

Contracting authority:	Odvoz a likvidácia odpadu a.s., in short: OLO a. s., Ivanská cesta 22, 821 04 Bratislava (hereinafter "CA" od „Co. OLO, a.s.“)
Title of the Tender:	ENGINEERING AND CONSTRUCTION-TECHNOLOGICAL SUPERVISION OF THE MODERNISATION AND ECOLOGISATION OF WEEE
Link to the published procurement documents:	https://josephine.proebiz.com/sk/tender/43843/summary
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Processed on:	August 31, 2023

Co. OLO, a.s. hereby publishes the answers to the questions repeatedly asked by the supplier.

The interested party has responded to the replies of Co. OLO, a.s. published in the No. IV. of explanations dated 14.8.2023, by which spol. OLO, a.s. responded to the questions raised by him. The interested party did not consider the answers provided to be sufficient and therefore responded by re-submitting the question with a supplemented description/explanation. Co. OLO, a.s. thus responds in this Explanation to the re-asking of the question or to the supplemented explanation of the question originally asked. For clarity of the document, the original question is marked, the original answer of spol. OLO, a.s., the actual/added question and the colour-coded answer provided.

Original general question from a Supplier:

We ask the EAC to justify the adequacy of the conditions and requirements for individual experts - key persons as follows:

Principal Project Engineer (HIP):

- *Min. 15 years (180 months) of experience in management positions (design team leader, expert implementation team leader, responsibility for technology commissioning, or technical supervision team leader) in the construction/reconstruction of process units of power plants or ZEVs.*

Supplier's original question to the expert in question:

On the basis of which requirement it requires for the HIP person to demonstrate a minimum of 15 years of experience only in the construction/reconstruction of process units of power plants or ZEVs. HIP's performance mainly consists of project management at the design stage and therefore in our opinion, a professional who has experience in project management at the design stage also in construction of other structures - more complex ones has comparable experience as you require.

We also seek clarification from the GAO on what basis it has stated that the HIP must demonstrate experience in management positions such as design team leader or expert implementation team leader or responsibility for technology commissioning or technical oversight team leader, as in our view these

roles are not comparable to each other and the Principal Project Engineer is the person primarily responsible for the project management of the design work and therefore it is reasonable to assume that such experience is not and will not be available to the person responsible for the commissioning of technology or the head of the technical supervision team or the head of the implementation team of experts, which are entirely different professions. The above makes the requirements discriminatory and disproportionate.

Answer of the contracting authority dated 14.8.2023:

The adequacy of the experience of the Principal Project Engineer was the subject of pre-market consultations. In preparation, the CA has duly and responsibly addressed the question of whether it is necessary for the Principal Project Engineer to have experience exclusively in the energy sector or whether, in order to achieve the objective pursued, it is sufficient for him to have experience in other areas (e.g. petrochemical, infrastructure construction, construction or complex refurbishment of industrial units of high investment value in the industrial sector (manufacturing companies)). Based on the information obtained during the pre-market consultation, in particular the understanding and experience for processes specific in the power sector (flue gas, boilers, steam turbines generating electricity, etc.), and after considering the risks, the Contracting Authority decided to insist on the requirement of a Chief Project Engineer experience exclusively in the power or ZEVO sector.

The contracting authority shall also allow the required experience to be demonstrated by senior positions in the field of design, implementation or supervision, since the subject matter of the contract is design, implementation and supervision. Therefore, the procuring entity sees no objective reason to require or limit the experience of the project's chief engineer to only design, or only implementation, or only supervision. The Applicant has not specified what it considers to be "more complex construction", nor what it considers to be "comparable construction".

In conclusion, the Contracting Authority would like to draw the attention of the supplier to the document "Concept for the Modernisation and Greening of the ZEVO", which describes in detail the objective pursued, as well as the planned deployment of the Chief Project Engineer throughout the duration of the contract. After a careful study of these documents, the interested party will understand that the active management and professional activity of the Chief Project Engineer is required until the last day of the contract. This person is not responsible for the management of the design work, but for the success of the overall project. The bidder's assertions stem from a misunderstanding of this position, its role, and the demands of the project.

Supplier's question asked again with addition/clarification:

The statement of the EO that based on market consultation the practice is accepted by the market is in our opinion an overexposed statement as market consultation does not constitute a market so we continue to ask for proper justification as to why this person has to demonstrate a minimum of 15 years only in the construction/reconstruction of process units of energy facilities or WEOs. I can mention e.g. constructions in metallurgical industry or petrochemical industry as similar constructions.

We also disagree that the subject matter of this procurement is implementation - construction works as it is mainly about preparation of project documentation and performance of construction supervision activities so we insist on our request that the EO should properly explain on what basis it has stated that the HIP has to demonstrate experience in management positions such as head of design team or head of implementation team of experts or responsibility for commissioning of technology or head of technical supervision team as in our view these functions are not comparable.

We did not write in our question at all that the deployment of HIP will be only in the design phase but that the concept of HIP is known in the construction industry in the design phase and it is not possible in our professional opinion to combine the functions of the head of the design team or the head of the implementation team of experts or the responsibility for the commissioning of technology or the head of the technical supervision team. The head of the design team may act as the head of the technical supervision team in certain circumstances but in no case may he act as the head of the implementation

team of experts or the person responsible for the commissioning of the technologies. We, therefore, seek proper clarification from the GOC on what basis he has stated that the HIP has to demonstrate experience in management positions as a Design Team Leader or Implementation Team Leader of experts or responsible for commissioning of technology or Technical Supervision Team Leader.

CA's reply to the supplementary question:

The subject of the contract is not the implementation of the modernisation and greening of ZEVO. The subject of the contract is the technical consultancy during the implementation phase (DSP and DRS projections by the general contractor), where the experts will be responsible for the verification and validation of each document processed/submitted by the general contractor. It was meant in this sense.

As can be seen from the role description of the Principal Project Engineer, this is the role of the Technical Director of the project, responsible for leading the team of experts and other persons involved in the implementation. Experience in terms of the defined role and the description of the HIP's activities/responsibilities, the HIP could have gained experience in management positions in both design and implementation or leading a team of persons performing construction supervision. This person-expert will not (OLO, Inc. does not expect/require) physically implement and/or be professionally responsible for the development of the DUR or the performance of construction supervision activities.

In relation to the area of construction on which, in the opinion of the tenderer, the experience is to be recognised, the contracting authority states that the requirement does not specify in any way in which industrial area the energy equipment was to be designed/implemented/supervised. The requirement is for energy equipment, and even the definition of this term does not imply a specific industrial field (i.e. if the chief engineer of the project led a team of persons carrying out construction supervision of e.g. the refurbishment of energy equipment in the metallurgical industry, such experience will be recognised if the requirement for energy equipment is fulfilled). As the objective of the project is the modernisation and greening of the WEEMS, the contracting authority considers it materially appropriate and reasonable to require experience of the key person in management positions in the construction/retrofit of process units of energy installations or WEEMS (irrespective of the specificity of the industry sector in which the energy units were designed/implemented/supervised during the expert's experience), as this is the most relevant experience.

Deputy Chief Engineer for the project:

- *Min. 15 years (180 months) of experience in management positions (design team leader, expert implementation team leader, responsibility for technology commissioning, or technical supervision team leader) in the construction/reconstruction of process units of power plants or WECS.*

Supplier's original question to the expert in question:

On the basis of which requirement it requires the person of the HIP Representative to demonstrate experience of minimum 15 years only in the construction/reconstruction of technological units of energy facilities or ZEVO. The performance of the HIP representative is mainly to represent the HIP in project management at the design stage and therefore, in our opinion, a professional who has experience in project management at the design stage also in the construction of other structures - more complex ones has comparable experience as you require.

We also seek clarification from the EO on the basis of which he has stated that the management position means the person directly responsible for the design/implementation/supervision of the work, as in our view these functions are not comparable to each other and the HIP Representative is the person primarily responsible for representing the HIP in the project management of the design work and hence it can be assumed that such experience is not and will not be possessed by the person responsible for

the implementation/supervision of the work, which are entirely different professions. The above makes the requirements discriminatory and unreasonable.

Answer of the contracting authority dated 14.8.2023:

The Deputy Chief Project Engineer shall represent the Chief Project Engineer as and when required, regardless of the stage of performance and to the full extent of the Chief Project Engineer's authority. For this reason, the prior experience requirements for this key professional shall be the same as for the Principal Project Engineer.

In conclusion, the Contracting Authority would like to draw the attention of the supplier to the document "Concept for the Modernisation and Greening of the ZEVO", which describes in detail the objective pursued, as well as the planned deployment of the Chief Project Engineer and his representative throughout the duration of the contract. The bidder's allegations of discrimination and unreasonableness of the requirements are subjective allegations resulting from a misunderstanding of the role of this key person and a lack of familiarity with the scope and complexity of the project.

Supplier's question asked again with addition/clarification:

The statement of the EO that based on market consultation the practice is accepted by the market is in our opinion an overexposed statement as market consultation does not constitute a market so we continue to ask for proper justification as to why this person has to demonstrate a minimum of 15 years only in the construction/reconstruction of process units of energy facilities or WEOs. I can mention e.g. constructions in metallurgical industry or petrochemical industry as similar constructions.

We did not write in our question at all that the deployment of the HIP representative will be only in the design phase but that the concept of HIP representative is known in the construction industry in the design phase and it is not possible in our professional opinion to combine the functions of the head of the design team or the head of the implementation team of experts or the responsibility for the commissioning of technology or the head of the technical supervision team. The head of the design team may act as the head of the technical supervision team in certain circumstances but in no case may he act as the head of the implementation team of experts or the person responsible for the commissioning of technologies. We, therefore, seek proper clarification from the EO on the basis of what fact he has stated that the management position means the person directly responsible for the design/implementation/supervision of the work.

CA's reply to the supplementary question:

The HIP Representative represents the HIP, i.e. the Technical Director/Project Team Leader, especially in his/her absence, to the full extent and scope of the HIP's authority. Therefore, the answer to question 1 also applies to the question on the Expert HIP Representative.

Expert in complex architectural and engineering services

Supplier's original question to the expert in question:

- ... and in particular why you don't require any experience with this expert.

Answer of the contracting authority dated 14.8.2023:

This key professional will not be responsible for key processes directly affecting the operation and performance of the ZEVO. For this reason, the Contracting Authority has decided to require only the bare minimum necessary for the performance of the activities of this key professional.

Supplier's question asked again with addition/clarification:

We do not consider your answer to be an answer as if it is a bare minimum for the VO to require SKSI for this expert and experience is not necessary then we do not understand why other experts have not

clearly defined the SKSI requirement or according to the VO's claim a bare minimum. We request the VO to answer our question properly.

CA's reply to the supplementary question:

The answer about the minimum requirement (required qualification) was in the context and in relation to the requirement for that expert, not for other experts. The reason why for the other experts the contracting authority does not require a qualification stems from the fact that they are leaders in their field/specialties who are not required to perform the regulated activities directly, but are required to lead a team of such persons. In the event that the provider decides that the activities of the persons concerned will be carried out directly by the expert in question, where the regulated activity is to be carried out, then, as is clear from the contract wording and the answers provided, during the performance of the contract, the person who will carry out the regulated activity shall demonstrate to the person carrying out the regulated activity the relevant authorisation of that person. Such a decision (who will perform the regulated activity, whether the expert as technical leader in the field or his/her counterpart) is at the discretion of the future provider.

As can be seen from the description of the roles and responsibilities of the expert for complex architectural and engineering services, this expert will be responsible for the architectural design of the buildings in which the technology will be housed. By describing the expected activities and responsibilities of the expert, the contracting authority has sufficiently explained the rationale and appropriateness of the requirement.

Expert in statics of buildings and supporting structures:

- *Min. 10 years (120 months) of experience in a position responsible for statics (member of the design team responsible for statics, member of the implementation team of experts responsible for statics, or member of the construction supervision team responsible for statics) in projects for the construction/reconstruction of technological units of energy facilities or ZEVO.*

Supplier's original question to the expert in question:

We ask the VO for a justification why this person has to demonstrate a minimum of 10 years of experience only in the construction / reconstruction of technological units of energy facilities or ZEVO, especially given that the expert for statics could cover statics on buildings - more complex i.e. in our opinion, this requirement is discriminatory for other experts in statics who can offer services of the same or similar nature as the subject of the contract.

Answer of the contracting authority dated 14.8.2023:

The requirement for this expert to work exclusively in the field of energy equipment or ZEVO was the subject of a pre-market consultation which showed that it was reasonable and accepted by the market. The contracting authority wishes to point out that the calculations of the statics of the structures supporting boilers or technological units generating electricity are specific calculations which are not comparable to those of conventional linear structures (e.g. traffic structures, bridges, sewers, etc.) or ground structures serving a different purpose (buildings intended for housing, education, healthcare, etc.). At the same time, the applicant does not specify which more complex buildings and why they are comparable.

Supplier's question asked again with addition/clarification:

The statement of the EO that based on market consultation the experience is accepted by the market is in our opinion an overexposed statement as market consultation does not constitute a market so we continue to ask for a proper justification as to why this person has to demonstrate a minimum of 10 years of experience only in the construction/reconstruction of process units of energy facilities or WECS. I can cite e.g. constructions in the metallurgical industry or petrochemical industry as similar constructions.

We request the EAC to add to the tender conditions the competences and activities to be performed by the expert in order to make the tender documents unambiguous.

CA's reply to the supplementary question:

The description of the role and competences of the expert was published on 30.8.2023 as an annex to the No. VI. Explanation of the tender documents.

It is clear from the published description that the expert will be responsible for checking and verifying structural calculations for all process elements, building structures and buildings that will house specialised technology used for the purpose of a waste-to-energy facility (heat and power generation) with unique operating conditions such as significant thermal fluctuations of materials, shocks, vibration, explosion and release of hazardous substances. Therefore, the Contracting Officer considers the experience/experience requirement of a structural engineer in the field of energy facilities to be reasonable and appropriate.

At the same time, the procuring entity states that the requirement does not specify in any way in what industrial field the experience/experience of the structural engineer in design/implementation/supervision of technological units of power equipment was to be acquired. The requirement is for process units of energy installations, and even the definition of 'energy installations' does not imply a specific industrial field (i.e. if a structural engineer has experience/experience e.g. in the design of new/reconstruction of existing process units of energy installations in the petrochemical industry, such experience will be recognised if the requirement for energy installations is fulfilled).

Expert in civil infrastructure construction (civil or structural engineer):

- *Min. 10 years (120 months) of experience in a position responsible for the design of civil structures (member of the design team, member of the implementation team of experts, or member of the construction supervision team) in construction/renovation projects:*
 - *technological units of energy equipment or*
 - *on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or*
 - *in the construction of technological units in production plants with combustion boilers.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to prove a minimum of 10 years of experience only on the construction sites in the above points, if in our opinion and legislation, the expert in civil engineering is exclusively dedicated to civil engineering and not to their technological units or combustion boilers, as for these purposes are reserved experts with a focus on technology or utilities, infrastructure, etc. in the sense of the SKSI category in the meaning of the law, and at the same time the VO has indicated below for another position of the requirements for a member of the team - Boiler Technology Expert. Based on this fact, in our view, the requirements of the position are unreasonable and inconsistent with the focus.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience as a member of the design team, a member of the implementation team of experts, or a member of the construction supervision team, as in our view these functions are not comparable.

Answer of the contracting authority dated 14.8.2023:

Hypothetically, if we were to accept that the experience of an expert in ground infrastructure construction could only be demonstrated by experience in the design / implementation / supervision of ground structures (within the meaning of the issued authorisation), this would mean that such an expert has, in his/her previous practice, dealt with e.g. ground buildings intended for education, accommodation or

general public amenities. The subject of the contract is the design and supervision of a complex modernisation of a WEEE, which consists of several interconnected and operationally influencing technological units. In relation to the other aspects of the subject matter of the contract, the above activities are, in the opinion of the contracting authority, activities not comparable to the design/implementation/supervision of ground-based buildings which do not incorporate process units or combustion boilers.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Upon enquiry, the Procuring Entity noted that the wording of the requirement for this expert only mentions the responsibility for the design of civil works in the introduction, with the responsibility of a member of the execution team or a member of the supervision team also mentioned in brackets. Therefore, as a procedural precaution, the contracting authority will modify the description to make it unambiguously clear that the expert in question may also have experience in execution or supervision.

Supplier's question asked again with addition/clarification:

The EO's statement on the consideration of civil structures is directed only to certain types of structures and does not at all admit other structures such as those in the metallurgical industry or the petrochemical industry which are similar. For this reason, we continue to ask the EO to justify the reasonableness of the practice requirement set out by the EO.

In our professional opinion, it is not possible to combine the roles of a member of the design team, a member of the implementation team of experts, or a member of the construction supervision team. A member of the design team can act as a member of the technical supervision team in certain circumstances but in no case can he act as a member of the implementation team of experts. We, therefore, seek proper clarification from the EO on the basis of what fact he has stated that he can demonstrate experience as a member of the design team, a member of the implementation team of experts, or a member of the construction supervision team.

CA's reply to the supplementary question:

For a given expert, the procuring entity has identified 3 alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in either project type. Therefore, the Procuring Entity sees no reason why projects from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to process units in production plants with combustion boilers

should not have been accepted.

Explanation of the acceptance of the design/implementation/supervision practice position stems from the role that this expert will hold - the role of technical leader in the field, it is not a building designer (he/she is not required to design buildings directly, he/she can lead/manage a team of designers who have the appropriate credentials).

Expert for technical, technological and energy equipment of buildings (Engineer for technical, technological and energy equipment of buildings):

- *Min. 10 years (120 months) of experience in a position responsible for technical, technological and energy equipment of constructions (member of the design team responsible for the given area, member of the implementation team of experts responsible for the given area, or member of the construction supervision team responsible for the given area) in projects of construction/reconstruction of technological units of energy facilities or ZEVO.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years of experience only in the construction/reconstruction of technological units of energy facilities or ZEVO, why the above mentioned expert could not also demonstrate the required experience in other constructions where the technology and energy equipment were also used.

At the same time, we ask the VO for clarification on the basis of which fact he stated that he can demonstrate experience in the position of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team responsible for a given area, as in our opinion these functions are not comparable.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. Its content clearly shows that the design and appropriate selection of the technological units of the EfWPP is crucial for achieving the required parameters of the upgraded incineration plant. The requirements for this expert are therefore in line with the objective pursued. The tenderer did not specify what other constructions could be equivalent in terms of complexity to the objective pursued.

Supplier's question asked again with addition/clarification:

We do not consider the VO answer as an answer because the document "Concept of Modernization and Greening of ZEVO" sets the objectives but does not justify the adequacy of the requirement to demonstrate a minimum of 10 years of experience only in the construction/reconstruction of technological units of energy facilities or ZEVO. So we continue to ask for a proper justification of our question. I can cite e.g. constructions in the metallurgical industry or petrochemical industry as similar constructions.

You did not properly answer our question as you did not address the basis on which he stated that he could demonstrate experience as a member of the design team responsible for the area, a member of the implementation team of experts responsible for the area, or a member of the construction supervision team responsible for the area. In our professional opinion, it is not possible to combine the functions of member of the design team responsible for the area, member of the implementation team of experts responsible for the area or member of the construction supervision team. As we have already stated it is possible to combine a member of the design team and a member of the construction supervision team in certain circumstances but it is certainly not possible to combine a member of the implementation team. Therefore, we seek proper clarification from the EO on what basis he has stated that experience can be demonstrated in the position of a member of the design team, a member of the implementation team of experts or a member of the construction supervision team.

CA's reply to the supplementary question:

The document "Concept for the Modernisation and Greening of ZEVO" sets out the objectives towards which the cooperation with the future provider should be directed and which must be taken into account by the individual team leaders for each specialty. The project for the modernisation and greening of the ZEVO is a challenging project in the energy sector, therefore the contracting authority is seeking a

partner (provider) through this tender, which will not only design the DUR and carry out the construction supervision during the actual implementation, but will also provide expert technical advice (verification and validation of each document prepared by the general contractor or the designers appointed by him) during the implementation phase.

Based on the description of the role and activities of this expert, this is the role of a technical team leader in the specialty, who will collaborate and cooperate with other experts towards the set goals. Experience in terms of the defined role and the description of the activities/responsibilities of this expert could have been gained both as a member of the design team and as a member of the implementation team or as a member of the construction supervision team.

At the same time, the procuring entity states that the requirement does not specify in any way in what industrial field the experience / experience of this expert in design / implementation / supervision of technological units of power equipment was to be acquired. The requirement is for process units of energy equipment, and the definition of 'energy equipment' does not even imply a specific industrial field (i.e. if the expert has experience/experience e.g. in the design of new/reconstruction of existing process units of energy equipment in the metallurgical or petrochemical industry, such experience will be recognised if the requirement for energy equipment is fulfilled).

Expert in Boiler Technology:

- *Min. 10 years (120 months) of experience in a position responsible for boiler technology (member of the design team responsible for the area, member of the implementation team of experts responsible for the area, or member of the construction supervision team responsible for the area) in projects for the construction/reconstruction of process units of power plants or ZEVO.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years of experience only in the construction/reconstruction of technological units of energy facilities or ZEVO, why the above mentioned expert could not also demonstrate the required experience in other constructions where boiler technologies were used

At the same time, we ask the VO for clarification on the basis of which fact he stated that he can demonstrate experience in the position of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team responsible for a given area, as in our opinion these functions are not comparable.

Answer of the contracting authority dated 14.8.2023:

The aim of the project is to modernise and green the WEEE. The boiler is an immanent part of the ZEVO, without which it is impossible to operate the ZEVO. To underestimate the requirements for an expert in boiler technology is to directly jeopardise the objective of the project with unimaginable financial, environmental and criminal consequences for the contracting authority. The tenderer's view that this requirement is unreasonable casts doubt on the contracting authority's understanding of the objective pursued by the contract, as well as on the tenderer's thorough examination of the expert documents provided. At the same time, the tenderer does not specify in any way what other buildings where 'boilers have been used' are comparable, since other buildings where boilers have been used are also apartment buildings for the production of heat for a certain number of housing units, which is a completely different subject of the contract.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design,

implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

In our professional opinion, it is not possible to combine the functions of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team. As we have already stated it is possible to combine a member of the design team and a member of the construction supervision team in certain circumstances but it is certainly not possible to combine a member of the implementation team. Therefore, we seek proper clarification from the VO on the basis of what fact he has stated that the experience can be demonstrated in the position of a member of the design team, a member of the implementation team of experts, or a member of the construction supervision team.

CA's reply to the supplementary question:

The procuring entity states that the requirement does not specify in any way in which industry area the experience/experience of this expert in the position responsible for the boiler technology was to be acquired. The requirement is for a position responsible for boiler technology in the design of process units of power plants, and even the definition of 'power plants' does not imply a specific industrial field (i.e. if the Boiler Technology Expert has experience/experience e.g. in the design of new/refurbishment of existing boilers in power plants in the metallurgical or petrochemical industry, such experience will be recognised if the requirement for power plants is met).

Based on the description of this expert's role and activities, this is the role of a technical leader in the specialty, not a designer or supervisor who will personally design/supervise the boiler technology. Experience, as defined in the role and description of the activities/responsibilities of this expert, could have been gained both as a member of the design team and as a member of the implementation team or as a member of the construction supervision team.

Expert in machine parts and technological processes:

- *Min. 10 years (120 months) of experience in a position responsible for the mechanical part and technological processes (excluding boiler or flue gas technology) (member of the design team responsible for the area, member of the implementation team of experts responsible for the area, or member of the construction supervision team responsible for the area) in projects for the construction/reconstruction of technological units of energy installations or WPPs.*

Alternative:

- *Min. 10 years (120 months) experience in a management position (e.g. Technical Director) responsible for the operation of power plants with a capacity of more than 10 MW or responsible for the operation of industrial chemical/petrochemical/metallurgical/technology involving at least 2 combustion boilers in continuous operation).*

Supplier's original question to the expert in question:

We request the VO to justify why this person should demonstrate a minimum of 10 years' experience only in the construction/reconstruction of process units of power generation facilities or WEOs, especially given that such a professional may have been involved in various construction sites that were equipped with different machinery and process parts and processes.

It is also not clear to us on what basis the GAO evaluated the requirements for the position of this expert to be comparable when it cited the option of using a manager/technical director responsible for the operation of power facilities as an alternative, when in our view the positions are not comparable.

At the same time, we ask the VO for clarification on the basis of which fact he stated that he can demonstrate experience in the position of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team responsible for a given area, since in our opinion these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The aim of the project is to modernise and green the WEEE. The machinery and technological units are an immanent part of the ZEVO, the incompatibility of which directly endangers the operation of the ZEVO. To underestimate the requirements for an expert for the machinery and technological units is to directly jeopardise the objective of the project with unimaginable financial, environmental and criminal consequences for the contracting authority. The tenderer's view that this requirement is disproportionate casts doubt on the contracting authority's understanding of the objective pursued by the contract, as well as on the tenderer's thorough examination of the expert documents provided. At the same time, the tenderer does not specify in any way which different buildings, which were equipped with different machinery, processes and processes, are comparable and why. The road tunnel is also equipped with technology and machinery, but this is an incomparable construction with a completely incomparable purpose.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

In relation to the admitted alternative practice, the contracting authority states that it admitted an operations director in an area where he was responsible for comparable technology units, not any operations director. In admitting this alternative, the contracting authority took into account the conclusions and information obtained during the pre-market consultations as well as the practice in the field of ZEVO in Slovakia and abroad.

Supplier's question asked again with addition/clarification:

We do not consider your answer as you have admitted a technical director responsible for the operation of the energy facilities not an operations director and you still have not justified on what basis you are admitting this. Similarly for technical director you attach industrial chemical / petrochemical / metallurgical / metallurgical / technology whereas these constructions are not mentioned by any expert and even the bidder cannot prove the references by such constructions. Therefore, we request for proper justification of adequacy on the experience of the expert and also request the EO for proper explanation on the basis of what fact he has stated that the experience can be shown in the position of design team member, implementation team member of experts or construction supervision team member.

CA's reply to the supplementary question:

The requirements for this expert include the alternative of experience in a management position responsible for the operation (it is not important what this position is called (whether technical or operations director, but that the position/person has responsibility for the operation) of power plants with a capacity of more than 10 MW or for the operation of an industrial chemical/petrochemical/metallurgical/technology involving at least 2 combustion boilers in continuous operation. For the other experts, there is no such alternative, as experience as a member of the design team / implementation team / supervision team is required, without specifying the industry sector in which the construction / reconstruction projects of the energy installations were / could have been

designed / implemented / supervised. As long as the project involves the construction/renovation of energy facilities (e.g. in connection with the use of energy or heat from combustion boilers in the metallurgical industry) meeting the definition of this term, the experience will be recognised irrespective of the industry sector, as this was not a requirement.

Based on the description of the role and activities of this expert, this is the role of a technical leader in the specialty, not a designer or supervisor who will personally design/supervise (the expert is expected to lead a team of people). Experience in terms of the defined role and description of the activities/responsibilities of this expert could have been gained both as a member of the design team and as a member of the implementation team or as a member of a team of people carrying out construction supervision. They will therefore be recognised.

In relation to the question of why this expert is also allowed to have experience in a management position responsible for the operation of power plants with a capacity of more than 10 MW or the operation of technologies involving at least 2 combustion boilers in continuous operation in specified industries, the contracting authority states that in the responsible performance of such a position, the person concerned must have an overview of all technical aspects of the mechanical engineering part, since the functionality of the technologies directly affects the operation of the production plant in the area. In terms of normal internal processes, this is a position which is directly responsible for the progress of investment projects for the construction or reconstruction of technological units. Therefore, the contracting authority considers it relevant to accept this experience.

Expert in flue gas cleaning processes:

- *Min. 10 years (120 months) of experience in a position responsible for flue gas cleaning technological processes (member of the design team responsible for the area, member of the implementation team of experts responsible for the area, or member of the construction supervision team responsible for the area) in the projects of construction/reconstruction of technological units of power plants or ZEVO.*

Supplier's original question to the expert in question:

We request the EO to justify why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of process units of power plants or WEEE, especially given that such an expert may have been involved in different construction sites equipped with different flue gas cleaning technology.

At the same time, we ask the VO for clarification on the basis of which fact he stated that he can demonstrate experience in the position of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team responsible for a given area, since in our opinion these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The aim of the project is to modernise and green the WEEE. The technological processes of flue gas cleaning are an immanent part of the operation and functionality of the ZEVO, the underestimation of which directly endangers the operation of the ZEVO. Underestimating the requirements for this expert is a direct threat to the objective of the project with unimaginable financial, environmental and criminal consequences for the contracting authority. The tenderer's view that this requirement is unreasonable casts doubt on the contracting authority's understanding of the objective pursued by the contract and on the tenderer's thorough examination of the expert documents provided. At the same time, the tenderer does not specify in any way which different buildings equipped with different flue gas cleaning technology are comparable and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

In our professional opinion, it is not possible to combine the functions of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team. As we have already stated it is possible to combine a member of the design team and a member of the construction supervision team in certain circumstances but it is certainly not possible to combine a member of the implementation team. Therefore, we seek proper clarification from the EO on what basis he has stated that experience can be demonstrated in the position of a member of the design team, a member of the implementation team of experts or a member of the construction supervision team.

CA's reply to the supplementary question:

In the expert experience requirement, the procuring entity does not specify the industry sector in which the energy equipment construction/retrofit projects were/may have been designed/implemented/supervised. If the project involves the construction / refurbishment of energy facilities (e.g. in the metallurgical industry) meeting the definition of this term, the experience will be recognised irrespective of the industry sector, as this was not a requirement.

Based on the description of the role and activities of this expert, this is the role of a technical leader in the specialty, not a designer or supervisor who will personally design/supervise (the expert is expected to lead a team of people). Experience in terms of the defined role and description of the activities/responsibilities of this expert could have been gained both as a member of the design team and as a member of the implementation team or as a member of a team of construction supervisors. They will therefore be recognised.

Project Manager:

- *Min. 10 years (120 months) of experience as a project manager in projects of construction/reconstruction of technological units of energy facilities or ZEVO.*

Supplier's original question to the expert in question:

We request the EO to justify why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of process units of power plants or WESOs, especially given that such an expert may have been involved in various constructions which may have been larger and more demanding in scope and complexity.

Answer of the contracting authority dated 14.8.2023:

The applicant did not specify what the various structures might be larger and more challenging in scope and complexity. The project of upgrading and greening of the WEO, or construction or reconstruction of energy facilities are specific projects, therefore it is not possible and objectively correct to claim that a project manager on a challenging construction (e.g. construction of a highway section or a hospital) is sufficiently capable to manage such a project. Underestimating the requirements for key professionals directly jeopardises the achievement of the pursued objective, which is a professionally complex project involving a multitude of elements with a huge risk of financial, environmental and criminal damage.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

CA's reply to the supplementary question:

In the expert experience requirement, the procuring entity does not specify the industry sector in which the energy equipment construction/retrofit projects were designed/implemented/supervised and where the project manager held the position. If the project of which the project manager was part and held the position of project manager includes the construction/renovation of energy facilities (e.g. in the metallurgical industry) meeting the definition of an energy facility, the experience will be recognised irrespective of the industry sector, as this was not a requirement.

The Project Manager is reasonably expected to have a general overview of the technical aspects of the project, a high level of knowledge and competence in the field of energy with knowledge of the terminology and taxonomy of issues related to fuel processing and heat and power generation. This is due to the direct impact of knowledge/understanding of technical aspects on the processing of entries, timely signalling of potential delays to HMG, tracking of task completion from inspection days and meetings, tracking of inspection and test plan completion, tracking of functional test plan completion, correct and timely submission/tracking of information flow. For these reasons, Project Manager experience on power equipment construction/retrofit projects is required.

Expert on permitting procedures and legislation in the Slovak Republic:

- *Min. 3 references/experiences/projects on complex management of permitting processes under the conditions of the Slovak legislation for energy installations with power over 1 MW. Comprehensive management means preparation /completion of documentation (at least 1 stage) submitted for administrative proceedings (e.g. EIA, UR, SP, approval) and its submission to the competent authorities or representation of the investor before the competent authorities during the entire permitting procedure (i.e. at least 1 entire process of at least 1 permitting procedure).*

Supplier's original question to the expert in question:

We ask the EA for justification as to why this person only has to demonstrate experience for energy facilities over 1 MW, especially given that the permitting expert may have been involved in a variety of construction where the permitting process is similar or more challenging. In our view, this requirement is highly discriminatory. It is also not clear to us why the expert has to demonstrate 3 times the reference for 1 MW or more when there have been significantly few such constructions within the country.

Answer of the contracting authority dated 14.8.2023:

Part of the duties of the future service provider will include representing the company. OLO, a.s. in the permitting process - the procedure for the issuance of a zoning decision. At the same time, the future provider will control and represent spol. OLO, a.s. in the following permitting procedures. Due to the specificity of the permitting processes for energy construction, the contracting authority requires the demonstration of three relevant experiences of this expert. The permitting process for energy installations with a capacity above 1 MW has its specificities (e.g. different administrative authority, different scope of authorities concerned, etc.), therefore this requirement is relevant. It is not true that not enough such permitting procedures have been carried out in Slovakia, because there are many energy installations with a capacity above 1 MW in Slovakia (e.g. photovoltaic power plants, biogas plants, energy installations in industrial enterprises in the petrochemical, chemical, paper, metallurgical,

heating, etc. sectors). The interested party did not specify in any way what different structures, where the permitting process is similar or more demanding, he had in mind and why.

The requirement for the experience of this expert stems from the specificities of the modernisation and greening of the WEEE and is fully in line with the subject of the contract and the objective pursued.

Supplier's question asked again with addition/clarification:

For building permits, there is one legislation that the expert works with. This legislation is independent of the type of construction. Each building has its own character, but the permitting expert always follows the same legislation. The VO has not justified the reasonableness of his request in any way. We therefore request that the said requirement be properly justified.

CA's reply to the supplementary question:

The contracting authority has modified the requirement for the expert in question and, at the same time, has transferred this expert to the group of experts whose experience will be verified during the performance of the contract. The modified experience requirements for this expert are intended to accept the experience of the expert also in the permitting process for construction projects other than power plant projects with a capacity of more than 1 MW. It also requires at least 1 experience with a specific type of permit (certificate) that relates exclusively to the construction of an energy facility.

The contracting authority considers the modified experience/experience requirements for the expert concerned to be appropriate, as it takes into account both the uniform legislation and the specificities of the construction of energy installations, to a reasonable extent.

Expert in electrical and power engineering:

- *Min. 10 years (120 months) of experience in a position responsible for electrical and power engineering (member of the design team responsible for the area, member of the implementation team of experts responsible for the area, or member of the construction supervision team responsible for the area) in projects for the construction/reconstruction of technological units of energy facilities or ZEVO.*

Supplier's original question to the expert in question:

We request the EO to justify why such person has to demonstrate a minimum of 10 years' experience in construction/reconstruction of only power plant process units or ZEVOs, especially considering that such expert may have been involved in various construction projects that also have electrical and power engineering components.

At the same time, we ask the VO for clarification on the basis of which fact he stated that he can demonstrate experience in the position of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team responsible for a given area, since in our opinion these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. Its content clearly shows that the electrical and energy aspects of the project are key to achieving the required parameters of the upgraded incineration plant. The requirements for this expert are therefore in line with the objective pursued. The tenderer did not specify what other constructions could be equivalent in terms of demandingness to the objective pursued.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design,

implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness. In our professional opinion, it is not possible to combine the functions of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team. As we have already stated it is possible to combine a member of the design team and a member of the construction supervision team in certain circumstances but it is certainly not possible to combine a member of the implementation team. Therefore, we seek proper clarification from the VO on the basis of what fact he has stated that the experience can be demonstrated in the position of a member of the design team, a member of the implementation team of experts, or a member of the construction supervision team.

CA's reply to the supplementary question:

In the expert experience requirement, the procuring entity does not specify the industry sector in which the energy equipment construction/retrofit projects were/may have been designed/implemented/supervised. As long as the project involves the construction / refurbishment of energy facilities (e.g. in the metallurgical industry) meeting the definition of this term, the experience will be recognised irrespective of the industry sector, as this was not a requirement.

Based on the description of the role and activities of this expert, this is the role of a technical leader in the specialty, not a designer or supervisor who will personally design/supervise (the expert is expected to lead a team of people). Experience in terms of the defined role and description of the activities/responsibilities of this expert could have been gained both as a member of the design team and as a member of the implementation team or as a member of a team of people carrying out construction supervision. They will therefore be recognised.

MAR Expert (I&C):

- *Min. 10 years (120 months) of experience in a position responsible for electrical and power engineering (member of the design team responsible for the area, member of the implementation team of experts responsible for the area, or member of the team of construction supervisor responsible for the area) in the projects of construction/reconstruction of technological units of energy facilities or ZEVO.*

Supplier's original question to the expert in question:

We request the EO to justify why this person has to demonstrate a minimum of 10 years of experience only in the construction/reconstruction of process units of energy facilities or ZEVOs, especially given that such an expert may have been involved in various construction sites that are also equipped with MARs.

At the same time, we ask the VO for clarification on the basis of which fact he stated that he can demonstrate experience in the position of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team responsible for a given area, since in our opinion these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. Its content clearly shows that the MAR (I&C) facilities are key to achieving the required parameters of the upgraded incineration plant. The requirements for this expert are therefore in line with the objective pursued.

The applicant did not specify what other MAR-equipped structures might be equivalent in difficulty to the objective being pursued and why.

As a procedural precaution only, the procuring entity states that it will accept an expert from both MAR and I&C for this position (these are professionally comparable experience).

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness. In our professional opinion, it is not possible to combine the functions of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team. As we have already stated it is possible to combine a member of the design team and a member of the construction supervision team in certain circumstances but it is certainly not possible to combine a member of the implementation team. Therefore, we seek proper clarification from the EO on what basis he has stated that experience can be demonstrated in the position of a member of the design team, a member of the implementation team of experts or a member of the construction supervision team.

CA's reply to the supplementary question:

In the expert experience requirement, the procuring entity does not specify the industry sector in which the energy equipment construction/retrofit projects were/may have been designed/implemented/supervised. If the project involves the construction / refurbishment of energy facilities (e.g. in the metallurgical industry) meeting the definition of this term, the experience will be recognised irrespective of the industry sector, as this was not a requirement.

Based on the description of the role and activities of this expert, this is the role of a technical leader in the specialty, not a designer or supervisor who will personally design/supervise (the expert is expected to lead a team of people). Experience in terms of the defined role and description of the activities/responsibilities of this expert could have been gained both as a member of the design team and as a member of the implementation team or as a member of a team of people carrying out construction supervision. They will therefore be recognised.

Quality Expert:

- *Min. 10 years (120 months) of experience as a quality controller (in design, implementation or construction supervision activities) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million (VAT excluded) or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We ask the VO for justification why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of technological units of energy installations or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers, in particular assuming that such an expert may have been involved in various constructions which are also subject to quality.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience in a position in design, implementation or construction supervision activities as in our view these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that quality control is key, given the specific technological processes and the required lifetime of the plant. The requirements for this expert are therefore in line with the objective pursued. The tenderer did not specify what other constructions subject to quality control could be equivalent in terms of their complexity to the objective pursued and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or restrict the experience of this expert only in projection, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

In our professional opinion, it is not possible to combine the functions of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team. As we have already stated it is possible to combine a member of the design team and a member of the construction supervision team in certain circumstances but it is certainly not possible to combine a member of the implementation team. Therefore, we seek proper clarification from the VO on the basis of what fact he has stated that the experience can be demonstrated in the position of a member of the design team, a member of the implementation team of experts, or a member of the construction supervision team.

CA's reply to the supplementary question:

In the expert experience requirement, the procuring entity does not specify the industry sector in which the energy equipment construction/retrofit projects were/may have been designed/implemented/supervised. If the project involves the construction / refurbishment of energy facilities (e.g. in the metallurgical industry) meeting the definition of this term, the experience will be recognised irrespective of the industry sector, as this was not a requirement.

From the experience of substantive guarantors gained mainly abroad, it is common abroad in projects of this nature, scope and importance, the performance of a quality expert also in the phase of projection (approval of documentation). This is an activity where this expert is responsible for checking/verifying the final documents submitted / checking any deliverables from the contractor towards the client. This is to ensure a two-step check of the submitted documents. For this reason, the experience of the given expert in design is also accepted.

In the construction industry in Slovakia, the position of a quality inspector is common in the implementation phase, both on the contractor's side and as a member of the team of persons performing construction supervision.

HSE expert:

- *Min. 10 years (120 months) of experience in a position responsible for OSH (in design, implementation, or construction supervision activities) in the construction/reconstruction of technological units of energy facilities or ZEVO or on infrastructure construction sites with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We ask the VO for a justification as to why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of technological units of energy installations or ZEVOs or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers, in particular assuming that such an expert may have been involved in various constructions which are also subject to OSH, which is governed by inspection regulations and legislation and not by the focus of the construction.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience in a position in design, implementation or construction supervision activities as in our view these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the upgrading and greening of the WEEE is a complex and challenging project which cannot be compared with conventional projects/buildings which are also subject to HSE and which are governed by inspection regulations and legislation. The requirements for this expert are therefore in line with the objective pursued. The applicant did not specify what other constructions could be equivalent in terms of their complexity to the objective pursued and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

In our professional opinion, it is not possible to combine the functions of a member of the design team responsible for a given area, a member of the implementation team of experts responsible for a given area, or a member of the construction supervision team. As we have already stated it is possible to combine a member of the design team and a member of the construction supervision team in certain circumstances but it is certainly not possible to combine a member of the implementation team. Therefore, we seek proper clarification from the EO on what basis he has stated that experience can be demonstrated in the position of a member of the design team, a member of the implementation team of experts or a member of the construction supervision team.

CA's reply to the supplementary question:

For a given expert, the procuring entity has identified 3 alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in either project type. Therefore, the Procuring Entity sees no reason why projects from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

From the experience of material guarantors gained mainly abroad, it is common abroad to verify documents already at the design stage in terms of compliance with OSH requirements. It is common abroad in projects of this nature, scope and importance to require the position of an OSH expert also at the design stage. This is an activity where this expert is responsible for checking/verifying the final documents submitted/checking any deliverables from the contractor towards the client in terms of HSE.

In the construction industry in Slovakia, it is common to have an OSH expert in the implementation phase, both on the contractor's side and as a member of the team of persons performing construction supervision.

Expert in statics of buildings and supporting structures:

- *Min. 10 years (120 months) of experience in a position responsible for structural engineering (in design, implementation, or construction supervision activities) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT, or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We request the GC's rationale for repeating the requirement for an additional professional of the same or similar classification as required above, and also why the GC added additional alternatives to demonstrate the experience of the structural engineer within these requirements. At the same time, we maintain that the requirement for a structural engineer discriminates against the expert's focus and ability to demonstrate experience in other structural engineering roles.

Answer of the contracting authority dated 14.8.2023:

The duplication was made by mistake. The Procuring Entity is publishing an updated Annex 3 to the Contract at the same time as this clarification.

The admission of alternative experience was considered by those preparing the contract conditions, however, based on the information obtained from the pre-market consultation, it was concluded that the project to upgrade and green the WECS, or to comprehensively refurbish and extend the existing WECS to the desired state, is such a complex and challenging project that it is essential that the structural engineer has experience in the power or WECS sector. In this context, the CA wishes to point out that the reliability and safety of the future operation depends on the correctness of the structural engineer's calculations for process units such as the boiler, flue gas cleaning technology, air-cooled condenser, etc., and therefore the CA cannot afford to underestimate the experience of this expert.

Supplier's question asked again with addition/clarification:

Do we understand correctly that this expert is not required as the list already includes an Expert in Structural Engineering of Buildings and Structures so this is only documented

CA's reply to the supplementary question:

Yes, you understand correctly that this expert is only documented once, at the stage of proving the fulfilment of the conditions of participation.

Expert in welding technology:

- *Valid Welding Coordinator Responsible Certificate - EWE / IWE or equivalent (equivalent) document proving certification of welding coordination according to STN EN ISO 14731 awarded by an independent accredited company, and at the same time has at least 5 experiences / implementations with welding of load bearing structures of energy equipment in the energy sector after obtaining the Welding Coordinator Responsible Certificate - EWE / IWE or equivalent (equivalent) document proving certification of welding coordination according to STN EN ISO 14731.*

Supplier's original question to the expert in question:

We request the EO to justify why this person has to demonstrate experience only in the construction/reconstruction of process units of energy facilities or WPPs, when the expert may have been involved in various other construction projects where welds of structures were performed.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the modernisation and greening of the WEPP is a complex and challenging project which cannot be compared to conventional projects/buildings where welding of structures has been carried out. The requirements for this expert are therefore in line with the objective pursued. The bidder did not specify what other constructions might be equivalent in complexity to the pursued objective and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We do not consider your answer to be a properly reasoned answer as the welding technology expert is a welding technologist and is governed by specific regulations and it does not matter whether it is a welding of the supporting structures of energy equipment in the energy sector, it is absolutely discriminatory and unsubstantiated. Therefore, we ask for proper justification or deletion of the condition of energy structures.

CA's reply to the supplementary question:

The procuring entity hereby deletes the requirement for experience in welding of power equipment support structures in the power industry. The requirement for 5 welding experience in support structures remains. Annex 3 of the Contract: List of Key Persons will be modified in this context.

Construction supervision:

- *Min. 10 years (120 months) of experience in a position responsible for construction supervision (in the activity of construction supervision) in the construction/reconstruction of technological*

units of energy facilities or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers.

Supplier's original question to the expert in question:

We ask the VO to define what focus will be covered by the mentioned expert - construction supervision.

Answer of the contracting authority dated 14.8.2023:

The requirement for this expert is a contractual requirement which is not subject to qualification. No specific focus is implied by the requirements set out. The prospective provider is required to carry out the performance of the construction supervision by persons who are appropriately licensed for the performance/activity that will be within their competence.

Since this is a contractual obligation of the prospective provider and the contract will be subject to negotiation with qualified vendors, the question regarding the qualifications of this expert may be subject to negotiation if qualified bidders raise such a question/comment.

Supplier's question asked again with addition/clarification:

We do not consider your answer to be a response to the RFP as the tender documents must be clear and unambiguous and it is necessary to know the focus of the supervision in order to determine the price. It is surprising that in its answers the GC deals with the necessity to have high quality experts, but here it suddenly cannot define the focus of the supervision. We therefore ask for a clear definition of the focus.

CA's reply to the supplementary question:

This contract is awarded by means of a negotiated procedure with publication, in which part of the information/requirements is refined in the light of the progress of the negotiations (which is the third stage of this procedure). Therefore, the clarity and unambiguity of the tender documents that the tenderer expects and requires from the contracting authority on the matters to be negotiated is not realistically possible at this stage of the procurement. The procuring entity requires 4 positions/persons related to the performance of the construction supervisor. The requirement for the credentials of the experts in question will be subject to negotiation with qualified bidders. Based on the progress of the negotiations, the final contract and its annexes will be annexed to the final tender documents, which will be annexed to the call for final tenders. At this point (call for final tenders), the type of authorisation required to act as a construction supervisor will also be defined. The contracting authority does not require the identification of the person (and proof of his experience) in relation to the expert - construction supervision at the current stage, which is the qualification of the contractors (proof of fulfilment of the conditions of participation).

Machine supervision:

- *Min. 10 years (120 months) of experience in a position responsible for construction supervision (in the activity of construction supervision) in the construction/reconstruction of technological units of energy facilities or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

At the same time, we also ask for a justification why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with

combustion boilers, if the expert may have been involved in a variety of other constructions with mechanical equipment.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the modernisation and greening of the WEPP is a complex and challenging project which cannot be compared to conventional projects/buildings with machinery. The requirements for this expert are therefore in line with the objective pursued. The interested party did not specify what other constructions could be equivalent in terms of complexity to the objective pursued and why.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

Electrical supervision:

- Min. 10 years (120 months) of experience in a position responsible for supervision of the electrical part (in the activity of construction supervision) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with built-in technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers.

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years of experience only in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers, if the expert may have been involved in various other constructions that are also equipped with electrical parts.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the modernisation and greening of the WEPP is a complex and demanding project which cannot be compared to conventional projects/buildings with electrical

components. The requirements for this expert are therefore in line with the objective pursued. The bidder did not specify what other constructions could be equivalent in terms of complexity to the pursued objective and why.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

I&C Surveillance:

- *Min. 10 years (120 months) of experience in a position responsible for I&C supervision (in the activity of construction supervision) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of process units of power plants or ZEVOs or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of process units in manufacturing companies with combustion boilers, if the expert may have been involved in various other constructions that are also equipped with I&C parts. At the same time, in our opinion, the EO forgot to mention to the position that he is a MAR expert.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the modernisation and greening of the WEPP is a complex and challenging project which cannot be compared with conventional projects/buildings equipped with I&C components. The requirements for this expert are therefore in line with the objective pursued. The proponent did not specify what other constructions could be equivalent in terms of their complexity to the pursued objective and why.

In relation to the omission of information regarding the MAR expert, the contracting authority states that these are very similar activities and area, therefore a MAR expert will be accepted for this position. As a procedural precaution, the Contracting Authority also modifies Annex 3 of the Contract in this context.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

Construction Part Quality Controller (CQC):

- *Min. 10 years (120 months) of experience in a position responsible for the OTK of the construction part (in design, implementation, or construction supervision activities) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT, or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of technological units of energy installations or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers, if the expert may have been involved in a variety of other constructions that are equipped with construction parts.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience in a position in design, implementation or construction supervision activities as in our view these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. Its content clearly shows that the modernisation and greening of the WEWTP is a complex and challenging project which cannot be compared to conventional projects/buildings. The requirements for this expert are therefore in line with the objective pursued. The interested party did not specify what other constructions could be equivalent in terms of complexity to the objective pursued and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

I do not consider your answer as the quality control of the construction part is done during the implementation so admitting the experience from the design is not understood and therefore we ask the VO to explain on what basis he stated that he can prove the experience in the position of design, implementation or construction supervision activities. We also ask the EAC to add to the tender conditions the competences and activities to be carried out by the expert in question in order to make the tender documents unambiguous.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy equipment or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

The contracting authority hereby deletes the possibility to demonstrate the experience of this expert in the field of projection. Annex 3 of the Contract: List of key persons will be modified in this context.

Machine Part Quality Controller (MQC):

- *Min. 10 years (120 months) of experience in a position responsible for the OTK of the mechanical part (in design, implementation, or construction supervision activities) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years' experience only in the construction/renovation of technological units of energy facilities or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers, if the expert may have been involved in various other constructions that are equipped with machine parts.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience in a position in design, implementation or construction supervision activities as in our view these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the modernisation and greening of the WEPP is a complex and demanding project which cannot be compared with conventional projects/buildings which are

equipped with mechanical parts. The requirements for this expert are therefore in line with the objective pursued. The bidder did not specify what other constructions could be equivalent in terms of complexity to the pursued objective and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

I do not consider your answer as the quality control of the mechanical part is done during the implementation so admitting the experience from the design is not understood and therefore we ask the VO to clarify on what basis he stated that he can prove the experience in the position of design, implementation or construction supervision activities. We also ask the EAC to add to the tender conditions the competences and activities to be carried out by the expert in question in order to make the tender documents unambiguous.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

The contracting authority hereby deletes the possibility to demonstrate the experience of this expert in the field of projection. Annex 3 of the Contract: List of key persons will be modified in this context.

Electrical and I&C Quality Controller (OTK):

- *Min. 10 years (120 months) of experience in a position responsible for electrical quality and I&C (in design, implementation or construction supervision activities) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million (VAT excluded) or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of technological units of power plants or ZEVOs or in infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing plants with combustion boilers, if the expert may have been involved in various other constructions that were subject to quality control of electrical I&C.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience in a position in design, implementation or construction supervision activities as in our view these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the upgrading and greening of the WEEE is a complex and challenging project which cannot be compared to conventional projects/buildings that have been subject to electrical I&C quality control. The requirements for this expert are therefore in line with the objective pursued. The bidder did not specify what other constructions might be equivalent in complexity to the pursued objective and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

I don't consider your answer as the quality control of electrical and I&C part is done during execution so admitting experience from design is not understood and hence we request VO to clarify on what basis he has stated that experience can be shown in the position of design, execution or construction supervision activities. We also ask the EAC to add to the tender conditions the competences and activities to be carried out by the expert in question in order to make the tender documents unambiguous.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

The contracting authority hereby deletes the possibility to demonstrate the experience of this expert in the field of projection. Annex 3 of the Contract: List of key persons will be modified in this context.

Quality controller of dedicated technical equipment:

- Min. 10 years (120 months) of experience in a position responsible for quality control of reserved technical equipment (in design, implementation, or construction supervision activities) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers.

Supplier's original question to the expert in question:

We ask the VO for a justification why this person has to demonstrate a minimum of 10 years' experience only in the construction/renovation of technological units of energy facilities or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers, if the expert may have been involved in various other constructions with dedicated technical equipment.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience in a position in design, implementation or construction supervision activities as in our view these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. Its content clearly shows that the modernisation and greening of the WEEE is a complex and demanding project which cannot be compared to conventional projects/buildings with dedicated technical installations. The requirements for this expert are therefore in line with the objective pursued. The applicant did not specify what other constructions could be equivalent in terms of complexity to the objective pursued and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

I do not consider your answer as a quality controller of reserved technical equipment performs his activity during the implementation so we do not understand the admission of experience from the design and therefore we ask the VO to explain on what basis he stated that he can prove experience in the position of design, implementation or construction supervision activities. We also ask the EAC to add to the tender conditions the competences and activities to be carried out by the expert in question in order to make the tender documents unambiguous.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

The contracting authority hereby deletes the possibility to demonstrate the experience of this expert in the field of projection. Annex 3 of the Contract: List of key persons will be modified in this context.

Expert in functional testing, start-up and operation of complex power units:

- *Min. 10 years (120 months) of experience in a position responsible for functional testing, commissioning and operation of power units (in design, implementation or construction supervision activities) in the construction/reconstruction of technological units of power plants or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million (VAT excluded) or in the construction of technological units in manufacturing companies with combustion boilers.*

Supplier's original question to the expert in question:

We request the VO to justify why this person has to demonstrate a minimum of 10 years' experience only in the construction/reconstruction of technological units of energy facilities or ZEVO or on infrastructure constructions with embedded technologies with an investment value of at least EUR 5 million excluding VAT or in the construction of technological units in manufacturing companies with combustion boilers, if the expert could be involved in various other constructions with the performance of functional tests, start-ups and operations of complex energy units of the selected construction.

We also ask the VO to explain on what basis it has stated that it can demonstrate experience in a position in design, implementation or construction supervision activities as in our view these functions are not comparable to each other.

Answer of the contracting authority dated 14.8.2023:

The contracting authority draws the attention of the interested party to the document "Concept of Modernisation and Greening of the WEEE", which describes in detail the scope and complexity of the whole project. It is clear from its content that the modernisation and greening of the WEPP is a complex and demanding project which cannot be compared to conventional projects/buildings with the performance of functional tests, start-ups and operations of complex power units of the selected building. Therefore, the requirements for this expert are in line with the objective pursued. The tenderer did not specify what other or selected constructions could be equivalent in terms of complexity to the objective pursued and why.

The contracting authority shall also allow the required experience to be demonstrated by experience in the field of design, implementation or supervision, since the subject of the contract is design, implementation and supervision. Therefore, the contracting authority sees no objective reason to require or limit the experience of this expert only in design, or only in implementation, or only in supervision.

Supplier's question asked again with addition/clarification:

We understand the objectives of the project and as a bidder our question did not underestimate the requirements for an expert but asked for justification of reasonableness. I can cite, for example, buildings in the metallurgical industry or the petrochemical industry as similar constructions. We continue to ask the EAC for justification of reasonableness.

I do not consider your answer as the Expert for functional testing, commissioning and operation of complex energy units performs his activity during the implementation so admitting experience in design is not understood and therefore we ask the VO to clarify on what basis he stated that he can demonstrate experience in the position of *design, implementation or construction supervision activities*. We also ask the EAC to add to the tender conditions the competences and activities to be carried out by the expert in question in order to make the tender documents unambiguous.

CA's reply to the supplementary question:

For a given key person, the procuring entity has identified three alternative/equivalent project types that will be recognized in the practice calculation, and does not identify the industry area in any of the project types. Therefore, the procuring entity sees no reason why projects/buildings from the metallurgical or petrochemical industries that involve construction/renovation:

1. technological units of energy installations or
2. relate to infrastructure works with embedded technologies with an investment value of at least EUR 5 million excluding VAT; or
3. relate to the construction of process units in production plants with combustion boilers

should not have been accepted.

The contracting authority hereby deletes the possibility to demonstrate the experience of this expert in the field of projection. Annex 3 of the Contract: List of key persons will be modified in this context.

Original question 2:

We request the VO to justify the reasonableness of the setting of conditions for experts, in particular the fact that the VO does not require the above experts to submit any authorizations other than the authorization for a chartered architect and certified welder, i.e. the VO does not require the experts to submit a document proving that they are chartered civil engineers or building supervisors covered by the SKSI Chamber within the meaning of the Chartered Engineers Act? Respectively, they do not have a certificate, a document to carry out selected activities, e.g. OSH, etc.

Answer of the contracting authority dated 14.8.2023:

In accordance with the draft contract Article VII Rights and Obligations of the Contractors, point 7.1 (d) and (e), by signing the contract, the future provider declares/confirms, undertakes/guarantees that:

(d) "possesses sufficient / appropriate professional / specialist skills / knowledge and capacity (including Key Persons) necessary for the proper provision / performance of the Services / activities under this Contract, including in relation to its demonstrated technical / professional competence and capacity under the RFP (Key Persons);

(e) has all necessary authorisations/permits for the purpose of proper provision/performance of the Services/activities."

In view of the objective pursued by this contract, which is clearly described in the Tender documents and their annexes, and on which the draft contract is based, it is clear that the performance of the contract must be carried out by persons possessing the appropriate authorisations. The fact that the contracting authority does not require the submission of the relevant qualifications of key experts as part of the minimum required level of technical and professional competence does not call this into question. There is nothing to prevent the fulfilment of the contractual obligation in question from being verified during the performance of the contract.

Supplier's question asked again with addition/clarification:

I don't consider your answer to be an answer, since if you address in your answers that

1. *In this context, the CA would like to point out that the reliability and safety of the future operation depends on the correctness of the structural engineer's calculations for technological units such as the boiler, flue gas cleaning technology, air-cooled condenser, etc., and therefore the CA cannot afford to underestimate the experience of this expert.*
2. *Underestimation of the requirements for key experts directly threatens the achievement of the pursued goal, which is a professionally complex project involving many elements with a huge risk of financial, environmental and criminal damage.*

So how can you take such a lax approach to checking credentials. Verification of authorisations during contract execution poses a huge risk of financial environmental and criminal damage and therefore it is not possible to agree with the CA's statement. Please also note that many times only foreign experts will meet the above conditions, but according to Slovak regulations they must have authorisations valid

in Slovakia. On the basis of the above, we also ask to indicate what authorisations are required for individual experts so that the successful bidder does not interpret the authorisations in a different way than is valid in Slovakia. We would like to point out that the conditions must be unambiguous and cannot create arbitrariness. This also has an impact on pricing.

CA's reply to the supplementary question:

Referring to the description of the roles and competencies of the experts whose experience/experience is the subject of the fulfilment of the Conditions of Participation, the Contracting Authority does not, with one exception, require these experts to be licensed, as the experts in question will act as team leaders in their respective specialisation. They are not expected (OLO, Inc. does not require them directly) to perform regulated activities (e.g. design activities). It is expected that the experts in question, who have the required experience, will professionally lead / supervise a team of persons who will perform the regulated activities and who will have the relevant authorisations. The Provider shall be responsible for ensuring that the DUR is prepared by persons who are appropriately authorised to do so. The Procuring Entity has agreed to a clarification of the contractual obligation which clearly commits the Provider to this obligation.

In relation to the reason why the CA requires experts as a team of leaders in a given specialty who may not be directly licensed to perform regulated activities, the CA states that the design team generally moves on to the next project after the design work is completed, however, it is the CA's interest and intent to select a provider with a team of experts who will participate and professionally manage the project to the extent required throughout the duration of the contract (or Stages 1 to 7). This is necessary for reasons of continuity of processes, information flow, memory of the experts concerned and substantial reduction of risks. This position can be held by both the designer and a person experienced in the implementation of similar projects or in the supervision of similar projects. These are roles/positions of contract guarantors for the areas concerned, not of expert responsible persons physically performing each single activity within the requirements and the given specialisation (this can be performed by another person with the appropriate authorisation directly responsible to the expert concerned as team leader of the specialisation).

As a result of this clarification, the following documents are being amended.

- Annex 3 of the Contract - List of key experts