

NOTE: This translation of the Tender Specifications from the Slovak into the English language is for an informative purpose only. The Procuring Entity provides no guarantee for quality of this translation and the binding wording of the Tender Specifications is in the Slovak language.

Public Tender

according to the Act.no. 343/2015 Coll. on public procurement and on amendments and supplements of certain acts, as amended

Evidence number of tender: 18-0258-VS

Ball valves for the construction of HP gas pipeline project SK-PL - pipe yard CS01

Tender specification

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Preamble

This public tender will run electronically (hereinafter referred to as "tender") and is governed by the provisions of the Act No. 343/2015 Coll. on public procurement and on amendments and supplements of certain acts, as amended (hereinafter referred to as "Public Procurement Act" or "Act").

1. Identification data of the Procuring entity (Contracting Authority)

Business name: **eustream, a.s.**
Registered office: Votrubova 11/A, 821 09 Bratislava, Slovak Republic
Legal form: Joint-stock company incorporated in the Commercial Register, Bratislava I District Court, Section: Sa, File no.: 3480/B
Company ID: 35 910 712
Tax ID: 2021931175
VAT ID: SK2021931175
Website: www.eustream.sk
Profile of procuring entity: <https://www.uvo.gov.sk/vyhľadavanie-profilov/zakazky/10199>
Contact person: Ing. Ján Repa, Strategic Purchaser
Telephone: +421 (0)2 6250 7167
E-mail: jan.repa@eustream.sk

2. Subject of procurement

The Subject of procurement is the delivery of 19 pcs full-welded ball valves (BV) for high pressure gas pipelines dimension DN 300 – 1400 inclusive (hereinafter referred to as "Subject of procurement" or "Object of the Contract").

2.1. Designation of the Subject of procurement

Designation of the Subject of procurement according to CPV:
Main CPV code: 42131240-0
Main CPV code, additional dictionary: KA06-7, ME02-1, CB03-1

2.2. Type of the Subject of procurement

Goods Service Work

2.3. Specification of the Subject of procurement

The Subject of procurement is the delivery of 19 pcs full-welded ball valves (BV) for construction of new High pressure gas pipeline interconnector between Slovakia and Poland, which will be used for modification of pipe yard CS01 (hereinafter "SK-PL") according to the technical specification shown in the annex no. 1 of this Tender specification.

The Subject of procurement is divided into 2 parts:

1. part BV DN 1400, 1200 and 900 in total amount 8 pcs;
2. part BV DN 700, 400 and 300 in total amount 11 pcs.

The candidate may submit a tender for one part or both parts of the Subject of the procurement but always for the whole part of the Subject of the procurement.

Ball valves, which the candidate will be offering must comply with the requirements of technical specification and technical and delivery conditions "Ball valves for high-pressure gas pipelines DN 300 - DN 1400" no. TA.W.24.02.15 and „Actuators for high-pressure gas pipelines DN300 – DN1400“ no. TA.W.29.02.15 (hereinafter together „TDC“). TDC form annex no. 2 to Purchase Contract which form annex no. 1 of this Tender Specification.

Detailed technical specification of the Subject of procurement is shown in the Purchase contract, which form annex no. 1 of this Tender specification.

2.4. Type of contract to be concluded for the Subject of procurement

The tender will result in conclusion of a Purchase Contract.

2.5. Place of delivery of the Subject of Procurement

Place of performance of the Object of the Contract will be: Compressor station CS01, 079 48 Veľké Kapušany, Slovak republic (KS01 or CS01).

2.6. Deadline for delivery of the Subject of Procurement

2.6.1. The Purchase contract shall become valid and effective as of the day when signed by both Contracting parties.

2.6.2. The delivery term is 24 weeks from conclusion of the Purchase contract.

2.7. Business and Contractual Conditions of Performance of the Object of the Contract

The Business and Contractual Conditions together with all annexes form Annex no. 1 to the tender specification (hereinafter referred to as "PC").

2.8. Method of price determination in the proposal

2.8.1. The price must be denominated in EUR excluding VAT.

2.8.2. The procuring entity excludes the possibility of price amendment for the Object of the Contract depending on the change of the exchange rate of EUR and foreign exchanges or on the change of the mutual exchange rate of any other currencies (so-called "exchange rate clause"). The procuring entity reserves the right not to accept tenders, where the option of price change is included based on an exchange rate clause.

2.8.3. The price for the Object of the Contract, which the candidate (hereinafter "candidate" or "candidate") bids in its proposal, must contain all the economically justified costs of the candidate for the Object of the Contract (e.g. transport costs, etc.) in the scope and under the conditions specified in the PC.

2.8.4. The price for the Object of the Contract must be, in case of an candidate with its registered office in the territory of the Slovak Republic, determined in compliance with the provisions of the Act No. 18/1996 Coll. on prices, as amended. If the candidate has its registered office outside the territory of the Slovak Republic, the price must be determined in the manner usual in international business, otherwise in compliance with the price regulations valid in the country of residence of the candidate.

2.8.5. The procuring entity reserves the right to exclude the proposal from the tender, in which the price for the Object of the Contract is not determined in compliance with the requirements specified in this article.

2.9. Source of funds

The Contracting Authority intends to finance the Contract in question from the European Union Fund INEA/CEF/ENER/M2016/1291691 no.: 6.2.1-0019-SKPL-W-M-16.

3. Communication

3.1. In communication with the applicants or candidates, the Contracting Authority will follow Art. 20 of the Act on Public Procurement using the JOSEPHINE system communication interface. This means of communication applies to any communication and submissions between the Contracting Authority and the applicants or candidates (hereinafter referred to as "JOSEPHINE").

3.2. For the purposes of this public procurement, JOSEPHINE shall mean the software for electronic award of public contracts. JOSEPHINE is a web-based application on the <https://josephine.proebiz.com> domain.

3.3. In order to use the JOSEPHINE system smoothly, it is necessary to use one of the following supported

internet browsers:

- Microsoft Internet Explorer version 11.0 or higher;
- Mozilla Firefox version 13.0 or higher, or;
- Google Chrome;
- Microsoft edge.

- 3.4. Delivery rules – a shipment shall be deemed delivered to the applicant/candidate if its addressee will have an objective possibility to get acquainted with its content, i.e. immediately after the shipment gets to their sphere of disposition. In the JOSEPHINE system, the moment of posting in the JOSEPHINE system, in compliance with the system functionality, shall be deemed the moment of delivery.
- 3.5. The content of communication through the JOSEPHINE system communication interface shall include the submission of bids, explanation of tender dossier, invitations to tender, possible supplementation of the tender dossier, explanation of the submitted materials, as well as any other, unspecified communication in relation to such public procurement, with the exception of cases expressly excluded in the Act on Public Procurement. If the tender dossier contains requirements for the submission of bids, explanation of the tender dossier and invitations to tender, possible supplementation of the tender dossier, explanation of the submitted bids, or any other communication between the Contracting Authority and the applicants/candidates, the communication through the JOSEPHINE system communication interface is considered. Should the Contracting Authority decide about an option of another means of communication apart from the JOSEPHINE communication interface, this shall be specifically included in the tender dossier. This communication also refers to the cases - when a bid appears to be extremely low in relation to the goods, construction works or service. In such case, the committee shall ask the applicant, through the JOSEPHINE system communication interface, for explanation regarding the bid submitted and the applicant has to deliver a written justification of the extremely low bid through the JOSEPHINE system communication interface. Should the applicant or their bid be excluded from the public procurement, the applicant will be informed, through the JOSEPHINE system communication interface, about the exclusion stating the reason and time limit, within which an objection can be delivered. A successful applicant will be sent the notice by Contracting Authority that their bid has been accepted through the JOSEPHINE system communication interface. Any communication of the Contracting Authority or applicant/candidate with a third person in relation to such public procurement shall take place by means determined by law and will be carried out outside the JOSEPHINE system communication interface.
- 3.6. If a shipment is sent by the Contracting Authority, the applicant/candidate will be sent a notice to the e-mail address specified by them, without undue delay, that a new shipment/message exists to the contract in question. The applicant/candidate shall log in to the system and will be able to view the content of the communication - consignment, message, in the contract communication interface. In the communication interface, the applicant/candidate is able to view the whole history of their communication with the Contracting Authority.
- 3.7. If a shipment is sent by the applicant/candidate, after login into the system and into the procurement in question, they can send messages and relevant attachments to the Contracting Authority through the communication interface. Such shipment shall be considered as delivered to the Contracting Authority at the moment of sending in the JOSEPHINE system, in compliance with the system functionality.
- 3.8. The Contracting Authority recommends the applicants who searched the procurements through the Contracting Authority's website or in the JOSEPHINE system (<https://josephine.proebiz.com>), and at the same time would like to be informed about prospective updates regarding the particular procurement through notification e-mails, to click the "I AM INTERESTED" button in the particular procurement (top right of the screen).
- 3.9. The Contracting Authority enables an unlimited and direct access to the tender dossier and any supporting documents through electronic means. The tender dossier and possible explanation or supplementation of the tender dossier or explanation of the requirements included in the invitation to tender, conditions of participation in public procurement, informative documents or other supporting documentation will be published by the Contracting Authority as electronic documents in the Contracting Authority's profile <https://www.uvo.gov.sk/> in form of a link to the JOSEPHINE system.
- 3.10. Language of the tender

- 3.10.1. In compliance with the provisions of Article 21 par. 6 of the Public Procurement Act, the bids and other documents in the public procurement are submitted in the state language, i.e. in Slovak language. Where a document is produced in a foreign language, it shall be accompanied by its official translation into the official language of the relevant country. This does not apply to bids, proposals and documentation produced in the Czech language. If a difference is found in their content, the certified translation into the official language shall prevail.
- 3.10.2. The Contracting Authority reserves the right to disregard documents which will be submitted in other than the state (Slovak) language, except for the documents submitted in Czech language, and will not be at the same time translated into the state (Slovak) language.
- 3.11. Explanation and supplementation of the tender dossier
 - 3.11.1. Requirements for explanation have to be delivered to the Contracting Authority through the JOSEPHINE system in Slovak and/or English and/or Czech language, if not the Contracting Authority is not obliged to provide an explanation.
 - 3.11.2. The Contracting Authority shall communicate explanation to all applicants and/or candidates who were provided the Tender Dossier through the JOSEPHINE system according to Art. 48 of the Act on Public Procurement, provided that the explanation would be requested sufficiently in advance. A timely delivered requirement for explanation is shall mean a requirement delivered to the Contracting Authority through the JOSEPHINE system in Slovak language no later than 12 days prior to expiration of the period for submission of the bids according to par. 6.2 of this Tender Dossier. The contracting authority is not obliged to provide explanation to a request for explanation delivered later.

4. Registration

- 4.1.1. An applicant can register in the JOSEPHINE system with password or also using the identity card with electronic chip and security personal code (eID).
- 4.1.2. Bids can be only submitted by an authenticated applicant. Authentication can be done in two ways
 - a) In the JOSEPHINE system, by registration and login using the identity card with electronic chip and security personal code (eID). A company is authenticated in the system, registered with the eID by the statutory of the company. Authentication is carried out by the JOSEPHINE system provider on working days from 8.00 AM to 4.00 PM.
 - b) Waiting for the authorisation code sent to the applicant's company address as a registered mail letter. The deadline for this action is within 3 days and it is necessary to consider this period when entering the bid.
- 4.1.3. After login into the JOSEPHINE system, an authenticated applicant selects the procurement in question in the overview - list of tenders and enter their bid in the form designated for accepting bids, in the "Bids and Requests" bookmark.

5. Participation conditions

Every candidate must fulfil the participation condition in this tender, shown in this point

5.1. Personal status under Art. 32 of the Public Procurement Act

Only entities that meet the following conditions for participation applying to personal status may participate in this procurement:

- a) It is not in bankruptcy, restructuring, liquidation, nor was bankruptcy proceeding brought against it for lack of assets or bankruptcy proceedings cancelled for lack of property;
- b) It is entitled to deliver goods, perform construction works or provide the service;
- c) It does not have a prohibition on participation in a public procurement confirmed by a court ruling in the Slovak Republic or in the state of residence, place of business or habitual residence;

The applicant shall demonstrate fulfilment of the participation conditions according to point 5.1:

- a) letters a) by presenting evidence of the relevant court not older than three months;
- b) letter b) by presenting evidence of the right to deliver goods, to perform construction work or to provide the service which corresponds to the Subject of the Contract;
- c) letter c) by presenting an affidavit;

Documents relating to personal status under this point 5.1 shall be submitted by the applicant only once, regardless of whether it submits offer in the Tender on one part or both parts of the Subject of the Contract.

5.2. **Technical and professional competence**

The Subject of the procurement is part of the gas-pipeline interconnector project between Slovak republic and Poland republic, while ball valves will be used for construction of the high-pressure gas pipeline SK-PL. According to that the ball valves must meet the required demand for safety and reliability according to valid legislation. It is necessary to ensure that all suppliers who will be producing the steel pipes are able to produce the steel pipes in a necessary quality. Therefore, the candidate is required to achieve a sufficient technical and professional capacity for performing the Subject of the procurement. According to this the candidate is required to submit all the documents referred in this point to achieve the technical and professional capacity.

5.2.1. According to § 34, section 1. letter a) of Public procurement Act procuring entity require to submit list of goods supplies (references) provided for previous 3 years, from the announcement of this public procurement with information's about prices, delivery dates and customers in following minimal scope:

- a) **For part 1** of the Subject of procurement min. 5 pcs fully-welded ball valves DN \geq 900 with actuator (candidate will state the type of actuator) and PN \geq 80, while from this min 2 pcs must be in dimension DN \geq 1200.
- b) **For part 2** of the Subject of procurement min. 10 pcs fully-welded ball valves DN \geq 300 with actuator (candidate will state the type of actuator) and PN \geq 80, while from this min 2 pcs must be in dimension DN \geq 700.

Candidate can use for submission of the list of goods supplies template, which form Annex no. 3 of this Tender specification.

5.2.2. According to § 34, section 1. letter m) of Public procurement Act procuring entity require to submit technical description together with 1 technical drawing and/or catalogue list of ball valve:

- a) **For part 1** of the Subject of procurement DN 1400 with electric actuator (EP.)
- b) **For part 2** of the Subject of procurement DN 700 with hydropneumatic actuator (HPO.)

From the submitted technical drawing and/or catalogue lists must be clear the technical and construction design of BV. For fulfilment of this criterion, candidate should submit technical description and design documentation of BV and actuators which will be in accordance with the TDC.

- c) Copy of PED conformity certificate proving that the goods are produced in accordance with European directive PED 2014/68/EU (or PED 97/23/EC) on pressure equipment issued by an authorized person or notified persons by European Union, which have the right to assess the conformity of products. It is required that candidate will submit the PED certificate for each part of the Subject of procurement to which the candidate intends to submit an offer.

5.3. **Quality assurance capacity**

- a) Copy of certificate of quality management issued according to standard STN EN ISO 9001. The procuring entity will accept also equivalent of quality management system certificate issued by the competent authority of the member state, if candidate is not able to obtain such certificate, within the deadline, procuring entity will accept other evidence on quality management submitted by

candidate, from which must be clear that proposed quality management is in accordance with quality management standard according to STN EN ISO 9001.

To demonstrate the technical or professional capacity, the candidate may use the technical or professional capacity of another entity, regardless of the legal relationship between them. In such case, the candidate must prove to the Contracting Entity that while performing the contract the tenderer will be able to really dispose of the resources of the entity, whose capacity has been used to demonstrate the technical or professional capacity. This fact is demonstrated by the candidate by a written contract concluded with that entity, including the commitment of the entity whose capacity are intended for demonstrating the technical or professional capacity, that such entity will provide the performance for the entire term of the contractual relation. The entity, whose capacity are to be used to demonstrate the technical or professional capacity, must meet the Personal conditions of participation and there must be no reason for exclusion according to § 40, section 6 letter a) to h) and section 7.; authorization to deliver goods, perform construction works or provide the service(s) prove in relation to that part of the Subject of procurement, to which capacities were provided to the Candidate.

5.4. **Single European Procurement Document**

Single European Procurement Document according to § 39 of the Public Procurement Act is a document by which candidate may provisionally replace documents for fulfilment of participation conditions specified by Procuring entity (hereinafter as "SEPD").

6. **Submission of bids, content of bids and instructions for composition of bids**

6.1. A bid shall be prepared electronically according to Art. 49 par. 1 (a) of the Act on Public Procurement and entered into the JOSEPHINE system published on the web address <https://josephine.proebiz.com/>.

6.2. **Bids must be submitted no later than by expiration of the period for submitting bids, which shall expire on: 04 December at 12:00:00 AM. CET.**

6.3. Electronic bid shall be entered by completing the bid form and uploading the required materials and documents in the JOSEPHINE system published on the web address <https://josephine.proebiz.com/>.

6.4. A bid submitted through the JOSEPHINE system has to contain enclosed scanned materials ("PDF" being the recommended format), in particular:

6.4.1. **"OTHERS" part of the bid**

The "OTHERS" part of the bid must contain the materials proving the fulfilment of the participation conditions, technical and document part of the bid and the documents proving compliance with the other requirements of the Contracting Authority specified in the Tender Dossier. This part of the bid must contain at least the following documents:

- a) Cover sheet of the application, which must contain at least the following information: business name and registered seat or address of the applicant; list of parts of the Subject of the Procurement for which the applicant demonstrates fulfilment of the participation conditions;
- b) **Documents demonstrating compliance with the participation conditions under point *Chyba! Nenašiel sa žiaden zdroj odkazov.*, of this Tender Dossier.**
- c) **An affidavit of the applicant that they agree with the CTC** without any reservations signed by the applicant or their statutory body or the person authorised to act on behalf of the applicant in contractual relations. *This affidavit forms Annex no. 4 of this Tender Dossier.*

This part must not contain proposals for the meeting of criteria or price lists or any other documents containing the price!

6.4.2. **"CRITERIA" part of the bid**

The "CRITERIA" part of the bid has to contain the price of the bid, in particular completion of the itemised electronic form corresponding with the proposal for the meeting of criteria (quotation), which forms Annex No. 2 of the tender dossier.

6.5. The price for the supply of the required Subject of procurement, proposed by the applicant, specified in the

applicant's bid, shall be expressed in EUR with accuracy of 2 decimal places and entered into the JOSEPHINE system structured as follows: price VAT excluded, identified when entered into the JOSEPHINE system as "Unit price (evaluation criterion)." **Notice: Please do not enter the VAT rate, you the upload of the bid is possible also without entering the VAT rate.**

- 6.6. If the bid contains confidential information, this shall be visibly identified by the applicant in the bid.
- 6.7. Following a successful upload of the bid into the JOSEPHINE system, the applicant is sent a notification informative e-mail (to the e-mail address of the applicant user who uploaded the bid).
- 6.8. The applicant is able to withdraw the submitted bid until the deadline for submission of bids. If withdrawing the bid, the applicant shall proceed similarly as when entering the initial bid (clicking the "Withdraw Bid" button and submitting a new bid).
- 6.9. The applicant may only submit one bid. The applicant in the same procedure of contract awarding may not be a member of a group of suppliers, which submits a bid. The Contracting Authority shall exclude an applicant, who is a member of a group of suppliers at the same time.
- 6.10. The risk of delay in bid delivery is in full scope borne by the applicant. The bid submitted after the deadline for submission of bids will not be made available electronically.

7. Group of suppliers

A group of suppliers may also be a candidate in this tender procedure if all the members of this group of suppliers proved compliance with the participation conditions as per Article 37 par. 3 of the Public Procurement Act (hereinafter referred to as "group of suppliers").

In case that the tender is submitted by a group of suppliers, the procuring entity within the tender procedure will lead communication with the representative of this group authorised for communication with the procuring entity within the tender procedure.

In case that a tender which was submitted by a group of suppliers is accepted, the procuring entity:

- a) will require that all the members of the group authorise one member for representing the whole group in contact with the procuring entity upon performance of the Agreement on the object of the contract.
- b) will require that all the members of the group undertook to perform the Agreement on the object of the contract jointly and severally (principle of solidarity); in case that such a requirement is not met, i.e. all the members of the group do not sign the Agreement on the object of the contract jointly for the purpose of its performance jointly and severally (principle of solidarity), such an agreement will not be concluded by the procuring entity;
- c) will require that during the performance of the Agreement on the object of the contract each member of the group separately issues invoices to the procuring entity for its performances provided to the procuring entity hereunder;
- d) will not require creation of any legal form by this group of suppliers but it requires that the members of the group of suppliers duly regulated their mutual relations so that they are able to duly perform the Agreement on the object of the contract; in such case the procuring entity is entitled to ask the group of suppliers to prove how their mutual relations are regulated;

8. Evaluation of tenders

8.1. Opening of tenders

8.1.1. The opening of tenders is performed pursuant to Article 52 of the Public Procurement Act as follows:

8.1.1.1. The opening of tenders is performed by the committee, which is established by the procuring entity in compliance with Article 51 of the Public Procurement Act for evaluation of the tenders in this competition (hereinafter referred to as "committee").

8.1.1.2. No later than on the day of opening the part of tenders marked as "Others" and parts of the tenders marked as "Criteria", the procuring entity is obliged to publish in the profile the information with indication

of the data of opening the respective parts of tenders; without meeting this obligation opening of the tenders may not be performed. After opening the parts of tenders marked as "Others" all the acts are performed according to the Public Procurement Act consisting from evaluation of the participation conditions of these parts of the tenders.

- 8.1.1.3. Opening of the parts of tenders marked as "Criteria" will be performed by the committee no earlier than on the day following the day of
- a) vain lapse of the period for delivery of the request for remedy according to Article 164 par. 1 or vain lapse of the period for delivery of objections according to Article 170 par. 3 item c) to all authorised persons if no candidate, candidate or participant or even no tender was excluded,
 - b) vain lapse of the period for delivery of objects according to Article 170 par. 3 items a) and b) to all authorised persons if no candidate, candidate or participant or even no tender was excluded, and at least one request for remedy was delivered on time,
 - c) vain lapse of the period for delivery of objections according to Article 170 par. 3 item d) to all authorised persons if at least one candidate, candidate or participant or at least one tender was excluded, if the request for remedy was not delivered on time or the objections according to Article 170 par. 3 items a) to c) were not delivered on time,
 - d) when one of the following facts occurs, if at least one of the objections was delivered on time:
 - (i) delivery of authority decision according to Article 174 par. 1 to the public procuring entity and the procuring entity,
 - (ii) vain lapse of the period for filing an appeal to all authorised persons, day of legal effect of the authority decision according to Article 175 par. 2 or par. 3
 - (iii) delivery of authority decision on appeal to the public procuring entity and the procuring entity.
- 8.1.1.4. Opening of the part of tenders marked as "Criteria" will be performed by the committee only in case of tenders, which were not excluded, and that at the place and at the time announced to the candidates, whose tenders were not excluded; there must be at least five working days between sending the notice and opening of the parts of tenders marked as "Criteria".
- 8.1.1.5. Since the final order of tenders in the competition will be determined by an automated manner through an electronic auction, opening of the tenders is in compliance with the provision of Article 54 par. 3 of the Public Procurement Act not public. Therefore, the procuring entity will not enable the applicants to participate in the opening of tenders, and it will not publish data on the tenders according to Article 52 par. 3 of the Public Procurement Act and will not send a protocol on opening the tenders to the applicants as provided by Article 52 par. 4 of the Public Procurement Act.

8.2. The rules for evaluation of tenders

- 8.2.1. The committee evaluates the tenders in compliance with the provision of Article 53 of the Public Procurement Act. Evaluation of the tenders by the committee is not public.
- 8.2.2. The committee shall evaluate the tenders from the aspect of meeting the requirements of the procuring entity for the object of the contract or concession and in case of doubts; it will verify correctness of the information and proof provided by the candidates. If the procuring entity required a guarantee from the candidates, the committee will evaluate depositing this guarantee. If the committee identifies discrepancies or ambiguities in the information or in the proof provided by the candidate, in writing it will request explanation of the tender and if necessary, also to submit proof. By explanation of the tender it may not be changed. Under change of the tender we do not understand removal of clear mistakes in writing and calculation.
- 8.2.3. If an extraordinarily low offer appears, committee will proceed in compliance with Article 53 of the Public Procurement Act. If an extraordinary low offer appears in particular tender in relation to the goods, construction works or service, the committee request in writing from the candidate to explain this part of the tender, which is substantial for its price.
- 8.2.4. The procuring entity shall exclude the tender if

- a) the tender does not meet the requirements for the object of the contract or concession specified in the documents necessary for elaboration of the offer,
 - b) the candidate does not deliver explanations of the tender base on the requirement according to clause 8.2.2 of this article within:
 - i. two working days as of the date of sending the request for explanation if the committee did not determine a longer period and the communication is carried out via electronic tools,
 - ii. five working days as of the delivery date of the request for explanation if the committee did not determine a longer period and the communication is carried out in a way other than according to the first point,
 - c) the explanation of tender submitted by the candidate as to its contents is not in compliance with the requirement according to clause 8.2.2 of this article,
 - d) the candidate does not delivery a written justification of the extraordinarily low offer within five business days as of the request delivery if the committee did not determine a longer period,
 - e) the explanation of the extraordinarily low offer and the proof submitted by the candidate do not sufficiently justify the low level of prices or costs, mainly with respect to the fact according to § 53, point 2 of the Public Procurement Act,
 - f) the candidate provided incorrect information or distorted information with substantial impact on evaluation of the tenders,
 - g) the candidate illegally tried to affect the public procurement process.
- 8.2.5. If the candidate justifies the extraordinarily low offer by obtaining a state aid, it must be able within a reasonable period determined by the committee to prove that the state aid was provided to it in compliance with the internal market rules of the European Union otherwise the procuring entity excludes the tender.
- 8.2.6. Upon evaluation of the tenders, which were not excluded, the committee proceeds only according to the criteria specified in the invitation to tender and the method specified in this tender specification.

8.3. Criteria for evaluation of tenders and rules of their application

- 8.3.1. The tenders will be evaluated according to the criteria and rules of its application specified in this clause.
- 8.3.2. Each tender will be evaluated according to the criterion: **Price – 100%**
- 8.3.3. Method of tender evaluation: The total price excluding VAT together with delivery to the place of performance (DDP INCOTERMS 2010) for each part of the Subject of procurement will be evaluated separately. The tender, with the lowest price in each part of the Subject of procurement, which will meet all the requirements of the contracting authority for the object of the contract will be successful as well as other requirements of the contracting authority as specified in the announcement of the public procurement procedure, in the call for submission of the tenders, in the tender specification and in its annexes.
- 8.3.4. Setting up the final order of tenders in each part of the Subject of procurement shall take place by automated evaluation after the first evaluation of tenders through electronic auction according to Article 9 of this tender specification.
- 8.3.5. Based on the final order of tenders set up by automated evaluation through electronic auction, the successful candidate in each part of the Subject of procurement will be identified. The successful tender in each part of the Subject of procurement will be the one, whose total price for the object of the contract after completion of the electronic auction will be the lowest.

9. Electronic auction

During the validity of Framework Purchase Contracts the procuring entity will use the electronic auction for determination of the final ranking of offers in the tender.

9.1. General information

- 9.1.1. Electronic auction (hereinafter referred to as “e-auction”) is for the purpose of this public procurement understood as a repeating process using electronic equipment for submission of new prices adjusted downwards.
- 9.1.2. The aim of e-auction is determination of the order of tenders by automated evaluation after the initial complete evaluation of offers.
- 9.1.3. The subject of e-auction is the same as the object of the contract, specified in the invitation to the public procurement procedure and further specified in this tender specification.
- 9.1.4. The administrator of the procuring entity is the person, who within the online e-auction invites the candidates to submit new prices adjusted downwards. The administrator of e-auction is:
Name and surname: Ján Repa, Strategic Purchaser
E-mail address: jan.repa@eustream.sk
Tel: +421 (0)2 6250 7167
- 9.1.5. The electronic auction room (hereinafter referred to as “e-auction room”) is an environment placed at the determined address in the public data network internet, where the candidates submit new prices adjusted downwards.
- 9.1.6. The filing stage is the part of the procedure when after making the e-auction room available; the candidates may become acquainted with the e-auction environment prior to launching the electronic auction.
- 9.1.7. The competition stage is the part of the procedure where online mutual comparison of prices offered by the candidates enrolled into the e-auction and their evaluation in a limited time takes place.
- 9.1.8. The procuring entity reserves the right to perform the electronic auction in several consecutive stages.
- 9.2. The course of e-auction**
- 9.2.1. E-auction will be performed by electronic equipment through the Internet network.
- 9.2.2. The administrator or auction portal sends a call for participation in the e-auction by the means of electronic equipment at the same time to all candidates.
- 9.2.3. In the call for participation in e-auction all the respective information related to the individual connection to the used electronic equipment, date and time of starting and completing the filing stage, date and time of starting the competition part and the method of e-auction completion, the minimum and maximum step of reducing the new prices, the formula for determination of the automated re-evaluation of the order of new prices will be included.
- 9.2.4. The call will also contain application to e-auction. The candidate must complete the application and in return send it to the auction portal or administrator.
- 9.2.5. After delivery of the completed application, the auction portal or administrator will send to the candidate a ten-digit access key with the use of which the candidate may enter into the e-auction room.
- 9.2.6. The e-auction will take place in two stages:
(i) filing;
(ii) competition;
- 9.2.7. In the filing stage, the e-auction room will be made available to the candidates, where they can compare correctness of the initial price, which for each candidate the administrator enters into the e-auction room in compliance with the submitted proposal of each candidate after complete initial evaluation of the tenders. Each candidate in the filing stage sees only its own offer.
- 9.2.8. In the filing stage, the candidate shall become acquainted with the course and rules of the e-auction. The rules of e-auction also contain the data related to the minimum step of reducing the bid, the rules of prolongation of the competition stage and the period of validity of the access keys.
- 9.2.9. In the filing stage, the candidates may not change their proposals.
- 9.2.10. In the competition stage e-auction will take place online and the candidates have the possibility to adjust their prices downwards, and that at least by the minimum and at most by the maximum step determined

by the administrator. The new price offer submitted by the candidate, however, may not be the same as the current lowest offer.

- 9.2.11. The change of price must not be to the detriment of the quality of the object of the contract or the deadline for its performance, it means that the new price offered by the candidate must be the price for the same object of the contract as specified in the tender of the candidate submitted by the deadline for tender submission; if based on the results of negotiations, updated proposals were submitted, then in compliance with the updated proposal.
- 9.2.12. During the competition stage all candidates in the e-auction room will be at the same time made available online information, which enable them in each moment to determine their relative order. During the e-auction, the procuring entity may make available to the candidates also further information related to other submitted prices (e.g. the lowest price, etc.).
- 9.2.13. The basic time limit of competition stage term is 30 minutes.
- 9.2.14. If during the last two (2) minutes of the basic time limit there is a change in the lowest price of item downwards, the competition stage shall be automatically extended by two (2) more minutes (hereinafter referred to as "extended time limit").
- 9.2.15. If during the last two (2) minutes of the extended time limit there is a change in the lowest price of item downwards, the competition stage is always automatically extended by two (2) more minutes.
- 9.2.16. The e-auction finishes:
- by expiration of the basic time limit according to clause 9.2.13. if until its expiration there is no change in the lowest price downwards according to clause 9.2.14., or
 - expiration of any extended time limit if during it there was no change in the lowest price downwards according to clause 9.2.15.
- 9.2.17. After completion of the competition stage, the candidates may print the protocols from the course of the e-auction.
- 9.2.18. The validity period of the access keys will be determined in the call to participation in the e-auction and after expiration of this period the candidate will not be able to log in to the e-auction room.

9.3. Information related to the electronic equipment, conditions and specifications of technical connection

The computer must be connected to the Internet and installation of one of the following supported web browsers is necessary:

- Microsoft Internet Explorer version 11.0 and higher;
- Mozilla Firefox version 13.0 and higher;
- Google Chrome;
- Microsoft edge.

It's also necessary to have Adobe Flash Player installed (<http://get.adobe.com/flashplayer>), and pop-up windows, javascript and cookies must be enabled. For instructions on how to enable cookies go to: <http://proebiz.com/en/support>.

9.4. Other instructions determined by the candidate

9.4.1. Registration in e-auction

To register for the e-auction you must first click on "**HERE**" in the registration section and fill in the registration form. In filling in and submitting the required information, you establish an agreement with PROebiz concerning the e-auction environment. Now you have access to the e-auction. During registration you select a username and password. The minimum length of each is eight characters and they shouldn't include spaces, punctuation marks or special characters. This data mustn't be forgotten! It is used to access the e-auction room once the access key has been received. Alternatively you can be authenticated by means of an electronic identity card (eID card).

9.4.2. Entering the e-auction room

To access the e-auction room use the website address from the GENERAL SECTION of the call for participation in the e-auction. Clicking on it will open the e-auction room at the procuring entity address. You will be asked to enter your access data (username, password and key, or alternatively use eID card and key). After this data is authenticated the e-auction room opens. The ten-digit code may be copied from the email (using ctrl+C) and pasted into the appropriate field (using ctrl+V). Be careful to copy only the code and not the space at the beginning or end. The e-auction room is inaccessible before the start of the e-auction (Filing stage). If there are any complications contact the administrator whose contact details are in clause 9.1.4 of this article or can be found in the contact section of the call for participation in the e-auction.

9.4.3. **Exit from the e-auction room**

Log out from the e-auction room by clicking on "Logout" in the top-right corner of the e-auction room. If the browser window is closed, it'll be possible to log in to the e-auction room again after a 1 minute.

9.4.4. **Filing stage**

The filing stage is for entering the initial bids. You may also view and become familiar with the e-auction environment. Particular attention should be paid to the time until the end of the round. This time usually changes every 3-5 seconds (if it's less than 24 hours until the end of the round). If this isn't happening, then the connection has probably been lost and you will have to log in to the e-auction room again. In this round the administrator enters the initial bids for each candidate. In this round it is not possible to change any price bids or other entered values. You can only see your own bid. If an item is underlined, clicking on it will show more information (usually detailed information about that item). In case of any questions, you can contact the administrator.

9.4.5. **Competition phase**

Competition stage begins, and you can lower your price bid and change other biddable values (down in accordance with the tender specifications). It is essential to confirm every new entry by clicking on "ENTER"!!! Your new price offer must not be identical with the already entered minimum price. During this round it is advisable to monitor that the time until the end of round is updating regularly. This shows that the connection is working. If the time stops, click on F5 to refresh the e-auction room. The e-auction room includes a chat feature. This can be used to communicate with the administrator and to receive his messages. The whole course of the e-auction from the sending of the invitations to the very end is logged in the history report. All operations carried out are recorded to the nearest second. After the end of the e-auction you may view and print history and participation reports if this option has been set up by the procuring entity.

The procuring entity is not liability for any loss of the communication connection or power supply or any malfunction of the computer of the candidate during the entire e-auction including the online competition stage.

10. **Information on agreement conclusion**

10.1. **Information on the result of tender evaluation**

10.1.1. If in case according to Article 55 par. 1 of the Public Procurement Act no documents proving performance of the conditions of participation are submitted earlier, the procuring entity is obliged, after evaluation of the tenders, to evaluate performance of the conditions of participation by the candidates, who came on the first to the third place. If the candidate(s) is/are excluded, consequently performance of the conditions of other candidate(s) in the order is carried out so that the candidates placed on the first to the third place in the new set up order meet the conditions of participation provided that there are a sufficient number of candidates.

10.1.2. Upon evaluation of the conditions of participation according to clause 10.1.1., the procuring entity proceeds according to Article 40 of the Public Procurement Act, while at the same time it calls the candidates to submit the documents proving compliance with the conditions of participation in a period not shorter than five business days as of the delivery date of the call, and failure to submit the documents within this period is considered non-performance of the participation conditions.

10.1.3. The procuring entity, after evaluation of the tenders, after completion of the procedure according to clause 10.1.1 and 10.1.2. and after sending all the notices of exclusion of the candidate(s), immediately informs in writing all the candidates, whose tenders were evaluated, on the result of tender evaluations, including the order of the candidates. At the same time, the procuring entity publishes the information on

the result of tender evaluation and order of the candidates in its profile.

- 10.1.4. The procuring entity announces to the successful candidate that it accepts its offer. It informs the unsuccessful candidates that they did not succeed and the reasons for non-acceptance of their proposal. In the notice it also indicates identification of the successful candidate(s), information on the characteristics and advantages of the accepted offer and the period, in which an objection may be filed according to Article 170 par. 3 item f) of the Public Procurement Act. The procuring entity sends the notice of the result of tender evaluation at the same time to all candidates.

10.2. Agreement conclusion

- 10.2.1. **The contracting entity cannot conclude contract, framework agreement or concession contract with candidate or candidates who are required to register in the register of public sector partners pursuant to Public Procurement Act or subcontractor or subcontractors under a separate regulation who are required to register in the register of public sector partners and are not registered in the register of public sector partners.**
- 10.2.2. The procuring entity may conclude an agreement, framework agreement or concession agreement with the successful candidate or candidates **no earlier than on the sixteenth day** as of the date of sending the information on the result of tender evaluation according to Article 55 if no request for remedy was delivered, if the request for remedy was delivered after expiration of the deadline according to Article 164 par. 3 or if no objections were delivered according to Article 170.
- 10.2.3. If the request for remedy is delivered within the period according to Article 164 par. 3, the procuring entity may conclude an agreement, framework agreement or concession agreement with the successful candidate or candidates no earlier than sixteen days after expiration of the period for performing the remedy according to Article 165 par. 3 item a), if no objections according to Article 170 par. 4 were delivered.
- 10.2.4. If the request for remedy was rejected, the procuring entity may conclude an agreement, framework agreement or concession agreement with the successful candidate or candidates no earlier than sixteen days as of the date of sending the notice of remedy request rejection according to Article 165 par. 3 item b), if no objections according to Article 170 par. 4 were delivered.
- 10.2.5. If the procuring entity did not act in the request for remedy and if no objections according to Article 170 par. 4 were delivered, it may conclude an agreement, framework agreement or concession agreement with the successful candidate or candidates no earlier than sixteen days after expiration of the determined period for arranging the request for remedy according to Article 165 par. 3.
- 10.2.6. Without prejudice to any provisions of clauses 10.2.2 to 10.2.5, if objections were delivered, the procuring entity may conclude an agreement, framework agreement or concession agreement with the successful candidate or candidates if one of the following facts occurs:
- a) delivery of authority decision according to Article 174 par. 1 to the procuring entity,
 - b) vain lapse of the period for filing an appeal to all authorised persons, as of the day of legal effect of the authority decision according to Article 175 par. 2 or par. 3
 - c) delivery of authority decision on appeal to the public procuring entity and the procuring entity.
- 10.2.7. The Contracting Authority upon conclusion of the Agreement on the Subject of the Procurement will further proceed according to Article 56 of the Public Procurement Act.
- 10.2.8. Since this is a limit-exceeding contract which the Contracting Authority plans to finance in part from the European Union funds, the Contracting Authority is obliged, prior to concluding the Contract, to submit to the Public Procurement Authority a request for the inspection of the award of the Contract pursuant to Art. 169 par. 1 (b) of the Public Procurement Act.

11. Other tender conditions

11.1. Period during which the candidate is bound

The period during which the candidate is bound to keep open his tender expires on **30 April 2019**. During this period the candidates are bound to keep open their tenders open and must not withdraw from them. The period of

binding tenders may be in justified cases adequately extended by the procuring entity. The candidates will be in advance informed through portal JOSEPHINE about the extension of the tender binding period (e.g in case of application of revision procedures or filing objections against the procedure of the procuring entity, etc.).

11.2. **Variant Solution**

- 11.2.1. Submission of a variant solution is not enabled. If a variant solution is submitted in the proposal, upon evaluation of the tenders, such a variant solution will not be taken into consideration.
- 11.2.2. If in case of submitting a variant solution it is not clear which of the submitted variants is the main solution, that variant will be included in the evaluation of tenders which is listed as first on the list of submitted documents on the cover sheet of the proposal. If the variant solution is not listed on the cover sheet of the proposal, that variant will be included in the evaluation of tenders, which will be listed as first in the proposal of the candidate for performance of the criteria for evaluation of tenders.

11.3. **Conditions of Tender Cancellation**

- 11.3.1. The procuring entity will cancel this tender if the conditions for its cancellation are met pursuant to Article 57 par. 1 or 2 of the Public Procurement Act.

11.4. **Guarantee**

The procuring entity does not require a guarantee.

12. **Further Information**

12.1. **Tender Participation Costs of the candidates**

Participation of candidates in this tender is voluntary and it represents its own business risk. All the costs of candidates related to their participation in this tender, as well as with preparation and submission of their proposal and the related communication between the procuring entity and the candidate will be borne in full scope by the candidates. The procuring entity shall bear no liability and shall not provide the candidate with any compensation of any costs or damages in connection with its participation in this tender regardless of the fact whether the candidate is successful in this tender or not, and that even in case of cancelling this tender due to any reason.

12.2. **Relevant Law and Other Legal Information**

This tender is governed by the respective legal regulations of the Slovak Republic. If it is proven that the candidate whose proposal will be successful in the tender and with whom an framework purchase contract should be signed, submitted in the proposal invalid certificates or documents or included incorrect information in its proposal, and hereby it misled the procuring entity and gained undue advantage towards other candidates in the tender, the proposal of such as candidate will be excluded from the tender. If such conduct of the candidate is proven only after conclusion of the Agreement on the Object of the Contract, the procuring entity reserves the right to take steps leading to fair remedy, including the right to file to the competent public administration authority or court a petition for determination of invalidity of such a concluded Agreement for the Object of the Contract. The candidate, who acted this way, is then in full scope responsible for all the damage caused by its conduct.

13. **List of Annexes of the tender specification**

Annex 1: Purchase contract

Annex 2: Proposal for fulfilment of the criteria

Annex 3: Template of goods supplies

Annex 4: Affidavit of the candidate that it agrees with the PC without any reservations