



**Топлификација АД - Скопје**



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Company for production and distribution of heat

**OPEN PROCEDURE NO. 11 -10/2008  
FOR GRANTING AN AGREEMENT FOR PUBLIC SUPPLIES OF GOODS**

23 500 000 Nm<sup>3</sup> natural gas with minimum content of 97,7 % metan and  
Lower heating power of 33.5 MJ/Hm<sup>3</sup>

**TENDER DOCUMENTATION**

August 2008

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# Топлификација АД - Скопје



Company for production and distribution of heat

## AN INVITATION FOR SUBMITTING AN OFFER

*Dear,*

Toplifikacija AD –Skopje with its head office on Str. Londonska bb, contact phone 3 097 708, fax 3 076 057, e-mail toplifi@toplif.com.mk, has a need for procurement:

**23 500 000 Nm<sup>3</sup> natural gas with minimum content of 97,7 % metan and  
Lower heating power of 33.5 MJ/Hm<sup>3</sup>**

For that reason, the agreed organ starts a procedure for granting an agreement for public supply of goods with an open procedure, in accordance with article 21 from the Law on public supplies ("Government Gazette of Republic of Macedonia" no. 136/07), and an advertisement no. **11-10/2008** was issued.

We ask you to submit your offer for the above mentioned subject of the agreement for public supply at the latest on **01.10.2008** at **12 a.m.** (local time) by mail at the given address or in person by submitting it in the archives of the agreed organ.

With this invitation we send a tender documentation which contains all the information which will help you prepare the offer. The tender documentation consists of the following parts: instructions for the economic operators, technical specifications, mandatory provisions contained in the public supply agreement, and an offer form.

The opening of the offers will be public and it will be held in **01.10.2008** at **12 a.m.** at the premises of Toplifikacija AD –Skopje, heating plant "West", assembly room, second floor.

Thank you for the cooperation in advance.

**In Skopje**  
20.08.2008

**Commission for public supply**  
President: Ninevski Gjorgji

# I. INSTRUCTIONS FOR ECONOMIC OPERATORS

## 1. GENERAL INFORMATION

### 1.1 Definitions

1.1.1 Certain terms used in this tender documentation have the following meaning:

- "**Contract for public supply**" is a contract of financial interest made in writing between the agreed organ from one side and the supply holder on the other side, and whose subject is delivery of goods which are subject of the agreement;

- "**Procedure for granting a contract for public supply**" is a procedure carried out by the agreed organ, whose purpose is buying or obtaining goods;

- "**Open procedure**" is a procedure where each economic operator has a right to submit an offer;

- "**Electronic auction**" is a repeatable process of negative bidding which is realized after initial complete evaluation of the offers, where the bidders have the opportunity, only by using electronic means, to revise the given prices or to improve certain elements of the offer, thus the ranking is automatically performed by electronic means;

- "**Tender documentation**" is a sum of documents, information and conditions which are the basis for preparation, submission and evaluation of the application for participation, i.e. the offer;

- "**Technical specification**" is a sum of technical services, regulations, references and standards which define in details the minimal requests from a technical point which the goods, the services or the things, which are subject of the contract for public supply, should meet;

- "**Economic operator**" is any natural or legal person or a group of such people who offer goods, services or things on the market;

- "**Bidder**" is any economic operator who has submitted an offer;

- "**Offer**" is a suggestion from the bidder made according to the tender documentation and it is a base for granting the contract for public supply;

- "**Technical offer**" is part of the offer which proves the fulfillment of the set technical requirements and conditions from the tender documentation;

- "**Financial offer**" is part of the offer which contains the offered prices according to the terms from the tender documentation;

- "**Alternative offer**" is an offer which offers different characteristics of the subject of the contract for public supply from the ones determined in the tender documentation;

- "**Supply holder**" is a bidder or a group of bidders who made the contract for public;

- "**Evaluation of the offer**" is a mark of the submitted offer in the procedure for granting a contract for public supply;

- "**Acceptable offer**" is an offer which has been submitted in the determined deadline and which fully meets the requirements of the tender documentation and the technical specifications and meets the criteria, conditions and possible requirements about the bidders ability;

- "**Responsible person**" is an official person who manages the state organ, a mayor of local self-government unit or a director of a legal person;

- "**Electronic means**" is using electronic equipment for data processing and storage (including digital compression), which are transferred, delivered and received through cable, radio or optical means or through other electromagnetic means;

- "**Electronic system for public supplies**" is a unique computerized system accessible on internet, which is used in order to provide higher efficiency in the field of public supplies;

- "**In writing or in a written form**" is any term which consists of words or numbers which can be read, multiplied and additionally notified, as well as information which is transferred and kept using electronic means provided that the security of the content is provided and the signature can be identified.

## **1.2 Agreed organ**

1.2.1 Agreed organ is Toplifkacija AD- Skopje, with its head office on Str. Londonska bb, contact phone 3 097 615, fax 3 076 057, e-mail toplifi@toplif.com.mk, web site: www.toplif.com.mk.

1.2.2 Contact person at the agreed organ is **Ninevski Gjorgji**, tel: 3 097 708, fax 3 076 057, e-mail ninevski@toplif.com.mk .

## **1.3 Subject of the contract for public supply**

1.3.1 Subject of the contract is procurement of **23 500 000 Nm<sup>3</sup> natural gas with minimum content of 97,7 % metan and Lower heating power of 33.5 MJ/Hm<sup>3</sup>**

1.3.2 The subject of the contract is inseparable. The bidder in his offer should include all the components. Otherwise the offer will be regarded as unacceptable.

1.3.3 A detailed description of the subject of the contract for public supply and the requested amounts is given in the technical specifications which are components of the tender documentation.

## **1.4 Type of a procedure for granting a contract for public supply**

1.4.1 The contract for public supply will be assigned by appliance of an open procedure.

1.4.2 This procedure will not be performed by using electronic means through the electronic system for public supplies.

## **1.5 Applicable regulations**

1.5.1 This procedure is performed in accordance with the Law in public supplies, issued in Government Gazette of the Republic of Macedonia no. 136/07 and the brought legal acts.

1.5.2 During the preparation of the offer, the bidder should take into consideration the regulations in the field of taxes and other public expenses, working relations, working conditions and protection while working and other regulations which are relevant for the subject of the offer. All the regulations may be found in appropriate editions of the Government Gazette of the Republic of Macedonia.

Additional data in relation to valid regulations from the above mentioned fields, the bidder can get from the Administration for public income, customs, the Ministry of Finance (for taxes and other public expenses), and the Ministry of Labor and Social Policy (for working relations, working conditions and protection while working).

## **1.6 Financial sources**

1.6.1 The finances for realization of the contract for public supply which is a subject of this procedure are provided by the current work and by credits.

## **1.7 Right to participate**

1.7.1 Every interested domestic and foreign legal and natural person – bidder, who is registered for doing the activity connected with the subject of the contract for public supply and who has taken tender documentation from the agreed organ has the right to submit an offer.

1.7.2 A group of bidders has also the right to submit an offer without an obligation for joining in appropriate legal form. The agreed organ will not ask the group of bidders to join in certain legal form if the same is chosen as a carrier of the supply.

1.7.3 The group of bidders should assign a representative who will have an empowerment to do all business activities for and in the name of any side and to every sides from the group of bidders during the procedure for granting a contract for public supply and during the contract performance, in case the same to be chosen as a carrier of the supply.

1.7.4 In case of an offer by a group of bidders, the representative of the group together with his offer should submit written authorization signed by all members of the group of bidders by which they authorize the representative to submit an offer and to overtake all rights and duties in their name and for their account. All members of the group of bidders are individually and in solidarity responsible to the agreed organ for doing their own duties. The agreed organ will communicate with the representative of the group of bidders.

1.7.5 The economic operator in the frame of the same procedure for granting a contract for public supply can participate only in one offer. All offers will be rejected if the economic operator:

- participates in more than one independent and/or as a member of a group offer or
- participates as a manufacturer in other independent and/or as a member of a group offer

1.7.6 The economic operator can participate as a manufacturer in more than one offer.

1.7.7 The bidder can engage sub-performers. The economic and financial situation, as well as the technical or professional ability of the sub-performers will not be taken into account, only in the cases from the articles 151 and 154 from the Law on public supplies. If the economic and financial situation, as well as the technical or professional ability of the bidder is not supported by other subjects in the form of sub-performers, he is not obliged to submit documentation for determining the ability of the sub-performers. Otherwise, it will be acted according to the articles 151 and 154 from the Law on public supplies, regardless of the fact whether the other subjects are reported as sub-performers or not.

1.7.8 The bidder is obliged in his offer to state the parts of the offer which he will give to the sub-performers to do.

1.7.9 People who participated in making the tender documentation must not be bidders or members in a group of bidders in the procedure of granting the contract.

## **1.8 Offer submission expenses**

1.8.1 The economic operator bears all the expenses related to the preparation delivery of the offer, and the agreed organ is not responsible for those expenses regardless to the running and outcome from the procedure for granting a contract for public supply.

## **1.9 Criterion for granting the contract for public supply**

1.9.1 Criterion for granting the contract for public supply is economic most advantageous offer. The economic operator whose offer will be evaluated as economic most advantageous, i.e. which will win the biggest number of points as a sum of the points for every element of the criterion economic most advantageous offer will be chosen as a carrier of the offer.

1.9.2 As elements of the criterion economic most advantageous offer are taken the following:

<b>Ordinal no.</b>	<b>Criteria</b>	<b>Points</b>
1	<b>Price</b>	50
2	<b>Way of payment</b>	50
2.1	with an advance payment	0
2.2	without an advance payment	0
2.3	deferred payment, i.e. crediting	50
3	<b>TOTAL</b>	100

1.9.3 For the element price a total of 50 points is determined. Because of the evaluation, the price of the offer will be calculated as a total price without a value added tax, and the offer which has the lowest offered price will get most points. The points for the element price in the other offers will be given according to the following formula:

$$\frac{\text{The lowest offered price (without VAT)} \times 50}{\text{offered price (without VAT)}}$$

1.9.4 For the element way and terms of payment a total number of 50 points is determined. The same will be evaluated in the following way:

$$\frac{\text{Offered time limit for deferred payment} \times 50}{\text{the longest offered time limit for deferred payment}}$$

1.9.6 The evaluation of the offers will be done in accordance with the Methodology for expressing the criteria for granting the contract for public supply in points (“Government gazette of Republic of Macedonia” no. 19/2004).

### **1.10 Prevention of conflict of interests**

1.10.1 For prevention of conflict of interests in the procedures for granting contracts for public supplies, the rules from the Law on prevention of conflict of interests are applied appropriately.

1.10.2 The carrier of the supply must not, while performing the contract for public supply, engage people who were involved in the evaluation of the offers submitted in a procedure for granting a contract for public supply, during the contract. In that case the contract is considered as an invalid.

### **1.11 Way of communication**

1.11.1 Every request, information, announcement and other documents in the procedure are sent in a written form. Every document is recorded at the moment of sending, i.e. at the moment of receiving.

1.11.2 The documents, except the offer, are sent: by post, fax or by electronic means.

1.11.3 The document which was sent by fax, the submitter is obliged to deliver by post or by using electronic means in two days after the day of sending the documents by fax.

1.11.4 The way for submitting the offers is determined in point 4 from the Instructions for the bidders.

## 2. ABILITY OF THE ECONOMIC OPERATORS

### 2.1 Way to prove the ability

2.1.1 With the offer the economic operator must submit accompanying documentation which will prove the following:

Ordinal no.	Criteria to prove the ability
1	Personal ability
2	Ability for performing a professional activity
3	Technical or professional activity

2.1.2 The needed documentation should be submitted in original or copy verified by the economic operator with a seal and with a signature of the responsible person, with a label “exactly as the original”.

2.1.3 During the checking of the completeness and the validity of the documentation for determining the ability of the economic operator and during the evaluation of the offer, the commission may ask the economic operators to explain or supplement the documents.

2.1.4 The economic operator submits the needed explanation in a written form in the term determined by the agreed organ.

2.1.5 Changes in the offer, except correction of arithmetical mistakes, must not be requested, offered or allowed by the commission or the economic operator.

### 2.2 Personal situation

2.2.1 The agreed organ will exclude from the procedure for granting a contract for public supply every economic operator:

- who has an effective sentence in the last five years for participation in crime organization, corruption, fraud or money laundering;
- who is in process of receivership or in process of liquidation;
- who has unpaid taxes, or other public taxes;
- to whom an offence sanction is stated – prohibition for doing a job, activity or duty, i.e. temporary prohibition for doing separate activity and
- who gives false data or does not submit the data requested by the agreed organ.

2.2.2 In order to prove his own personal situation, the economic operator submits the following documents:

- a statement of the economic operator that in the last 5 years effective sentence was not stated for participation in crime organization, corruption, fraud or money laundering;
- a certificate that a procedure for receivership is not opened by a competent body;
- a certificate that a procedure for liquidation is not opened by a competent body;

- a certificate for paid taxes, and other public taxes by a competent body from the country where the economic operator is registered;
- a certificate that with an effective sentence an offence sanction is not stated - prohibition for doing a job, activity or duty, i.e. temporary prohibition for doing a separate activity.

2.2.3 The economic operator makes and signs the statement from paragraph 1 from subsidiary point 2.2.2 and it should not be verified by a competent body.

2.2.4 The certificates that a procedure for receivership and liquidation is not opened are issued by competent bodies in the country where the economic operator is registered. In Republic of Macedonia competent body for issuing such certificates is the Central register in Republic of Macedonia or the competent court of law.

2.2.5 The certificate for paid taxes and other public taxes is issued a competent body from the country where the economic operator is registered. In Republic of Macedonia a competent body for issuing such certificate is the Administration for public taxes.

2.2.6 The certificate from paragraph 5 subsidiary point 2.2.2 is issued by the competent body in the country where the economic operator is registered. In Republic of Macedonia a competent body for issuing such certificate is the competent court of law.

2.2.7 The documents from subsidiary point 2.2.2 shouldn't be older than 6 (six) months counting from the deadline for submitting the offers backwards.

2.2.8 If the country where the economic operator is registered does not issue the documents stated in subsidiary point 2.2.2 or if they don't include all of the above mentioned cases, the economic operator can submit a statement verified by a competent body.

### **2.3 Ability for doing a professional activity**

2.3.1 In order to prove the ability for doing a professional activity, the economic operator should submit a document for registered activity as a proof that he is registered as natural or legal person for doing an activity related to the subject of the contract for public supply or proof that he belongs to appropriate professional association in accordance with the rules of the country where he is registered.

### **2.5 Technical or professional ability**

2.5.1 In order to qualify himself as able for performing the contract for public supply from the aspect of its technical or professional ability, the economic operator should meet the following minimal conditions:

1.	Natural gas trade licence
2	Certificate for quality, that is physical and chemical characteristics of the natural gas

2.5.2 The technical and professional ability of the economic operator may be supported by other subject, regardless to the legal relations between the economic operator and the subject. If the economic operator proves his technical and professional ability appealing for support from other subject, he is obliged to prove the support with valid proof that the subject will place at economic operator's disposal the appropriate technical and professional resources. Against the subject which provides the technical and professional support legal sentence must not be stated for participation in crime organization, corruption, fraud or money laundering.

2.5.3 If economic operators submit an offer as a group of economic operators, the technical and professional ability is proved by taking into account the resources of all members of the group. If the group of economic operators participates with technical or professional support by a third subject, the technical and professional support is determined in accordance with the above mentioned.

### **3. EXPLANATION, CHANGE AND SUPPLEMENT OF THE TENDER DOCUMENTATION**

#### **3.1 Explanation of the tender documentation**

3.1.1 The economic operator may ask for explanation of the tender documentation from the agreed organ, exclusively in a written form, 6 days before the deadline for submitting offers at the latest.

3.1.2 The agreed organ should submit the explanation to all economic operators which have taken tender documentation, without identification of the economic operator which asked for explanation.

#### **3.2 Change and supplement of the tender documentation**

3.2.1 The agreed organ keeps the right at the latest 6 days before the deadline for submitting the offers, on the basis of the asked questions submitted by the bidders, to change or supplement the tender documentation, and immediately to inform all economic operators which have taken it.

3.2.2 In case of change of the tender documentation, the agreed organ may continue the deadline for submitting the offers at the request of the economic operator (if there are justified reasons) and provide at least 5 working days for submitting the offers after giving the economic operators the explanation/supplements.

3.2.3 In case of extending the deadline, the agreed organ is obliged to inform in a written form all economic operators which have taken the tender documentation.

### **4. PREPARATION AND SUBMITTING THE OFFERS**

#### **4.1 Content of the offer**

4.1.1 The offer should be prepared according to the original tender documentation and it consists of the following elements:

- completed offer form consisted of a general part and a price list and delivery terms;
- documents for determining the personal situation stated in subsidiary point 2.2.2. from the tender documentation;
- document for determining the ability for doing a professional activity stated in subsidiary point 2.3.1 from the tender documentation;
- evidence for determining the technical and professional ability stated in subsidiary point 2.5.1 from the tender documentation;
- bank guarantee for participation, stated in point 4.6;
- authorization in a written form for the representative of the group of economic operators (only for a group of economic operators).

4.1.2 The economic operator must use the forms given in this tender documentation and they must be filled in without any changes of their form. Otherwise the offer can be rejected as unacceptable.

## **4.2 Language of the offer**

4.2.1 The offer, as well as all documents and correspondences related to the offer have to be submitted in Macedonian.

4.2.2 The printed literature can be in other language. The agreed organ keeps the right in the phase of evaluation of the offers to ask the bidders to make a translation of the printed literature which is submitted in other language.

## **4.3 Offer price**

4.3.1 The economic operator in the price list and delivery terms inputs the price for each part individually, together with the delivery term.

4.3.2 The offered price should include all costs and discounts of the economic operator, and it should be expressed without a value added tax which is shown separately.

4.3.3 The offer price is written with numbers and letters

4.3.4 If the offer price is unusual low and it is not in accordance with measured value of the supply, the agreed organ will ask the economic operator to explain the reasons for such price of the offer in a written form. If the economic operator does not succeed to explain in a written form the reasons for such price in 7 days from the date for submitting the request, or if the Commission does not accept its reasons, the offer will be rejected.

## **4.4 Offer currency**

4.4.1 Offer currency is the Macedonian denar. The Macedonian denar will be used as a currency for evaluation the offers. The exchange rate of the National Bank of Republic of Macedonia will be used, and the exchange rate mechanism is the one which was valid 14 days before the deadline for submitting the offers.

## **4.5 Validity period of the offer**

4.5.1 The offers should be valid at least 60 days from the day of the offers' opening. If the day for opening the offer is free, the validity period of the offer starts from the following working day. The offer which is valid for shorter period is rejected, the agreed organ rejects as an offer which does not meet the conditions.

4.5.2 The agreed organ may ask for continuing the validity period of the offer from the bidders.

## **4.6 Guarantee for participation**

4.6.1 As a part of the offer the economic operator must provide a guarantee for participation (guarantee of the offer) in amount of at least 3% from the total value of the offer without VAT.

4.6.2 The guarantee is in a form of a bank guarantee, issued by a well-known bank institution chosen by the economic operator. For the agreed organ all banks are acceptable.

4.6.3 The guarantee should be submitted in original form. Copies are not accepted. The guarantee must have validity period at least 14 days from the day when the validity of the offer ends. Every offer which does not include a guarantee for participation, or includes a guarantee for participation which is not in accordance with the terms in the tender documentation, will be rejected by the agreed organ as an unacceptable.

4.6.4 The guarantee for participation of the unsuccessful economic operators will be returned in 7 days after signing the contract with the most advantageous economic operator.

4.6.5 The guarantee for the offer can be charged, if the economic operator withdraws its offer before the validity period ends, it does not accept the correction of the arithmetical mistakes done by the commission, it

does not sign the contract for public supply and it does not provide a guarantee for quality performance of the contract.

#### **4.7 Form and signing the offer**

4.7.1 The offer is submitted in one original sample, written with an indelible ink and signed by the responsible person of the economic operator or a person empowered by it. If the offer is signed by a person empowered by the responsible person, an empowerment for signing the contract signed by the responsible person should also be submitted. The initials from the person who signs the offer should be written on all the pages from the offer, except for the unchanged printed literature.

4.7.2 Each writing between lines, deleting or writing on previously written text is valid only if it is signed or the initials from the person who signs the offer are written on it.

#### **4.8 Sealing and marking the offers**

4.8.1 Only the economic operators which have taken a verified sample of the tender documentation from the agreed organ may submit offers.

4.8.2 The economic operator encloses the original sample of the offer with the tender documentation and sample from printed editions in a sealed inside envelope where the full name and address of the economic operator are written. The sealed inside envelope is closed in an outside envelope which:

- is addressed with correct address of the agreed organ;
- includes information about the number of the advertisement for granting a contract for public supply and the date when it is issued;
- in the upper left corner a warning is written "Do not open", not to be opened before the time and date for opening the offer.

4.8.3 If all envelopes are not sealed and marked as it is required, the Agreed organ does not overtake any responsibility for misplace, incomplete arrival in his archives or early opening of the offer.

#### **4.9 Visiting the location**

4.9.1 In this procedure visiting the location is not planned.

#### **4.10 Deadline and place for submitting the offers**

4.10.1 Deadline for submitting the offers is **01.10.2008**, until **12 a.m.**.

4.10.2 The offers are submitted at the following address: Londonska bb , labeled "For open procedure no.11-10/2008".

4.10.3 The offer which is submitted after the deadline for submitting offers is rejected as late and it will be returned to the economic operator unopened.

#### **4.11 Change, replacement and offer withdrawal**

4.11.1 The bidders can change, replace or withdraw their offers after submitting the offer, under condition that the changes, replacements or the withdrawals are received from the agreed organ before the deadline for submitting offers stated in point 4.10.

4.11.2 The changes, replacements and the offer withdrawals will be prepared, put in an envelope, marked and delivered according to point 4.8, and the envelope will be appropriately marked with "change", "replacement" or "withdrawal".

4.11.3 The offer can not be changed, replaced or withdrawn after the deadline for submitting offer stated in point 4.10.

4.11.4 The offer withdrawal in the period between the deadline for submitting offers and when the validity period of the offer ends will result in payment of the offer guarantee, according to point 4.6.5

## **5. OPENING AND EVALUATION OF THE OFFERS**

### **5.1 Opening the offers**

5.1.1 The public opening of the offers is done in the presence of one or two authorized representatives of the economic operators, who will decide to attend the opening. The authorized representatives of the economic operators at the public opening must have an authorization signed by the competent person of the economic operator. All the authorized representatives of the economic operators, attending the public opening, must sign a record list.

5.1.2 The public opening will be held on **01.10.2008** , at **12 a.m.**, at the premises of Toplifikacija joint-stock company –Skopje, heating plant ‘West’ , assembly room second floor .

5.1.3 The submitted offers are opened according to Law on public supplies and that is: one by one, by reading the name of the economic operator, and it can be noticed whether the bids are submitted according to point 4.9 from the tender documentation and whether they are in original. Then the offers are read in the same order as they are opened, except the offers, which according to Law on public supplies are excluded from the rest of the procedure.

First the replacements, the changes and the offers withdrawals will be opened and read. Then the prices on the offers will be read, including any discounts and offers guarantees. Only the discounts that will be read at the public opening of the bid will be considered when evaluating the offer. No offer will be rejected at the opening of the offers, except the ones that are late.

5.1.4 The commission for public supplies will start opening the offers publicly even if only one offer has arrived.

5.1.5 During opening the offers the minutes will be recorded according to the Statute for the procedure for offers opening and the Form for keeping the minutes for offers opening („Government gazette of Republic of Macedonia“ no. 154/07).

### **5.2 Confidentiality of the process of offers evaluation**

5.2.1 No information regarding the deliberation, the mark and the comparison of the offers in the process of evaluation will be revealed to the economic operators or to any other people who are not officially involved in the process.

### **5.3 Explanation of the offers**

5.3.1 In the period of deliberation and evaluation of the offers, the agreed organ can ask any economic operator to explain his offer. The demands from the agreed organ for an explanation and the answer are in a written form. No changes in the prices or in the offer content will be requested, offered or allowed, except for confirming the corrected arithmetical mistakes that the agreed organ has noticed while evaluating the offer.

5.3.2 Any explanation submitted by the economic operator regarding his offer that is not an answer to a request from the agreed organ will not be considered.

## **5.4 Correction of arithmetical mistakes**

5.4.1 If the offer is acceptable and it is completed and submitted according to the tender documentation, the agreed organ corrects the arithmetical mistakes in the following way:

- if there is a discrepancy between the words and the numbers, the amount written in words prevails.
- if there is a difference between the individual price and the total price, then the individual price prevails.

5.4.2 The commission for public supplies will correct the mistakes in the offer according to the described procedure and that will be binding for him.

5.4.3 If the economic operator does not accept the correction of the arithmetical mistakes, the offer will be rejected and a guarantee for participation will be activated.

## **6. GRANTING A CONTRACT FOR PUBLIC SUPPLY**

### **6.1 Criterion for granting a contract for public supply**

6.1.1 The agreed organ allocates the contract to the economic operator whose offer is confirmed as the most advantageous according to the criterion for allocating the contract for public supply – economically most advantageous offer, as it is confirmed in point 1.9 from the tender documentation.

### **6.2 Statement for granting the contract for public supply**

6.2.1 Before the period of validity of the offer expires, in 3 days most from reaching the decision for choosing the most advantageous offer, the chosen most advantageous economic operator will be informed in a written form that his offer is accepted. In the same time, all the other economic operators will be informed about the results from the tender, the decision who is the most advantageous economic operator and about the reasons for not choosing their offer.

### **6.3 Legal protection**

6.3.1 Every economic operator who has a legal interest for getting the contract for public supply and who has sustained or might sustain damages from a possible violation of the regulations from the Law on public supply can ask for legal protection against the decisions, activities and the failure to take action by the agreed organ in the procedure for allocation of a contract for public supply.

6.3.2 The complaint is issued in eight working days from the day of the advertisement for allocation of a contract for public supply regarding the data, activities or the failure to take actions from the advertisement,

- opening the offers in relation to the activities or the failure to take actions related to the tender documentation, i.e. the procedure for opening the offers,
- receiving the decision which determines the individual right from the procedure for allocation of a contract for public supply, in relation to determining the competence of the application for participation or evaluating the offers and the decision, or
- awareness of illegal procedure for allocation of a contract for public supply, in one year the latest from the day of completing the procedure.

6.3.3 The economic operator who failed to submit a complaint in relation to the regulations from subsidiary point 6.3.1, has no right for a complaint later in the procedure for the same legal principles.

6.3.4 The complaint should contain the following elements:

- information about the declarant (name, surname, name of the economic operator, address of residence and location),
- information about the agent or the legal representative,
- name and location of the agreed organ,
- number and date of the procedure for allocating a contract for public supply and information about the advertisement for allocating a contract for public supply,
- number and date of the decision for choosing the most advantageous offer, canceling the procedure or other decisions of the agreed organ,
- information about the activities or the failure to take actions by the agreed organ,
- description of the factual condition,
- description of the irregularities and their explanation ,
- suggestion of evidence,
- complaint and/or request for covering the costs of the procedure and
- signature of the authorized person and a seal.

6.3.5 The declarant is obliged to submit an evidence for paying the refund for the procedure.

6.3.6 The declarant who does not have a main office on the territory of Republic of Macedonia is obliged to assign a legal representative for receiving a written complaint.

6.3.7 The complaint is sent to the State commission. The complaint is submitted in person or by registered post simultaneously to the agreed organ and to the State commission. The day for submitting the complaint by registered post is considered as a submitting day. In case of submitting the complaint in person, the agreed organ is obliged to give the declarant a receipt with the time of reception.

6.3.8 In the procedure before the State commission the declarant, besides the administrative tax, pays a refund for the procedure according to the offer, and that is:

- from 20.000 euros in denars, a refund of 100 euros in denars,
- from 20.000 to 100.000 euros in denars, a refund of 200 euros in denars,
- from 100.000 to 200.000 euros in denars, a refund of 300 euros in denars or
- for more than 200.000 euros in denars, a refund of 400 euros in denars.

6.3.9 In a case of no existence of the offer, the amount of the refund for the procedure is calculated according to the estimated value of the contract for public supply, and the State commission informs the declarant about the amount of the refund and the deadline when he should submit an evidence for the payment.

6.3.10 The refund for the procedure is a revenue in the budget of Republic of Macedonia.

## **7. COMPULSORY ELEMENTS FROM THE CONTRACT FOR PUBLIC SUPPLY**

### **7.1 Way of payment**

7.1.1 The following way of payment is considered: Payment after a completed delivery –service, with an invoice with a deferred payment. The way of payment is compulsory. Every offer that contains a way of

payment different from the one determined in this point will be regarded as unacceptable and the offer will be rejected by the commission for public supply.

## **7.2 Time limit and a place of delivery**

7.2.1 The supply holder is obliged to deliver the object of the contract in 6 months from the day of signing the contract according to the defined dynamics by the agreed organ.

Every offer that contains a time limit for delivery different from the one determined in this point will be considered unacceptable and it will be rejected by the commission for public supply.

## **7.3 Variations in price (price correction)**

7.3.1 The correction of prices of the object of the contract for public supply is allowed if there are corrections in the prices of the oil derivative that are determined by the Regulative commission for energy in Republic of Macedonia.

7.3.2 The decision for determining the highest prices of certain oil derivatives, determined according to the Methodology, will be used as a relevant evidence for changing the price of the object of the contract for public supply.

## **7.4 Payment in advance**

7.4.1 A payment in advance is not allowed for executing the contract for public supply.

## **7.5 A guarantee for executing the contract in high-quality**

7.5.1 A condition for signing a contract with the most advantageous economic operator is providing a bank guarantee by the supply holder for completing the supply in the amount of 15% of the value of the contract.

7.5.2 The guarantee for prompt and qualitative execution of the contract will be returned to the supply holder in 14 days from the day of the complete realization of the contract for public supply.

## **8. CANCELING THE PROCEDURE**

8.1 The agreed organ can cancel the procedure for granting a contract for public supply in the following cases:

- the number of candidates is lower than the minimal number determined for the procedures for allocating a contract for public supply according to this law,
- an acceptable offer has not been submitted,
- Acceptable offers have been submitted which cannot be compared because of the different approach in the technical or financial offers,
- there have been unexpected changes in the budget of the agreed organ,
- the bidders have offered prices and conditions for executing the contract for public supply that are more unfavorable than the real ones on the market,
- the needs of the agreed organ have changed because of unexpected and objective circumstances, or
- the agreed organ cannot choose the most advantageous offer because of important violation of the law according to article 210 from this law.

## I. TECHNICAL SPECIFICATIONS

### 1. Quantity, quality and dynamics of procurement

- The bidder will provide the required quantity of **23 500 000** nm<sup>3</sup> natural gas, over the period of October 2008 to December 2008.
- The bidder will provide the required quality of the natural gas in accordance with the data quoted in chart 1.
- The bidder will realize the natural gas by dynamics quoted in chart 2, submitted by the supplier:

Ordinal number	Chemical compound	mole %
1	Methane	min 97

Ordinal number	Physical characteristics	Unit measure	Amount
1	Density at 20C and pressure of 1,01325 bar	Kg /Nm <sup>3</sup>	0,684
2	Lower heating power	MJ /Nm <sup>3</sup>	33,5

(Chart 1)

Ordinal number	Period of procurement	Unit measure	Quantity
1	October	Nm <sup>3</sup>	3.500.000
2	November	Nm <sup>3</sup>	8.500.000
3	December	Nm <sup>3</sup>	11.500.000
4	<b>Total</b>	Nm <sup>3</sup>	<b>23 500 000</b>

(Chart 2)

## II. OFFER FORM

According to the advertisement number \_\_\_\_\_ advertised by

\_\_\_\_\_

for allocating a contract for public supply

\_\_\_\_\_ by conducting an open procedure, and the tender documentation that we collected from the agreed organ, we submit the following:

### OFFER

#### III. GENERAL PART

III.1.1. Bidder's name: \_\_\_\_\_

III.1.2. Contact information

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail: \_\_\_\_\_

Contact person: \_\_\_\_\_

III.1.3. Responsible person: \_\_\_\_\_

III.1.4. Tax number: \_\_\_\_\_

III.1.5. We agree to submit this offer for the object of the contract for public supply according to the prices and time limits of delivery defined in the List of prices and time limits of delivery.

III.1.6. Our offer consists of the following parts:

- Completed **OFFER FORM** ,
- Completed **LIST OF PRICES AND WAY OF PAYMENT** ,
- Documents for proving the personal state, given as a supplement, A
- A document for proving the ability for executing a professional activity, given as a supplement B
- Evidence for fulfilling technical or professional ability, given as a supplement C
- A guarantee for participation, given as a supplement D
- A written authorization for the representative of a group of economic operators, given as a supplement E

III.1.7. By submitting this offer, we fully accept the conditions stated in the advertisement and the tender documentation and we do not contest your right to cancel the procedure for allocating a contract for public supply according to article 169 from the Law on public supply.

#### IV. A LIST OF PRICES AND A WAY OF PAYMENT

Ordinal number	Individual price without VAT, f-co economic operator (den/Nm <sup>3</sup> )	Amount (Nm <sup>3</sup> )	VAT (den)	Total price with VAT, f-co economic operator (den)	Way of payment
1					
2					
3					

Place and date

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Responsible person

---

(signature)

(seal)