Bjelovar, October 20th 2021.

CALL FOR TENDERS

Pursuant to Annex 4 "*Rules on the implementation of procurement procedures for persons not subject to the Public Procurement Act*" (version 7.0), which is integral part of the Common National Rules No. 05 (as Annex 03.), which entered into force in December 2020

Procurement number: 02/2021

PROCUREMENT OF EQUIPMENT NEEDED FOR INNOVATION OF THE PRODUCTION PROCESS

Project: Strengthening the competitiveness of the company ESCO - FOFONJKA by investing in digital and green transition

Table of Contents

1. General information ... 3
1.1. Contracting entity details ... 3
1.2. Person or office responsible for communication with tenderers ... 3
1.3. Availability of tender documentation ... 4
1.4. Clarifications of and amendments to the Call for tender documentation ... 4
1.5. Procurement number ... 5
1.6. Conflict of interest ... 5
1.7. Type of procurement procedure ... 5
1.8. Consortium ... 5
1.9. Subcontractors ... 6
2. Information about the subject-matter of procurement ... 6
2.1. Contract type (goods, works, services) ... 6
2.2. Description of the subject-matter of procurement ... 7
2.3. Groups of the subject-matter of procurement ... 7
2.4. Quantities and technical description of the subject-matter of procurement ... 7
2.5. Place of delivery ... 8
2.6. Delivery deadline of the subject-matter of procurement ... 8
3. Grounds for exclusion of a tenderer ... 9
3.1. Mandatory grounds for exclusion of a tenderer and evidence of non-existence of grounds for exclusion of the tenderer ... 9
4. Tender contents, drawing up method and submission method ... 10
4.1. Tender contents ... 10
4.2. Tender drawing up method ... 11
4.3. Tender submission method ... 12
5. Tender submission date, time and place ... 13
5.1. Tender validity period ... 13
5.2. Selection criterion ... 14
6. Tender review and evaluation ... 14
7. Decision on the selection ... 15
8. Conclusion of the procurement contract ... 17
8.1. Amendments to the contract ... 17
9. Other provisions ... 19
10. Complaints ... 19

1. General information

ESCO – FOFONJKA d.o.o. is implementing "*Strengthening the competitiveness of the company ESCO - FOFONJKA by investing in digital and green transition"* project, in accordance with the project application submitted to the Call for Proposals *"Strengthening the competitiveness of enterprises by investing in digital and green transition"* (reference number: KK.11.1.1.01), implemented by the Croatian Agency for Small Business, Innovation and Investment (HAMAG BICRO) and the Ministry of Economy and Sustainable Development.

The project is co-financed by the European Regional Development Fund under the Operational Program Competitiveness and Cohesion 2014 - 2020.

In order to strengthen its market position, increase competitiveness and business efficiency, ESCO-FOFONJKA d.o.o. plans the implementation of an innovative production process and business organization with the aim of achieving technologically advanced production and digital and green business transition, development of new competencies, increasing production and export and preserving existing and creating new jobs.

The total value of the project is HRK 18.025.224,34, eligible costs amount is HRK 12.207.981,41. The expected aid is HRK 4.539.052,96. The estimated duration of the project is 26 months.

1.1.Contracting entity details

Contracting entity's name and address:	ESCO - FOFONJKA d.o.o., 29. rujna 4, 43 000 Bjelovar, Republic of Croatia
VAT No.:	92264001001
Telephone:	+385 43226250
Fax:	+385 43226275
Website:	https://esco.hr/
E-mail:	esco@esco.hr

1.2.Person or office responsible for communication with tenderers

First and last name:	Dijana Tadić
E-mail:	dijana.tadic@esco.hr
Address:	29. rujna 4, 43 000 Bjelovar, Republic of Croatia
Telephone:	+385 43 226 255

1.3.Availability of tender documentation

Call for Tender and complete tender documentation, any questions and answers to potential tenderers, as well as all the information on the amendments to the Call for tender documentation will be made available to potential tenderers at http://www.strukturnifondovi.hr/.

1.4.Clarifications of and amendments to the Call for tender documentation

For the duration of the tender submission deadline, economic operators may ask questions and request clarifications regarding the Call for tender documentation. All questions arising from ambiguities in the content of the Call for tender documentation, if any, an economic operator wishes to ask the Contracting entity, as well as any other communication between the Contracting entity and the economic operators shall be made entirely in writing by e-mail.

The Contracting entity shall respond to all requests for clarifications and additional information related to the Call for tender documentation only if the requests have been timely submitted to the contact person's e-mail at dijana.tadic@esco.hr. A request shall be deemed timely submitted if received on the forth (4th) day preceding the tender submission deadline at the latest.

All answers and clarifications will be made available by the Contracting entity on the same website where the original Call for tender documentation has been made available (link: http://www.strukturnifondovi.hr/) on the third (3rd) day preceding the tender submission deadline at the latest, without specifying applicant details.

The Contracting entity reserves the right to amend the Call for tender documentation during the tender submission deadline. Any amendments thereto shall be made available on the same websites where the original Call for tender documentation has been made available.

In case of need to amend the Call for tender during the last five (5) days before the expiration of the initial deadline for tender submission, the extension of the tender submission deadline shall be relative to the importance of change, but not less than five (5) days, counting from the day of the amend.

If for any reason information on amendments to the Call for tender documentation and answers to tenderers' questions are not made available in a timely manner, the Contracting entity shall extend the tender submission deadline accordingly so that all interested tenderers can make themselves familiar with all information necessary to draw up the tender. The extension of the tender submission deadline shall not be less than eight (8) days.

1.5.Procurement number

02/2021

1.6.Conflict of interest

The list of economic operators with whom the Contracting entity is in conflict of interest based on the description of conflict of interest in the applicable Public Procurement Act and the principle of avoiding conflicts of interest as defined in Annex 4 *Rules on the implementation of procurement procedures for persons not subject to the Public Procurement Act* (version 7.0), which is integral part of the Common National Rules No. 05 (as Annex 03.), which entered into force in December 2020.

The Contracting entity may not enter into public procurement contracts with the following economic operators:

I. POB d.o.o., 29. rujna 4, 43 000 Bjelovar, Republic of Croatia, VAT No.: 13014705621

1.7. Type of procurement procedure

A type of procurement procedure is the procedure provided for in Section 4. (Call for Tender) of Annex 4 *Rules on the implementation of procurement procedures for persons not subject to the Public Procurement Act* (version 7.0), which is integral part of the Common National Rules No. 05 (as Annex 03.), which entered into force in December 2020.

Annex 4 is available at: http://www.strukturnifondovi.hr.

In this public procurement procedure any interested party may submit a tender.

1.8. Consortium

Joint tenders of two or more tenderers in a consortium are allowed in this procurement procedure.

A consortium means an association of several economic operators submitting a joint tender in a timely manner. The responsibility of the tenderers from the consortium is solidary.

A tenderer who has submitted a tender for one or more groups of the subject-matter of procurement independently may not participate in a joint tender of a consortium at the same time.

The joint tender of the consortium shall contain information about each consortium member, as defined in Annex I – Tender submission form, including information about the consortium member authorized for communication with the Contracting entity, as required.

When submitting a joint tender, each consortium member shall submit all documents in order to determine whether there are grounds for exclusion, while all members shall prove (cumulative) joint eligibility by submitting other required evidence of eligibility, if applicable.

The joint tender shall specify which part of the procurement will be performed by individual consortium members (indicating the subject-matter, quantity, value and percentage).

In case the joint tender of the consortium is selected, the Contracting entity shall make direct payments to the each consortium members for part of the contract that consortium member performed.

1.9. Subcontractors

The tenderers in this public procurement are allowed to subcontract part of the contract to subcontractors.

A subcontractor means economic operator which fulfils a contractual obligation or its part on behalf of a successful tenderer.

If a tenderer intends to subcontract a part of the contract to one or more subcontractors, they shall indicate (in Annex I – Tender submission form) all required information about subcontractors and the subject-matter, quantity, value and percentage of the part of the contract being subcontracted. The Contracting entity shall make payments directly approved subcontractors.

If the tenderer fails to submit information about the subcontractor, it shall be considered that the entire subject-matter of procurement will be performed by the tenderer itself.

Participation of subcontractors shall not affect the responsibility of the tenderer to perform the contract.

2. Information about the subject-matter of procurement

2.1. Contract type (goods, works, services)

Goods

2.2. Description of the subject-matter of procurement

Procurement of equipment needed for innovation of the production process.

The subject-matter of procurement has been divided into the following two (2) groups:

Group 1 – Optical measuring device for springs
Group 2 – Spring coiling machine

Technical specifications of each individual group of the subject-matter of procurement are defined in Annex IV hereof (Annex IV – Technical Specification). Quantities for each individual group of the subject-matter of procurement are defined in Annex III hereof (Annex III – Cost estimate).

2.3. Groups of the subject-matter of procurement

The subject-matter of procurement has been divided into the following two (2) groups:

Group 1 – Optical measuring device for springs
Group 2 – Spring coiling machine

A tenderer may submit a tender for one or all groups of the subject-matter of procurement. A separate tender in a sealed envelope, shall be submitted for each group. The tender shall include all items within a group as defined in Annex IV - Technical Specification hereof. **A tenderer may submit a single tender for each group**.

All tenders of a tenderer submitting or participating in multiple tenders within a group, either as an independent tenderer or subcontractor as well as tenders in which they participate as a consortium member, **shall be rejected**.

2.4. Quantities and technical description of the subject-matter of procurement

Quantities of each individual group of the subject-matter of procurement are defined in Annex III - Cost Estimate of the Call for tender documentation. Quantities must be offered as requested.

Detailed technical specifications of the subject-matter of procurement are contained in Annex IV– Technical specifications of the Call for tender documentation. The requirements defined by the technical specifications shall be the minimum technical characteristics with which offered goods must comply and **they shall not be modified by a tenderer**.

The tenderer shall fill in column "Offered specifications" as required by defining detailed

technical specifications of offered goods (note: the tenderer fills in the technical specifications by entering exact characteristics of the offered goods, while avoiding filling the column only with words such as "complies with", "YES", "equivalent with the required specifications" or "corresponds with the required specifications").

The tenderer may fill in column "Notes or references to the technical documentation" if considered necessary.

The **tenderer shall not fill in** column "Evaluation YES/NO" for such column is reserved for the Contracting entity's evaluation.

In order for the tender to be considered valid, the offered subject-matter of procurement shall comply with all requirements in Annex IV – Technical specifications.

2.5.Place of delivery

Final place of delivery of subject-matter of procurement is at the address: ESCO - FOFONJKA d.o.o., 29. rujna 4, 43 000 Bjelovar, Republic of Croatia.

The successful tenderer subject-matter of procurement shall deliver in accordance with Incoterms® 2010 delivery terms DAP (Delivered-at-place) Bjelovar of the International Chamber of Commerce.

2.6.Delivery deadline of the subject-matter of procurement

The successful tenderer shall deliver the goods within the following deadline:

Group 1: no later than **60 calendar days** after the signing of the Procurement Contract

Group 2: no later than **120 calendar days** after the signing of the Procurement Contract

Note: Public holidays, Saturdays and Sundays do not affect the start and course of the deadline. The term "calendar day" means all days including public holidays, Saturdays and Sundays.

In case of delay or failure to fulfil the obligation, the Contracting entity shall be entitled to claim liquidated damages.

3. Grounds for exclusion of a tenderer

3.1. Mandatory grounds for exclusion of a tenderer and evidence of non-existence of grounds for exclusion of the tenderer

Evidence of non-existence of grounds for exclusion shall be in Croatian or English and in Latin script. If a tenderer is not registered in Croatia or a document is in a foreign language (neither Croatian nor English), when submitting such documents, the tenderer shall also submit their translation into either Croatian or English.

In case of a consortium, circumstances related to grounds for exclusion shall be determined for all consortium members individually, while evidence of non-existence of grounds for exclusion shall be submitted for each consortium member.

In case of subcontracting a part of the public procurement contract to one or more subcontractors, the circumstances herein relating to the subcontractors shall be determined individually, while the tender shall also include evidence of non-existence of grounds for exclusion for the subcontractors.

The Contracting entity shall exclude a tenderer from the procedure if:

3.1.1. The economic operator or a person legally authorized to represent the economic operator (person who is a member of the board of directors, management board or the supervisory body or has powers of representation, decision making or supervision of the economic operator) have been convicted of any of the following felonies, or of corresponding felonies under the regulations of the country of an economic operator's registration office, or the country of nationality of the person authorized to represent the economic operator:

participation in a criminal organization, criminal association, commission of a criminal offense within a criminal association, association for the commission of criminal offenses, terrorism or offenses related to terrorist activities, money laundering or terrorist financing, child labor or other forms of human trafficking, corruption, bribery in business, abuse in public procurement, abuse of position and authority, illegal favoritism, bribery, trading in influence, giving bribes, trading in influence, abuse of position and authority, abuse of office, illegal intermediation, fraud, business fraud, tax or customs evasion, subsidy fraud

3.1.2. The economic operator has not fulfilled the obligation to pay salaries to employees, pay contributions for financing compulsory insurance (especially health or pension) or pay taxes in accordance with the regulations of the Republic of Croatia as the state in which the tenderer is established, in accordance with the regulations of the state of establishment (if the state of establishment is not Republic of Croatia), unless, in accordance with special rules, a deferral

of payment of the stated liabilities has been granted, and if the amount of due and unpaid liabilities does not exceed HRK 200

3.1.3. The economic operator has falsely declared, misrepresented or provided false information regarding the conditions the Contracting entity had stated as grounds for exclusion or eligibility criteria.

3.2. The tenderer shall prove non-existence of the grounds for exclusion referred to in item 3.1. hereof by submitting a signed declaration together with the tender. Such declaration is contained in Annex II hereof. Annex II shall be submitted for each consortium member, and/or subcontractor separately (if applicable).

3.3. The Contracting entity reserves the right to invite a tenderer to submit additional evidence in order to determine non-existence of the grounds for exclusion referred to in item 3.1.2. hereof, at any moment until the decision on the selection is reached, namely:

– in order to determine non-existence of the circumstances referred to in item 3.1.2. hereof:
a. A tax clearance certificate which shall not be older than 30 days from the public procurement opening date; or
b. A valid equivalent document of the competent authority of the country of the tenderer's registration if the certificate referred to in item a. is not issued; or
c. A statement under oath or a corresponding statement of the person legally authorized to represent a tenderer in front of a competent judicial or administrative authority, or a notary, or a competent professional or trade authority in the country of an economic operator's registration; or a statement certified by a notary, which shall not be older than 30 days from the public procurement opening date, if the certificate referred to in item a. or the equivalent document referred to in item b. is not issued in the country of the tenderer's registration.

4. Tender contents, drawing up method and submission method

When drawing up a tender a tenderer shall comply with the requirements and conditions set herein.

4.1.Tender contents

The tender shall include:

- Completed and verified Tender submission form (Annex I hereof), original
- Completed and verified Statement containing evidence of non-existence of the grounds for exclusion referred to in item 3.1. of the Call for Tender documentation (Annex II hereof), original
- Completed and verified Cost estimate (Annex III hereof), original

- Completed and verified Technical specifications (Annex IV hereof), original
- Optional: catalogues, brochures and similar if necessary

4.2.Tender drawing up method

4.2.1. A tender shall be drawn up in paper form, printed or written in indelible ink, bounded in irreversible whole and its ORIGINAL shall be submitted in one copy.

The tender shall be drawn up in Croatian or English and in Latin script. If a tenderer is not registered in Croatia or a document is in a foreign language (neither Croatian nor English), when submitting such documents, the tenderer shall also submit their translation into either Croatian or English.

When drawing up the tender the tenderer shall comply with the requirements and conditions set herein and shall not modify nor amend the wording of the Call for Tender documentation.

The tender shall be made in a way that makes irreversible whole. If, for the sake of scope or other objective circumstances, the tender cannot be made in a way that it is a whole, then it shall be made in two (2) or more parts, and the tenderer must specify in the content of the tender how many parts it consists of.

All corrections in the tender shall be made in such a way that the corrected text remains visible (legible) or provable (for example, the use of erasers or correction pens is not allowed). The corrections shall be accompanied by a date and the tenderer's signature.

Tenders and documentation enclosed with tenders will not be returned to tenderers.

All costs of drawing up the tender shall be borne by the tenderers. The tenderers shall not be entitled to any compensation of the costs of drawing up the tender.

4.2.2. The tender price shall be denominated in Croatian Kuna (HRK), Euro (EUR) or Dollar (USD). If the tender price is denominated in EUR or USD, it shall be because of the comparability of the tender, converted into HRK according to the mean exchange rate of the Croatian National Bank as on the day (date) set out in Annex I - Tender submission form.

The official exchange rate list of the Croatian National Bank is available at the following link: http://hnb.hr/temeljne-funkcije/monetarna-politika/tecajna-lista/tecajna-lista.

The tender price (excluding VAT) shall include all costs and discounts.

The tenderer may submit uncertified copies of the evidence of non-existence of grounds for exclusion or the evidence of capacity requested herein (if applicable). Uncertified print of an

electronic document shall also be considered an uncertified copy. Before reaching a decision on the selection, the Contracting entity may invite the most favorable tenderer to submit originals or certified copies of all requested evidence (such as certificates, documents, statements, authorizations, etc.) issued by competent authorities, unless the most favorable tenderer has already submitted such originals or certified copies in their tender.

The tenderer is expected to review the Call for tender documentation, including all instructions, forms, conditions and specifications. A tender not complying with the provisions hereof and containing errors, omissions or ambiguities, if such errors, omissions or ambiguities cannot be eliminated or if the tender clarifications or amendments still contain such errors, omissions or ambiguities, is considered to be a risk for the tenderer and shall be rejected.

A tenderer submitting a tender for multiple groups of the subject-matter of procurement shall submit all required documentation which must form an integral part of the tender for each individual group, including the evidence of non-existence of the grounds for exclusion and the evidence of capacity in a separate sealed envelope.

All tenders of a tenderer submitting or participating in multiple tenders within a group, either as an independent tenderer or subcontractor as well as tenders in which they participate as a consortium member, **shall be rejected**.

4.3.Tender submission method

Tender shall be submitted in a sealed envelope to the address of the Contracting entity.

4.3.1. Tender delivery method

A tender shall be submitted in a sealed envelope until the tender submission deadline to the address of the Contracting entity:

The Contracting entity: **ESCO - FOFONJKA d.o.o**

Address: **29. rujna 4, 43 000 Bjelovar, Republic of Croatia**

Procurement number: **02/2021**

Subject-matter of procurement: **Procurement of equipment needed for innovation of the production process**

<Please specify the procurement group for which the tender is submitted>

The wording on the front of the envelope: **"NOT TO BE OPENED"**

On the back of the envelope: **<The name and address of the tenderer>**

If the envelope is not marked according to the requirements herein, the Contracting entity shall not accept any liability in case of loss or premature opening of the tender.

The tenderer shall decide on the tender submission method of their own accord and bear any risks of possible loss or untimely submission of the tender.

The tenders and accompanying evidence shall not be returned to the tenderers.

Alternative tenders shall not be allowed.

4.3.2. The tenderer may submit modifications and/or amendments to the tender before the tender submission date. A modification and/or amendment to the tender shall be submitted in the same manner as the original tender and bear a mandatory indication of modification and/or amendment. In that case, the tenders shall be opened in the reverse order of receipt, whereby the receipt of the last version of the modified tender shall be considered time of receipt.

4.3.3. The tenderer may submit a statement on withdrawing the tender before the tender submission date. A written statement shall be submitted in the same manner as the original tender and bear a mandatory indication of withdrawal of the tender. In that case the tender shall be returned to the tenderer unopened.

5. Tender submission date, time and place

The tender must be received by the Contracting entity at the address referred to in item 4.3 hereof **not later than October, 29th 2021, until 15:00 p.m.**

Tenders received after the tender submission deadline shall not be considered and shall be returned to senders unopened.

All timely submitted tenders, modifications and/or amendments shall be entered into the register of received tenders and assigned a serial number according to the order of receipt.

A tender received after the tender submission deadline shall not be entered into the register of received tenders, but shall be registered and marked as late and returned to the sender.

5.1. Tender validity period

The tender shall remain valid for **45 days** from the tender submission deadline. The tenders with shorter validity period shall be rejected.

If the tender validity period expires, the Contracting entity may request the tenderer to extend the tender validity period accordingly.

5.2.Selection criterion

The selection criterion for subject matter of procurement shall be the lowest price of a valid tender.

6. Tender review and evaluation

The tender review and evaluation shall be performed by the Procurement Committee after the expiry of the tender submission deadline.

During the tender review and evaluation the Contracting entity may invite the tenderers to submit clarifications or amendments regarding the evidence as required in item 3 hereof, in order to eliminate errors, omissions or ambiguities which can be eliminated.

Documents which are or appear unclear, incomplete, and incorrect or contain errors shall be considered errors, omissions or ambiguities.

The tender submission form, cost estimate and guarantee for the seriousness of the tender (if applicable) are not considered certain documents that are missing in terms of Article 293 of the ZJN 2016 and the Contracting entity may not ask the tenderer to submit them during the evaluation of tenders.

The Contracting entity shall invite the tenderers within a reasonable period, which shall not be less than five (5) nor more than fifteen (15) days, to clarify or amend the evidence submitted pursuant to item 3 hereof, and shall not consider such clarifications or amendments modifications to the tender.

The Contracting entity may invite the tenderers within a reasonable period, which shall not be less than five (5) nor more than ten (10) days, to clarify certain elements of the tender in the part related to the tendered subject-matter of procurement. The clarification shall not result in modification to the tender.

Requesting clarifications or amendments shall not have the effect of discrimination, unequal treatment of the tenderers or of favoring a particular tenderer or economic operator.

The Contracting entity shall reject the following tenders based on the tender review and evaluation:

- Incomplete tenders (does not contain all the mandatory elements set by this Call for Tender);
- Tenders not complying with the provisions of the Call for Tender documentation;
- Tenders containing errors, omissions or ambiguities which cannot be eliminated;
- Tenders in which the tender price is not expressed in absolute amounts;
- Tenders in which errors, omissions or ambiguities have not been eliminated by clarifications or amendments;
- Tenders not complying with the requirements related to the characteristics of the subject-matter of procurement and thus does not meet the requirements of this Call for Tender;
- Tenders for which tenderer did not accept a correction of accounting error in writing
- Tenders by a tenderer submitting two or more tenders as a tenderer and/or a consortium member;
- Alternative tenders;
- Tenders that did not include the required warranties (if applicable)
- Tenders containing harmful provisions;
- Tenders by tenderers in conflict of interest:

After the tender review and evaluation, valid tenders shall be ranked according to the selection criterion. In case two (2) or more valid tenders are equally ranked according to the selection criterion, the Contracting entity shall select the tender which has been received earlier.

The tender complying with all conditions and has the lowest price shall be considered the best tender.

7. Decision on the selection

Based on the results of the tender review and evaluation, as well as on the tender selection criterion, the Contracting entity shall reach a Decision on the selection of the most favorable tender for the subject-matter of procurement or of the tenderer with whom to enter into the public procurement contract respectively.

The Decision on the selection shall at least contain:
- Name and address of the selected tenderer
- The total value of the selected tender (VAT excluded and VAT included)
- Date and signature

The Decision on the selection shall be sent on demonstrable way to tenderers.

The Contracting entity shall publish the Decision on the selected tenderer and the total value of the selected tender at the same place where the Call for Tender was published.

The period for reaching the Decision on the selection shall be thirty (30) days from the expiration of the tender submission deadline. The Contracting entity reserves the right to extend the deadline for making the Decision on the selection due to possible requests of the Contracting entity to clarify or supplement the tenderer's documentation, accept the correction of calculation error, explain the extremely low bid, submit updated supporting documents or other circumstances that may affect the deadline for making the Decision on the selection.

After ranking the tenders according to the selection criterion and before reaching the Decision on the selection, the Contracting entity may invite the most favorable tenderer with whom they intend to enter into the procurement contract, to submit originals or certified copies of one or more documents required herein. If the tenderer has already submitted originals or certified copies of such documents, they shall not resubmit them.

Originals or certified copies of the documents submitted for the purpose of verifying the tenderer may not correspond to the previously submitted uncertified copies of the documents, for example in terms of date of issue or validity, but they must serve as evidence that the tenderer still complies with the requirements the Contracting entity has set out herein.

If the most favorable tenderer fails to submit all requested originals or certified copies and/or fails to prove that they still comply with the requirements set out by the Contracting entity, the Contracting entity shall exclude such tenderer, or reject their tender respectively. Then the Contracting entity shall re-rank the tenders according to the selection criterion, without taking into account the tender of the excluded tenderer, or the rejected tender and invite a new most favorable tenderer to submit the requested documents.

The Contracting entity shall make a report on the tender review and evaluation during a tender evaluation meeting and notify all tenderers of the selection of provider/supplier by sending either a decision on the selection or a decision on non-acceptance in accordance with Annex 4 *Rules on the implementation of procurement procedures for persons not subject to the Public Procurement Act* (version 7.0), which is integral part of the Common National Rules No. 05 (as Annex 03.), which entered into force in December 2020.

The Exclusion Decision / The decision on the Refusal of the Tender will at least include:
- The name and address of the tenderer whose tender is refused
- Reason for refusal of the tender
- Date and signature

The Exclusion Decision / The Decision on the Refusal of the Proposal shall be sent on demonstrable way to tenderers.

In case no tender or no valid tender is submitted, the Contracting entity shall cancel this procurement procedure. In that case a Decision on the cancellation will be made and published on the website www.strukturnifondovi.hr.

The Decision on the cancellation shall at least contain the subject matter of the Procurement which is to be the subject of a Decision on the cancellation, the reasons for the cancelation, the time frame in which the same of similar procurement will be published, if applicable, and, the date and signature of the responsible person.

8. Conclusion of the procurement contract

Contracting entity shall after reaching the Decision on the selection enter into procurement contract.

The procurement contract shall be in accordance with the conditions set out in this procurement procedure and the most favorable offer.

Procurement contract shall contain at least the following information:

- Name and address, VAT No., phone No., fax and e-mail of the Contracting entity,
- Name and address, VAT No., phone No., fax and e-mail of the selected tenderer,
- The subject subject-matter of procurement,
- Price data with and without value added tax (VAT)
- Subject- matter delivery method and deadline
- Subject- matter methods and deadlines for payment

Procurement contract shall enter into force on the day it is signed by both parties.

8.1.Amendments to the contract

8.1.1. Any amendments to the Contract shall be in the form of a written appendix to the Contract and may only refer to those amendments which are not considered material in terms of content and basic elements of the Contract, in line with the regulations governing public procurement. Notwithstanding this provision, in cases provided in - item 8.1.6. a written appendix to the Contract shall not be necessary.

8.1.2. The following amendments shall be considered material in terms of this Article:

a) Amendments introducing conditions which, had they been part of the procurement procedure preceding the conclusion of the Contract, would have allowed submitting

different tenders than those submitted in the procurement procedure, or the selection of a different tender than the one selected in the procurement procedure;

b) Amendments significantly expanding the scope of the Contract;
c) Amendments modifying the economic balance of the Contract in favour of the Supplier in a manner not envisaged in the Contract;
d) Amendments modifying the contracting party of the successful tenderer, or the Supplier respectively.

8.1.3. The following amendments to the procurement contract shall not be considered material:

a) Possible amendments to the Contract (in terms of scope and nature, as well as conditions for such amendments), have been provided in the tender documentation in a clear and unambiguous manner, provided that such amendments do not change the legal nature of the Contract;
b) The total value of all amendments is less than 10% of the total contract value, provided that such amendments do not change the legal nature of the Contract;
c) Change of the Supplier has occurred due to legal succession, which is the result of the status change on the part of the Supplier, provided that such succession has not been conducted in order to avoid application of the Public procurement Act and that the economic operator becoming the new contracting party complies with all conditions and requirements provided in the completed public procurement procedure. For the purpose of such change the Contracting entity shall be entitled, before consenting to the change, to request from the Supplier, or the new economic operator respectively, to submit evidence proving that the new contracting party complies with conditions and requirements provided in the public procurement procedure preceding the conclusion of the Contract.

8.1.4 The contracting party on the side of which circumstances causing amendments to the Contract have arisen, shall immediately submit a proposal for amendment to the counterparty. The proposition shall be made in writing and contain reasons for the proposed amendments. The counterparty shall respond whether they accept the proposed amendments within 10 days from the receipt of the proposal. In case both parties agree on the amendment content, the Contracting entity shall prepare an addendum to the Contract and submit it for signature to the Supplier within 10 days from such agreement or the day of notification thereof.

8.1.5. In case of need for additional documentation in order to consider the amendment proposal, the contracting party receiving the amendment proposal shall request submitting such documentation. In such case, the deadline for responding to the

proposed amendments shall stand still during the period from requesting additional documentation until its receipt and shall continue upon the expiry of such period.

8.1.6. A written appendix to the Contract for the purpose of changes of lesser importance, such as change of address, bank account or contact details, shall not be required, but one party shall notify in writing the other thereof. The effect of such change shall enter into force upon the receipt of such notice.

9. Other provisions

9.1. Payment deadline, method and terms

All obligations of the Contracting entity to selected tenderer shall be effected as follow:

- Group 1 – Contract price shall be paid within 14 days after the date of issuing an invoice or after the date of the Contracting entity's Statement on acceptance of the goods, whichever occurs later

- Group 2 – 30% of the contract price will be paid in advance, and the remaining 70% of the contract price will be paid after the selected Tenderer confirms the goods are ready for delivery.

Payment will be made to the Selected Tenderer in the currency in which the tender was submitted.

9.2. Confidentiality of economic operators' documents

If an economic operator considers certain information in a tender confidential, they shall indicate the legal basis for such confidentiality in the tender. Economic operators shall not consider unit prices, prices of individual items or the total tender price confidential.

9.3. Warranties

Warranties shall not be required.

10. Complaints

Each tenderer may file a complaint if they consider that their tender should have been selected as the most favorable one, but such outcome has been prevented due to the Contracting entity's non-compliance with Annex 4 *Rules on the implementation of procurement procedures for persons not subject to the Public Procurement Act* (version 7.0), which is integral part of the Common National Rules No. 05 (as Annex 03.), which entered into force in December 2020 due to which:

- They have been unjustifiably excluded from the procurement procedure;
- Their tender has been unjustifiably rejected; or
- The tender evaluation has been conducted contrary to the conditions and criteria set out herein and the provisions of Annex 4 *Rules on the implementation of procurement procedures for persons not subject to the Public Procurement Act* (version 7.0), which is integral part of the Common National Rules No. 05 (as Annex 03.), which entered into force in December 2020.

The complaint shall be submitted in writing to Intermediary Body Level 2 to:

Hrvatska agencija za malo gospodarstvo, inovacije i investicije
Ksaver 208
10000 Zagreb
Republic of Croatia
hamagbicro@hamagbicro.hr

while its copy shall be submitted to the Contracting entity the same address to which the original tender has been submitted within 8 days of the receipt of the Decision on the selection/The decision on the Refusal or the Decision on cancellation.

The applicant shall explain their allegations in the complaint.

Submitting the complaint shall not delay the conclusion of the procurement contract, but if the Contracting entity considers the complaint to be justified and if the contract has not yet been concluded, the Contracting entity may correct irregularities and reach a new decision, while notifying the Intermediary Body Level 2 thereof.

The Intermediary Body Level 2 shall consider the complaint in terms of verifying the reimbursement claim and may request additional information from the applicant and the Contracting entity. If the Intermediary Body Level 2 determines that the complaint is justified, they shall notify the applicant of their findings and refer them to seek judicial protection.

The applicant suffering damage due to violations of Annex 4 *Rules on the implementation of procurement procedures for persons not subject to the Public Procurement Act* (version 7.0), which is integral part of the Common National Rules No. 05 (as Annex 03.), which entered into force in December 2020 may seek an indemnity before a competent court pursuant to general provisions on indemnity.