other services that are not of the required nature (i.e. to indicate comprehensively what was the subject of the reference service and to separate - describe in more detail the reference-relevant activity, including the expression /separation of the value of the implemented solution from the rest of the services/goods/works.

The contracting authority will only recognise from the list of services provided those reference services at least part of which were implemented in the reference period (or the last required functionality) in the reference period, if it would be the provision of services that were started outside this reference period (i.e. the implementation of some functionalities could have been earlier than 3 years from the date of publication of the notice of public procurement in the Official Journal of the European Union), the reference services should be included in the list of services provided in the reference period. However, the last required functionality must have been implemented within the reference period (i.e. at least part of the relevant services must have been performed within the reference period). In this case, the tenderer is obliged to explicitly mention in addition to such services provided (references) a precise indication/description of what was the subject of the services in the reference period.

Rules for converting other currencies to EUR:

In the case of projects whose investment value is expressed in a currency other than the Euro, the exchange rate of the National Bank of Slovakia (NBS), current on the date of publication of the public procurement notice in the Official Journal of the EU, should be used for the conversion of this currency into the Euro. In the Letter of Reference, the bidder shall indicate the investment value of the project in the original currency and also converted at the appropriate exchange rate in Euro.

Possibilities of using the Single European Document:

The tenderer or the person whose capacities the tenderer will use to demonstrate compliance with a given condition of participation may temporarily replace the required documents by a single European document. In this case, the tenderer shall submit the temporarily replaced documents at the request of the contracting authority. The rules and recommendations for the use of the Single European Document are set out in Chapter 4 of this Annex.

Note..:

If the purchaser of the services was a contracting authority or contracting entity under the Public Procurement Act, then under Section 12(2) of the Public Procurement Act: For the purposes of this Act, a reference is an electronic document which contains a confirmation of the supply of goods, the execution of works or the provision of a service.

Pursuant to Section 12(1) of Act No. 343/2015 Coll., the following shall apply: The Register of References is a public administration information system administered by the Office for Public Procurement, which keeps records of references from contracting authorities and contracting entities. This means that this registration only applies to services provided to the State or to the public sector or to so-called sectoral entities (contracting authorities). The reference according to § 12 of Act No. 343/2015 Coll. is not issued for services provided to private companies (commercial market) or public sector or sectoral entities operating outside the Slovak Republic (it is sufficient to list the reference services provided to these entities with a description according to the above requirements).

1. condition of participation:

Pursuant to Section 34(1)(g) of the Public Procurement Act, the tenderer shall demonstrate the availability and professional competence of key experts who will be involved in the performance of the subject matter of this contract.

The tenderer must demonstrate in the tender that it has at its disposal (either as its own employee or as an employee of another company which has contractually committed to entrust the expert in question to perform a specific activity corresponding to the expertise of the expert during the performance of the contract (person pursuant to Section 34(3) of the Public Procurement Act)) persons holding the positions listed below who have the experience (experience or qualifications) listed below. To this end, the tenderer shall submit a CV for each key expert in the tender, in the extent of the information necessary to demonstrate the key expert's professional experience (i.e. at least the extent of his/her completed studies, work experience and acquired qualifications).

A list of key experts and their competence requirements (minimum level required) that the tenderer must demonstrate in the tender:

|  |  |  |
| --- | --- | --- |
| Key Expert | Requirement for an expert | Method of demonstration |
| Project Manager | A) Min. 5 years of experience as a project manager (or project leader of a SW solution implementation project, leader of a team of experts, responsibility for managing the process of solution development and implementation) in the field of providing software solutions in the field of waste logistics / waste management.  B)  Min. 3 experience as project manager/team leader/person responsible for managing the development process and implementation of the solution on a project for the development and/or implementation of software solutions in the field of waste management logistics/waste management, the aggregate value of which is at least € 1 300 000 excluding VAT. The value of the implemented software, the delivered HW, if the delivery of HW and the subsequent support of the service operation or SLA were also included in the aggregate value of the expert's reference experience, shall be included in the reference value. | It is demonstrated by submitting a CV with the necessary scope of information (details of the work activity in the given position and contact details of the person in the position of the representative of the client/service recipient who will confirm the above information and a detail and brief description of at least three reference solutions with the contact details of the person in the position of the representative of the client/service recipient who will confirm the participation of the project manager in the development and implementation of these solutions).  The person who is to certify the details as above must not be an employee/authority of the applicant. |
| Software Architect | A) Min. 5 years of experience as a software solution architect (solution architect) - the person responsible for determining the design and form of a software solution and for implementing business processes into that solution  B) min. 3 experience as a software solution architect on projects for the development and implementation of software solutions in the field of logistics (regardless of whether the solutions were related to waste collection/hauling or not) with an aggregate value of at least € 1 300 000 excluding VAT.  The aggregate value of the reference experience of the expert shall include the value of the software implemented, the HW delivered, if the delivery of the HW and the subsequent support for the operation of the service or the SLA was also included | This is demonstrated by submitting a CV with the necessary information (details of the work activity for the job and contact details of the person in the position of the client/service recipient representative who will confirm the above information and with a detailed and brief description of min.  three reference solutions with the contact details of the person in the position of the customer/service provider representative who will confirm the participation of the software architect in the development and implementation of these solutions).    The person who is to certify the details as above must not be an employee/authority of the applicant. |

A candidate cannot demonstrate that both key experts are required by one individual (i.e. no cumulative positions are allowed).

The tenderer shall demonstrate compliance with the required prerequisites by submitting specified documents to the extent necessary to verify the specified requirements for the key professional concerned.

For all conditions of technical and professional competence:

A tenderer may use the technical and professional capacities of another person, regardless of their legal relationship, to demonstrate technical competence or professional competence. In this case, the tenderer must demonstrate to the contracting authority that it will actually use the capacities of the person whose competence it uses to demonstrate technical or professional competence in the performance of the contract. The fact referred to in the second sentence shall be demonstrated by a written contract concluded with the person whose technical and professional capacities are intended to demonstrate his technical competence or professional competence. The written contract must show a specific commitment by the person concerned as to how they will provide their capacity to the candidate throughout the duration of the contractual relationship. The person whose capacities are to be used to demonstrate technical competence or professional competence must demonstrate compliance with the conditions of participation relating to personal capacity (Section 32 of the Public Procurement Act) and must not have grounds for exclusion pursuant to Section 40(7) and (8) of Act No. 343/2015 Coll.

Important notice

The tenderer may use the capacities of another person only if the latter will actually perform the services for which the capacities are required (i.e. this person will be a subcontractor participating in the performance and its change will be possible only for objective reasons demonstrated to the contracting authority in accordance with the relevant provisions of the Contract).

I.e. if the bidder does not have a key expert, the person employing the key expert will act as a person according to Section 34(3) of Act No. 343/2015 Coll. and at the same time this person will be a subcontractor participating in the performance by the fact that the expert will participate in the performance.

## RULES AND RECOMMENDATIONS FOR THE USE OF THE SINGLE EUROPEAN DOCUMENT

Pursuant to Section 39(1) of Act No. 343/2015 Coll., the tenderer may provisionally replace the documents to prove compliance with the conditions of participation determined by the Contracting Authority by submitting a single European document. In view of the use of the negotiated procedure with publication, the contracting authority will proceed to the verification of the fulfilment of the conditions of participation at the stage of evaluation of the tenders. The contracting authority shall therefore make use of its right under Article 39(6) of the Public Procurement Act and, in the case of the submission of a single European document in tenders, after the opening of tenders, shall request the tenderer to submit all the documents replaced by the single European document within a period of not less than 5 working days from the date of receipt of the request for submission of documents.

A tenderer who is participating in a procurement procedure on its own and who does not use the resources and/or capacities of other persons to prove that it fulfils the conditions of participation shall complete and submit a single Single European Document (this is its right, not an obligation).

A tenderer who is participating in the procurement on its own but uses the resources and/or capacities of other persons to demonstrate fulfilment of the conditions of participation shall complete and submit the Single European Document for its own person together with the completed separate Single European Document(s) containing the relevant information for each of the persons whose resources and/or capacities are used by the tenderer to demonstrate fulfilment of the conditions of participation (it is the right of the tenderer/other person to submit the Single European Document, not an obligation to do so).

Where the tender is submitted by a group of suppliers, the tender shall contain separate Single European Documents with the required information for each member of the group of suppliers (it is the right of a member of the group of suppliers to submit a Single European Document, not an obligation).

The elements related to the Single European Document are regulated by the provisions of Section 39 of Act No. 343/2015 Coll., Decree of the Public Procurement Office No. 155/2015 Coll., laying down the details of the Single European Document and its content and Commission Implementing Regulation E) 2016/7 of 5 January 2016 laying down the standard form for the Single European Procurement Document.

The contracting authority states that it DOES NOT accept the information required to demonstrate fulfilment of the participation condition set out in Part IV: Conditions of Participation Section A to D) demonstrate by answering one question (α: Global indication for all conditions of participation), i.e. it is not possible to declare that the tenderer fulfils all the required conditions of participation relating to economic and financial standing and technical or professional competence. The tenderer must indicate in the relevant Part IV. Conditions of participation Specific information on how the conditions of participation are to be fulfilled.

All documents required in this section must be submitted to the contracting authority as a scan of the original or as certified true copies of the document, unless explicitly stated otherwise, via the JOSEPHINE system through which all communication with the contracting authority during the procurement process takes place.

# Part V. Submission of the tender

1. **Submitting a tender**
   1. Method of submitting a tender

The tenderer shall submit the tender in electronic form to the JOSEPHINE system, located at the following web address: [https://josephine.proebiz.com,](https://josephine.proebiz.com)within the deadline for submission of tenders specified in the notice of invitation to tender, in accordance with the requirements set out in these tender documents. The tender must be submitted in a legible and reproducible form.

A tenderer may submit only one tender for the entire contract. Where a tenderer submits more than one tender within the time limit for the submission of tenders, the contracting authority or contracting entity shall take into account only the tender submitted last and shall treat the other tenders in the same way as tenders submitted after the time limit for the submission of tenders

If the tenderer submits a paper tender, the contracting authority will disregard it.

The applicant has the possibility to register in the JOSEPHINE system using a password as well as by registering and logging in using an ID card with an electronic chip and a security identity code (eID).

Only authenticated tenderers are allowed to submit tenders.Authentication can be done in the following ways:

* + in the JOSEPHINE system by registering and logging in using an ID card with an electronic chip and a security identity code (eID). In the system, a company is authenticated, which is registered by the statutory officer of the company using the eID. Authentication is carried out by the JOSEPHINE system provider on working days between 8.00 and 16.00. The applicant is informed by e-mail when the authentication is completed.
  + by uploading a qualified electronic signature (e.g. eID signature) of the company's statutory officer to the user's card after registration and login to the JOSEPHINE system. Authentication will be performed by the JOSEPHINE system provider on working days between 8.00 and 16.00. The applicant will be informed of the completion of the authentication by e-mail.
  + by inserting a document proving the personality of the statutory body on the user card after registration, which is signed with the statutory body's electronic signature or has undergone a guaranteed conversion. Authentication will be performed by the JOSEPHINE system provider on working days between 8.00 and 16.00. The applicant will be informed of the completion of the authentication by e-mail.
  + by inserting a power of attorney on the user's card after registration, which is signed by an electronic signature of both the statutory body and the authorised person, or has undergone a guaranteed conversion. Authentication will be performed by the JOSEPHINE system provider on working days from 8.00 a.m. to 4.00 p.m. The applicant will be informed of the completion of the authentication by e-mail.

The authenticated tenderer, after logging into the JOSEPHINE system, selects the contract in question in the Contract Overview and enters his/her tender in the designated form for receipt of tenders, which can be found under the "Tenders" tab.

The electronic tender shall be submitted by completing the tender form and uploading the required documents and documents in the JOSEPHINE system located at https://josephine.proebiz.com.

The tender submitted via the JOSEPHINE system must be accompanied by the required scanned documents (recommended format is "PDF") as specified in these tender documents and must be accompanied by an electronic form with the heading "Total price for the subject of the contract" in EUR, excluding VAT, for the entire subject of the contract.

The tenderer's proposed 'total price' for the whole of the contract shall be expressed in EUR excluding VAT to two decimal places and shall be entered into the JOSEPHINE system in the following structure: price in EUR excluding VAT (when entered into JOSEPHINE, marked as 'Total price for the subject of the contract').

The offer is entered into the JOSEPHINE system when the envelope processing is completed (the system shows the processing progress by percentages next to the corresponding button). The system confirms the insertion of the offer with the message "Saved" and the offer itself is displayed in the Offers and Requests tab. The submitted tender is displayed for the tenderer in the Tenders and applications tab with the date of insertion. Once the bid has been successfully uploaded to the JOSEPHINE system, a notification e-mail is sent to the bidder informing him of the submitted bid.

An electronic tender submitted after the deadline for the submission of tenders specified in the contract notice shall not be made available. Tenders received and submitted within the time limit for the submission of tenders shall not be returned to tenderers. They will remain as part of the documentation of the tender and will be documented on the JOSEPHINE server, in the contracting authority's archived contract file.

* 1. Addition, modification and withdrawal of an offer

The tenderer may supplement, amend or withdraw the tender submitted before the expiry of the time limit for the submission of tenders. Additions or changes to the tender may be made via the JOSEPHINE web application functionality within a reasonable time before the deadline for submission of tenders. When changing and withdrawing a tender, the tenderer shall proceed in the same way as when the initial tender was submitted (by clicking on the Withdraw Bid button and submitting a new tender).

* 1. Content of the offer

The tender submitted by the tenderer must contain the documents, documents and declarations as specified in these tender documents, in the form set out in these tender documents, completed as specified in these tender documents.

The contracting authority recommends that tenderers also submit a signed list of all documents, documents and declarations to be submitted.

The tender shall be submitted so as to include the following documents and supporting evidence:

* + **Identification data of the bidder** (in case of a group of suppliers for each member separately) - business name, registered office or place of business, registration number, legal form, registration in the Commercial Register, state, list of persons authorised to act on behalf of the bidder, name and surname of the contact person of the bidder, contact details of the bidder, e-mail address, telephone number, contact person, telephone number of the contact person, e-mail **according to the template in Annex 9 to these tender documents**, in case of a group of suppliers, a clear identification of the authorised representative of the group of suppliers (if relevant).
  + Powers of Attorney:
    - If the tenderer/member of the group of suppliers intends to appoint a person who will be authorised to act for the tenderer/member of the group of suppliers and to sign documents in the tender, he/she shall also submit a signed power of attorney.
    - If the tenderer is a group of suppliers participating in the procurement, it shall also submit the power of attorney specified in Annex 10 to the tender documents.
    - If the authorised leader of the group of suppliers intends to appoint a person who will be authorised to act for the leader of the group of suppliers and to sign documents in the tender, he/she shall submit a signed power of attorney at the same time.
  + **Documents proving fulfilment of the conditions of participation within the meaning of Part IV. of these tender documents**, by which the tenderer shall prove fulfilment of the conditions of participation specified in the notice of the public procurement procedure, or a single European document pursuant to Section 39 of the Public Procurement Act shall be submitted in the tender.
  + **Own solution proposal** - a document, or several documents, the number of which is not limited by the contracting authority, the form of which is not specified by the contracting authority, drawn up so that its content can be used to objectively evaluate whether the tenderer has met the requirements of the contracting authority for the subject of the contract. This document must contain the name of the offered solution ( identification / name of the offered software), a detailed description of the offered solution, with "proof" that the offered solution meets the contracting authority's requirements for the subject matter of the contract.

The bidder or candidate will find in the document "Price", which is Annex 4 to these tender documents, the sheet "Evaluation" in which all the functionalities, which the contracting authority requires to be fulfilled within the offered solution, are listed in individual lines. The sheet contains a column entitled 'Form of evidence' in which the contracting authority indicates its preferred form of evidence that the tenderer should provide in its tender in order to demonstrate that the solution offered by the tenderer meets the functionality requirement for that row.

The preferred form of evidence listed in this column is not binding on the tenderer and the tenderer may include in this column any evidence that the tenderer is objectively able to demonstrate that its solution has or will have the functionalities corresponding to the row in question.

The tenderer must provide evidence in its tender that it meets all the requirements for the subject of the contract required by the contracting authority - i.e. for each line of the "Evaluation" sheet it must indicate what evidence it provides for the functionality in question (and this evidence must be included in the tender).

The contracting authority therefore considers a set of 'evidence' as defined above to be the actual design of the solution.

In the event that the evidence submitted does not meet the minimum requirements as set out below, the contracting authority shall request the tenderer to supplement the evidence and, if the evidence demonstrating that the minimum requirements are met is not submitted even within the specified time limit, the contracting authority shall evaluate the tenderer's tender as not meeting the contracting authority's requirements for the subject-matter of the contract. The contracting authority will also consider as such a tender a tender in which the tenderer merely states that the solution offered by the tenderer meets the functionality in question without providing evidence as set out below.

It must be clear from any evidence submitted that, at a minimum:

* **If the tenderer has the functionality in its off-the-shelf solution** (at the time of the submission of the tender it has a product available that meets this functionality) - how is the specific functionality referred to in the given line of the "Evaluation" sheet provided in the software solution offered by the tenderer and offered to the contracting authority. This fact can be demonstrated by the tenderer, for example, by a screenshot, a sequence of screenshots, a video, etc. (see examples of the forms of evidence in the table "Evaluation"), which will show the sequence or sequence of steps that the user must perform when using the tenderer's offered software solution in order to demonstrate the fulfilment of the purpose of the required functionality in accordance with the description of the subject matter of the contract given in Annex 2 of these tender documents
* **If the bidder does not have the functionality within its ready-made solution** (at the time of bid submission it does not have a product available that meets this functionality)- a detailed description of how it will ensure the fulfilment of the functionality within the solution it offers to the contracting authority in the form of a textual description, a visual representation of the process maps and the logic by which the functionality will be ensured. Such a description must include, as a minimum:
  + A process map/description of the steps that the user of the offered software solution will have to take when using the offered software solution in order to fulfil the required functionality as defined in Annex 2 of these tender documents (not required for functionalities that are to be performed without manual intervention of the users of the offered software)
  + process map / description of the steps that will ensure the functionality from the technical point of view, i.e. a detailed description of the internal logic by which the offered solution will ensure the functionality and its functionality, at least at the level of the basic design model / architectural design of the functionality
  + A **fully completed 'Calculation' sheet, which the tenderer will find in the 'Price' document** attached as Annex 4 to these tender documents, in which the tenderer shall fill in at least all the yellow boxes**.**
  + **Evidence of fulfilment of the requirements for the award of points for the qualitative evaluation criteria in accordance with clause 24.2 of Part VI of these tender documents**
  + A**signed draft service contract, which is attached as Annex 1 to these tender documents, signed by the bidder's statutory body or a person authorised to act for the bidder or a group of suppliers), in** accordance with Annex 1 to these tender documents. The draft service contract shall be submitted without the Annexes to the service contract as these are submitted separately as part of the tender.
    - the draft service contract shall be binding and the tenderer shall not be entitled to modify arbitrarily the provisions of the service contract or its annexes;
    - the tenderer fills in the information requested in the service contract (in the spaces indicated in the provisions of the service contract, marked in yellow);
    - the service contract may be signed by a qualified electronic signature of the persons acting on behalf of the tenderer, or it may be signed in writing and submitted in a scanned form (e.g. '.pdf' format) in the tender.
  + The **tenderer's affidavit for the relevant part of the contract,** a specimen of which is given in Annex 11 to these tender documents.
  + **Evidence of the lodging of a security by one of the methods specified in these tender documents and in the notice of invitation to tender;**
  + **Completed Annex 7 to these tender documents, 'List of subcontractors', indicating all subcontractors known to the tenderer at the time of submission of the tender**
  + A **list of confidential information, if** relevant.

# Part Vi. Opening and evaluation of tenders

1. **Opening of offers**
   1. **Opening of offers**

The tenders will be opened electronically on site (JOSEPHINE system) and at the time specified in the contract notice.

The place where tenders can be accessed 'online' is the web address: https://josephine.proebiz.com/ and the same tab as for the submission of tenders.

Only the tenderer whose tender has been submitted within the time limit for submission of tenders may participate in the online access to tenders. When made available online, the information will be published in accordance with the Public Procurement Act. All accesses to this "on-line" environment by the walkers will be logged by the JOSEPHINE system and will be part of the protocols in the procurement.

All tenderers who have submitted a tender will be sent the minutes of the opening of tenders within five working days of the date of the opening of tenders.

* 1. **Criteria for evaluating tenders**

Tenders will be evaluated on the basis of best value for money as follows:

* + **Criterion K1** (price criterion) **is the total price of the tenderer for the provision of the service within the scope of the tender documents including all their annexes**
  + **Criterion K2** (qualitative criterion)is the ' **recognised quality of the offered solution**' as described in criterion K2 below
  + **Criterion K3**  (qualitative criterion)is "the**qualities and skills of the project manager and the quality of the demo of the existing solution presented**" as described in criterion K3 below

The total number of points awarded to a tenderer shall be determined according to the following formula:

**PB = K1 - (K2 + K3)**

The **successful tenderer will be the tenderer who scores the lowest points for the set criteria** (the resulting value of the PB indicator will be the lowest). The contracting authority does not set a minimum number of points that a tenderer may obtain (the total number of points may be a negative number). In the event that two or more tenderers obtain the same total number of points, the successful tenderer will be the tenderer who has **obtained the highest number of points for criterion K2 - recognised quality of the offered solution.**

**Description and rules for the application of Criterion K1**

The tenderer shall indicate in Annex 4 of these tender documents, in the line marked as total price for the subject of the contract, the total price for the provision of the service within the scope set out in the tender documents, including all their annexes.  The tenderer's total price (denoted as 'P' in the formula below), which is subject to criterion K1, is expressed as the sum of the prices of all the priced items listed in Annex 4 to these tender documents. The prices proposed must include all costs incurred by the tenderer in connection with the performance of the contract.

**Assessment criterion K1**:

Applicants will be awarded points under criterion K1 according to the following formula:

**X = P /15625 while,**

**X** represents the number of points awarded (arithmetically rounded to two decimal places)

**P** is the total price of the tenderer expressed as the sum of the prices of all the priced items listed in Annex 4 to these tender documents.

15 625 represents the value determined by the contracting authority as the value of one point

**Description and rules for the application of criterion K2 - Recognised quality of the offered solution**

The subject of this qualitative assessment will be the proven track record of the tenderer in providing services of a similar nature as defined below.

In order to obtain points for criterion K2 in the tender, **the tenderer shall submit reference letters according to Annex 12 to these tender documents for up to 4 completed implementations of the offered solution for evaluation by the jury,** in which it describes in detail the project/description of the implemented solution (the quality of the solution demonstrated in practice) that it offers to the contracting authority (i.e. the solution that is the subject of the tenderer's offer). The tenderer may submit 4 such reference letters in the tender. If the tenderer provides more references in the tender, the contracting authority shall ask the tenderer in the context of the explanation of the tender which of the reference letters are to be considered relevant. In this case, the tenderer may only be awarded points for those implementations that it identifies as relevant in its response to the request for such clarification. If the tenderer does not respond to such a request for clarification within the time limit, the tenderer shall be awarded 0 points for criterion K2.

The implementation or solution to be evaluated under this K2 criterion must be at the stage of completed implementation of the project/solution at the date of the submission of tenders. The contracting authority shall not award points for a project/solution implementation referring to a contractual relationship under which the solution is being implemented at the date of submission of the tender. The contracting authority shall consider as implemented a solution where the contractor has handed over the subject matter of the contractual relationship to the other party such that the solution already meets all the functionalities required by the contractual relationship. Thus, a solution will also be required to be acceptable if the contractual relationship to which the evaluated solution refers is still valid and effective (not finished) at the time of the submission of tenders and only support and maintenance services, SLAs, helpdesk or other activities are provided on the basis of the solution, the purpose of which is to maintain the implemented solution.

The assessed solutions described **in the Reference Sheets must meet all of the following requirements** (these are minimum requirements which, if not met, the solution will not be admitted to the qualitative evaluation and the applicant will receive 0 points for the solution. For example, if a bidder submits 4 references and one of them does not meet the requirements, the bidder will not receive points for that one reference. If the other three meet the requirements, the bidder will be awarded points for them):

- Given that the contracting authority, when evaluating the quality of the offered solution, wants to assess only modern solutions using technologies current on the market with relevant performance, it **will only award points for solutions that refer to the implementation of the solution completed after 01.01.2018**.

- **The subject of the solution must be the implementation of a software solution in the field of waste collection for an entity** (commercial company or other private/public entity in terms of its legal classification) whose business/activity/ purpose for which it was established is the collection of waste from the inhabitants of a given city, municipality or area (hereinafter referred to as the 'collection company').

- **Within this solution, a database must be demonstrably created and processed on the basis of the minimum annual number of emptyings** set by the contracting authority (the contracting authority considers one emptying of a container by the crew of the collection company's vehicle into the collection company's vehicle as one emptying). **The minimum annual number of dumps processed by the solution within its database must be at least 3 000 000 dumps over a period of 12 calendar months** **(actual dumps processed, not programmed but not recorded anywhere in practice).** In order to obtain points for a given implementation, the tenderer must provide, as an attachment to the reference letter referring to the implementation, a relevant document or proof of the number of dumps within one year that demonstrates the value claimed by the tenderer (e.g. by exporting data from the solution in Excel format or by any other means by which the tenderer can objectively prove its claim).

- For the avoidance of doubt, one contractual relationship with one entity or group of entities is considered as one implementation/solution (e.g. if a tenderer provides the same solution to one entity - e.g. a city - or group of entities, where a minimum of 3 000 000 tipping operations per year are carried out using its solution, and the same solution is provided in another city, where the same number of tipping operations are carried out, the contracting authority will consider the two contractual relationships as two separate solutions/implementations).

**1.Evaluated aspect/element of the quality of the implemented solution:**

* **The first evaluated quality element of the implemented solution is the number of recorded/processed dumps for 12 consecutive months. Scoring method:**
  + **First level of number of dumps - if the bidder can credibly demonstrate that the implemented solution processes 3,000,000 - 5,500,000 dumps per year, then the bidder will be awarded 1 point for the implementation/solution for this evaluated aspect.**
  + **Second level of number of tipping points - if the tenderer can credibly demonstrate that the implemented solution handles 5 500 000 - 8 500 000 tipping points per year, then the tenderer will be awarded 2 points for this implementation/solution for this evaluated aspect.**
  + **Third level of number of tipping points - if the tenderer can credibly demonstrate that the implemented solution handles 8 500 000 or more tipping points per year, then the tenderer will be awarded 4 points for this implementation/solution for this evaluated aspect.**
* For each evaluated solution/implementation of a solution, the bidder will be awarded a number of points for this aspect, so that they are not awarded cumulatively, but one solution/implementation can only meet one level of the number of tipping points. (An implementation that handles 8 500 000 tipping points per year will only receive 4 points, no points will be added to this implementation for the first and second level of the number of tipping points).

**2. Evaluated aspect/element of the quality of the implemented solution:**

* **The second evaluated element of the quality of the implemented solution is the technical level of the implemented solution. Scoring method:**

* + **First level of the solution (lowest level)- the solution is built on the basis of a cloud service - i.e. the solution is provided in the form of a cloud service (regardless of the software that is used for such purpose). The bidder shall be awarded 1 point for such a solution.**
  + **Second level of the solution - the solution shall allow at least the registration of contracts with customers, the registration of collection containers, including their location, and the registration of the dumping of these containers. The solution combines all the facts according to the previous sentence into a single database and links them on the basis of pre-configured database models. The tenderer shall be awarded 2 points for this solution.**
  + **Third level of solution - the solution shall allow the monitoring of the data of the collection vehicles (min. in the range of: consumption, speed data, logbook) used by the customer on the basis of monitoring units or other technology, including the current position of the vehicle during the reading of the RFID chip of the container during the emptying of the container. The bidder shall be awarded 3 points for this solution.**
  + **The fourth level of the solution (the highest level) - the solution enables automatic (i.e. one that does not require manual intervention of the customer's or supplier's employee) planning of the route of collection vehicles during waste collection and automatically proposes optimization of the route based on the data processed by the solution. The bidder shall be awarded 5 points for such a solution.**

- For each implementation/solution that meets the technical requirement of each level, points will be awarded cumulatively - one solution/implementation can meet levels one through four at the same time. The fulfilment of each level does not have to be sequential in the way the Contracting Authority has hierarchised it. A solution may meet level one, not meet levels two and three and meet level four. In this case, the tenderer shall receive 5+1=6 points).

- The maximum number of points awarded on the basis of this evaluated aspect (technical level) that a tenderer can obtain per evaluated solution/implementation is 11 points.

- The points scored for each evaluated aspect shall be added together. The maximum number of points that can be awarded for the quality of one evaluated implementation/solution is 15 points.

**As a maximum of 4 implemented solutions can be evaluated under criterion K2, a maximum of 60 points in total can be awarded for this criterion K2.**

The Bidder shall provide in the Bid a detailed description of the implemented solution (hereinafter referred to as the "Reference Sheet") that is the subject of the evaluation. The Bidder shall not be allowed to change the details given in the Reference Letter after submission of the Bid and no solutions/implementations other than those for which the Reference Letters will be given in the Bid at the time of expiry of the Bid submission deadline shall be included in the evaluation of the Bids.

The Bidder is required to mention in the Reference Letter the contact person(s) from whom the veracity of the information provided can be verified. If an evaluated aspect cannot be verified reliably or is not clear/obvious from the description of the solution given in the Letter of Reference, the tenderer will be awarded 0 points for that evaluated aspect.

In order to evaluate the tenders according to the established criteria, the tenderer shall fill in the reference sheets provided for this purpose (for each experience separately). The tenderer shall not complete the Tender Evaluation Checklist - see below - (this will be completed by the Panel following the assessment of the Reference Sheets).

**Description and rules for the application of Criterion K3**

Under the criterion "**Project manager's qualities and skills and quality of the demo of the existing solution presented**", the project manager (identified by the tenderer in the tender) will be evaluated on the basis of a direct interview between the committee and the project manager (identified by the tenderer in the tender) on whether project manager has the basic prerequisites and individual qualities and skills listed in the checklist for this criterion. During this evaluation interview, a demo version of the offered solution/software version will be presented to the committee by the designated representative of the bidder and will be evaluated by the committee in the same way as the skills of the project manager presented during the evaluation interview. The tenderer may, if he/she deems it appropriate, also present the full version of his/her software solution, if available. If the bidder does not have a demo version or a full version of its solution or another version suitable for its presentation, it will be awarded 0 points in the relevant items related to the functionalities of the demo version in accordance with the document "Checklist - characteristics and skills of the project manager and the quality of the presented demo of the existing solution".

At the same time, the contracting authority makes available to interested parties in these tender documents, in Annex 15, a database on the basis of which it is possible to create a collection plan in the Municipal District of the Capital City of the Slovak Republic Bratislava - Staré mesto on the basis of the professional experience and knowledge of the contracting authority.

Within the presentation of the demo version of the offered software solution, the interested party has the opportunity to present how quickly the solution is able to create a waste collection plan in this urban district from the provided data and also to present the qualitative and quantitative parameters of the created plan

The committee members will review the plan and the applicant may receive 5 points based on the plan.

The evaluation interview shall be attended exclusively by the project manager identified by the tenderer in the tender (this must be the same person by whom the tenderer demonstrates compliance with the technical and professional capacity condition set out in these tender documents). No other person will be present at the assessment interview on behalf of the applicant. The interview will take place in person, at the contracting authority's headquarters at a time to be determined by the contracting authority in Slovak, Czech or Enlish language. The contracting authority reserves the right to conduct, if necessary, an interview with the project manager also by remote videoconferencing via commonly available software equipment (MS Teams, Zoom, Google talk, etc.). Applicants will be informed well in advance of the date and format of the interview via Josephine.

**The questions asked in the assessment interview will be the same for project managers of all applicants and will consist of the following headings:**

* + a basic overview of the subject of the contract;
  + the PM's motivation in relation to the subject matter of the contract, his workload and responsibilities in relation to the eventual  other contracts for the duration of the contract;
  + the PM's objective in performing the contract;
  + the project manager's intended or planned mechanisms for controlling and evaluating the timeliness and quality of the performance of the subject matter;
  + the PM's perception of personal responsibility for the contractor's performance and his ability to influence performance;
  + contract risks and contract specifics perceived by the PM that need to be addressed;
  + knowledge of the waste management sector, in terms of the specifics of implementing software solutions in the waste collection process (waste management)

**The questions to be asked to the project manager in the evaluation of the demo will be the same for the project managers of all applicants and will consist of the following headings:**

* + dEMA user experience for OLO employees who will use the solution in their work;
  + the flexibility of DEMA processes their similarity to OLO standards;
  + technologies used;
  + compatibility of the presented DEMO version with other software (demo maturity) and the possibility of extensions and integrations of the presented solution;
  + demo layout and ease of use;
  + the design of the demo, its colour scheme modern/modern interface
  + security, adaptability, modularity and configuration flexibility of the solution presented in the demo version
  + the creation of a plan within the presented DEMO version based on the database made available by the contracting authority to the individual interested parties
* **The headings assessed in the evaluation of the demo or software capability will be the same for applicants and will consist of the following headings:**
  + Ability to process the plan and the speed of its processing
  + Cost-effectiveness and efficiency of the plan

The specific wording of the questions will only be known to the PM during the interview. The interview will not be conducted on the technical details of the subject of the contract or the supplier's offer. The contracting authority assumes a time allocation per interview of max. 45 minutes (non-binding estimate). An audiovisual record will be made of the interview with each PM (the interview will be recorded).

**A maximum of 20 points may be awarded for this criterion. The method of their award is described in the criteria checklist "Checklist - Project manager's qualities and skills and the quality of the presented demo of the existing solution", which is attached as Annex 13 to these competition documents. This document also provides the project manager with a set of questions and aspects against which the presented software solution will be evaluated. At the same time, this document provides a methodology for the evaluation of the plan, the processing of which by the offered solution may be evaluated (if such a plan is prepared by the bidder) in the presentation of the solution.**

The table for the allocation of points for the assessed experience (Checklist - Project Manager and DEMO version characteristics) with an indication of the methodology for assessing the characteristics of the Project Manager, the characteristics of the DEMO version and the quality of the prepared plan is attached as Annex 13 to these tender documents. This document will be completed by the committee set up by the contracting authority to evaluate the tenders.

* 1. **The contracting authority's procedure for evaluating tenders:**

The Commission established by the contracting authority shall, in a preliminary step, evaluate the tenders submitted by the tenderers within the deadline for submission of tenders in terms of fulfilment of the conditions of participation pursuant to Part V. of these tender documents in accordance with Section 40 of the Public Procurement Act.

Subsequently, in accordance with Section 53 of the Public Procurement Act, the Commission will evaluate the tenders in terms of compliance with the requirements for the subject-matter of the contract, assessment of the lodging of the security, assessment of the price in terms of whether it is an abnormally low tender.

The committee of the contracting authority shall draw up a list of tenderers who have fulfilled the conditions of participation and whose tenders have met all the requirements of the contracting authority for the subject-matter of the contract, and the contracting authority shall invite these tenderers in writing to take part in an interview as described in the description of the application of criterion K3 above. The contracting authority shall propose to the tenderer the date and method of the evaluation interview via the JOSEPHINE communication interface.

If the candidate is not satisfied with the date proposed by the contracting authority, he shall notify the contracting authority and indicate in the JOSEPHINE system the first interview date that would suit him.

The contracting authority shall notify each tenderer, after the evaluation interview, of the number of points that the tenderer has obtained as a result of the interview by sending the completed Annex 14 to these tender documents.

After all evaluation interviews have been completed, the evaluation committee will evaluate the tenders under the subject of the contract according to the criteria set out in these Tender documents and the rules for its application set out in these tender documents. The Commission shall rank the tenderers on the basis of the criteria for evaluating the tenders.

The Commission shall determine as successful/winning the tender of the tenderer who fulfils all the conditions for participation, whose tender meets all the requirements for the subject of the contract and who, on the basis of the tender criteria, is ranked in second place in the order.

The tenderer with the lowest score in accordance with clause 24.2 of these tender documents shall be awarded first place.

The ranking of tenders will be determined in descending order from the lowest to the highest total number of points thus obtained.

The evaluation of tenders by the committee shall not be public. The Commission shall evaluate the tenders in accordance with the conditions set out in the notice of invitation to tender and these tender documents.

Compliance with the conditions of participation of tenderers in the tender procedure will be assessed from the documents submitted in accordance with the requirements specified in the notice of invitation to tender or in the tender documents.

If the committee identifies inconsistencies or ambiguities in the information or evidence provided by the tenderer, it shall request in writing an explanation of the tender and, if necessary, the submission of evidence, exclusively through the JOSEPHINE system, in the manner laid down by the contracting authority in these tender documents. An explanation of the offer cannot change the offer. The removal of obvious typing and calculation errors shall not be considered as a change to the offer.

If, for a particular contract, a tender appears to be abnormally low in relation to the subject-matter of the contract, the committee shall ask the tenderer in writing for an explanation of the parts of the tender which are relevant to the price.

The contracting authority shall exclude the tenderer's tender from the public procurement if any one of the facts pursuant to Article 53(5) and Article 40(6) or (7) or (8) of the Public Procurement Act is fulfilled.

The contracting authority shall immediately notify the excluded tenderer of this fact in writing via the JOSEPHINE system, indicating the reason for the exclusion and the time limit within which an objection may be lodged pursuant to Section 170 of the Public Procurement Act.

# Part VIi. Confidentiality and ethics in public procurement

1. **Confidentiality of the procurement process**
   1. The members of the committee evaluating the tenders shall not provide information on the content of the tenders during the evaluation of the tenders. The members of the committee who evaluate tenders are subject to the provisions of Section 22 of the Public Procurement Act.

The contracting authority shall be obliged to maintain the confidentiality of information marked as confidential which the tenderer or candidate has provided to it; for this purpose, the tenderer or candidate shall indicate which facts it considers confidential. For the purposes of the Act, only trade secrets, technical solutions and designs, instructions, drawings, project documentation, models, the method of calculating unit prices and, if no unit prices are given but only the price, the method of calculating the price and designs may be designated as confidential information. This provision is without prejudice to the provisions of the Act imposing the obligation on the contracting authority to notify or send documents and other notices to the Authority, as well as to the provisions imposing on the contracting authority and the Authority to publish documents and other notices pursuant to the Act, and also to the obligation to publish contracts pursuant to a special regulation.

Neither the tenders of the tenderers, nor their individual parts, may be used without the prior consent of the tenderers, except as provided for in Section 64(1)(b) of the Public Procurement Act.

A tenderer, a candidate or a person whose rights or legally protected interests have been or may have been affected by the procedure of the contracting authority may submit a request for redress pursuant to Section 164 of the Public Procurement Act.

A tenderer, a candidate or a person whose rights or legally protected interests have been or may have been affected by the procedure of the auditee may, before the conclusion of the contract, lodge objections pursuant to Section 170 of the Act. The lodging of objections must be preceded by a request for redress to the contracting authority. This obligation shall not apply to the lodging of objections pursuant to paragraph 3(c) to (g) and to the lodging of objections by a public authority pursuant to paragraph 1(e).

# Part VIIi. Acceptance of the offer

1. **Acceptance of the offer**
   1. Notification of successful tender

The contracting authority shall proceed in accordance with Section 55(2) of the Public Procurement Act when announcing the success of the tender (acceptance of the tender).

The successful tenderer shall be the tenderer that the committee determines to be the successful tenderer.

The successful tenderer is obliged to provide the contracting authority with the proper cooperation necessary for the conclusion of the contract so that it can be concluded in accordance with Section 56 of the Public Procurement Act, if it has been invited in writing to conclude the contract.

The contracting authority reserves the right, prior to the written invitation to conclude the contract, to negotiate with the successful tenderer exclusively on the reduction of the contract price within the meaning of Section 56(8) of the Public Procurement Act.

The contracting authority will proceed to invite the tenderer to provide assistance for the signing of the contract and subsequently to the actual conclusion of the contract for the subject of the contract in accordance with Section 56 of the Public Procurement Act after the expiration of the statutory deadlines.

Following the provision of Section 56(10) of the Public Procurement Act, the contracting authority will require the successful tenderer to demonstrate compliance with specific contractual conditions for the proper performance of the contract, namely the submission of CVs of the persons who will participate in the performance of the contract after the signing of the contract (within the meaning of lines 11 - 24 of the Evaluation sheet in the Price / Price document, which forms Annex 4 to these tender documents) namely:

- Submission of CVs of at least two Data Analyst - databases

- Submission of CV of at least one Front-end Developer

- Submission of CV of at least one Software Back-end Developer

- Submission of CV of min. one Integration Developer

- Submission of CV of min. one Mobile App Developer

- Submission of CV of at least one QA Tester

- Submission of CV of at least four HW Specialists - Vehicles (HW Specialist - Fleet )

For the avoidance of doubt, the Contracting Authority will not evaluate the submission of these CVs (and the fulfilment of lines 11 to 24 of the Evaluation sheet in the Price / Price document attached as Annex 4 to these Tender Documents) in the context of the evaluation of the fulfilment of the requirements for the subject-matter of the contract pursuant to Section 53 of the Public Procurement Act..

* 1. **Conclusion of the contract**

The contracting authority shall conclude a contract with the successful tenderer. The contract concluded shall not be inconsistent with the tender documents and the tender submitted by the successful tenderer.

The contract with the successful tenderer whose tender is accepted shall be concluded in accordance with and within the time limits set out in Section 56 of the Public Procurement Act.

The contracting authority may not conclude a contract with a tenderer or tenderers if there are facts preventing the signing of the contract pursuant to Section 11(1) of the Public Procurement Act.

The obligation under § 11(1) shall apply to the tenderer and its subcontractors throughout the duration of the contract resulting from the procurement procedure The obligation to be entered in the register of public sector partners shall apply to each member of the group of suppliers.

The contracting authority draws the attention of tenderers to the obligation to be entered in the register of public sector partners. The contracting authority may not conclude a contract with a tenderer who is to be entered in the register of public sector partners. On the basis of the market information obtained for the purpose of determining the estimated value of the contract, the contracting authority assumes that the successful tenderer will have to (if it wishes to conclude the contract) register in the Register of Public Sector Partners of the Slovak Republic pursuant to Act No. 315/2016 Coll. on the Register of Public Sector Partners. The tenderer must have made such an entry **at the latest on the date of signing the contract or** at the time of providing assistance for the signing of the contract.

The Agreement shall enter into force on the date of its signing by the authorised representatives of the Parties and shall come into force on the day following the date of its publication in the Central Register of Contracts of the Slovak Republic.

The contracting authority reserves the right to cancel a procurement if the circumstances in which the procurement was launched have changed, if reasons of special consideration have arisen during the procurement procedure which have, or could have, a substantial influence on the outcome of the procurement, if no more than two tenders have been submitted or if the proposed prices of the tenders submitted are higher than the estimated value.

Any change to the contract must be in accordance with the provisions of Section 18 of the Public Procurement Act.

* 1. **Use of subcontractors and rules for changing subcontractors during the performance of the contract**

The use of subcontractors will be in accordance with Section 41 of the Public Procurement Act.

The contracting authority shall require that

* + the tenderer has indicated in the tender the proportion of the contract which it intends to subcontract, the proposed subcontractors and the subjects to be subcontracted (to be completed in Annex 4 to the tender documents),
  + the proposed subcontractor has been authorised for the relevant performance of the service contract pursuant to Article 32(1)(e) and (f) of the Public Procurement Act. They shall demonstrate this according to the rules set out in the service contract. This does not apply to subcontractors whose capacities or resources have been used to demonstrate compliance with the conditions for participation. These persons must fully comply with the requirements under Section 32 of the Public Procurement Act.

If the proposed subcontractor does not fulfil the conditions of participation pursuant to the preceding paragraph of this part of the tender documents and/or there are grounds for exclusion pursuant to Section 40(6)(a) to (h) and Section 40 (7) and (8) , the contracting authority shall request the tenderer in writing to replace it. The tenderer shall deliver the proposal for a new subcontractor within five (5) working days from the date of receipt of the request pursuant to the first sentence, unless a longer period has been specified by the contracting authority.

For the purpose of verification of the statutory condition in Section 11 of the Public Procurement Act, the contracting authority will distinguish:

* + persons pursuant to § 2(5)(e) of the Public Procurement Act who are obliged to be entered in the register of public sector partners, and
  + persons pursuant to § 2 (1) (a) (7) of Act No. 315/2016 Coll. meeting the thresholds referred to in § 2(2) of Act No 315/2016 Coll.

The contracting authority shall require the successful tenderer to include in the contract, at the latest at the time of its conclusion, updated data on all known subcontractors, data on the person authorised to act for the subcontractor in the scope of name and surname, address of residence, date of birth. All the rules concerning the change of subcontractor are contained in the Service contract.

* 1. **Privacy Policy**

The contracting authority wishes to point out that in the course of the public procurement procedure in question, personal data of data subjects are processed in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27. april 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter referred to as the "GDPR") and certain provisions of Act No. 18/2018 Coll. on the protection of personal data and on amending and supplementing certain acts (hereinafter referred to as the "Act on the protection of personal data").

The contracting authority wishes to draw the attention of tenderers to the obligations arising from the GDPR Regulation and the Personal Data Protection Act when preparing tenders and during the tender procedure.

The contracting authority will handle personal data in accordance with the Public Procurement Act.

* 1. **Conflict of interest**

The contracting authority is obliged to ensure that there is no conflict of interest in the procurement process which could distort or restrict competition or infringe the principle of transparency and the principle of equal treatment.

A conflict of interest includes, in particular, a situation where an interested person who may influence the outcome or the conduct of the procurement has a direct or indirect financial interest, an economic interest or any other personal interest which may be considered to undermine the impartiality and independence of the procurement.

* 1. **General Clause**

The contracting authority will proceed in accordance with the Public Procurement Act or other applicable generally binding legislation when carrying out this procurement procedure. All other information, actions and deadlines are contained in the Public Procurement Act.

The contracting authority publishes these tender documents, including all their annexes, in both Slovak and English. The contracting authority has published the English version in order to simplify access to the procurement for foreign entities. For the avoidance of doubt, in the event of differences or discrepancies between the Slovak and English versions of the documents published by the contracting authority, which may have occurred during the translation process, the Slovak version of the document shall always be considered as the decisive version.