



STAVROS
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ΝΙΑΡΧΟΣ

STAVROS NIARCHOS FOUNDATION

CULTURAL CENTER

SINGLE MEMBER S.A.

SUPPLIES & SERVICES PROCUREMENT REGULATION

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CHAPTER A - GENERAL PROVISIONS

Article 1 - Subject

1. This Regulation provides the terms and conditions governing the award and implementation of procurement contracts related to supplies or services, by “**Stavros Niarchos Foundation Cultural Center Single-Member S.A.**” (“SNFCC SMSA”), a société anonyme SPV, established and operating as per the provisions of Law 3785/2009, as in force.
2. This Regulation is binding on SNFCC SMSA (Management, executives, staff) as per the procedures for the award and implementation of supplies and services procurement contracts, as well as on the economic operators participating in the procurement procedures conducted by SNFCC SMSA.

Article 2 - Scope

1. This Regulation applies to procedures for the award and implementation of procurement contracts related to (a) supplies and (b) services, as well as to mixed procurements (involving both supplies and services), irrespective of the estimated contract value.
2. Supplies Procurement Contracts means contracts for the supply of goods (products, movable property) to SNFCC SMSA, including leasing agreements, lease agreements, hire-purchase agreements with or without an option to buy. This may include, without limitation, installation and maintenance agreements and product warranty agreements.
3. Service Agreements means agreements for the supply of services of any kind to SNFCC SMSA, other than services involving the performance of studies or the provision of technical or other scientific services associated with the implementation of a project, i.e. services associated with the execution of a set of construction or civil engineering works, whose outcome allows independently the performance of an economic or technical function.
4. Mixed Procurements are contracts consisting of two or more types of procurements (services and supplies), which are governed by the provisions applicable to the procurement that constitutes the principal object of the agreement concerned. The principal object of the agreement shall be determined according to which of the estimated values of the respective services or supplies are the highest.



5. This Regulation shall not apply to:

- a) the acquisition or lease, with any financial means, of land, existing buildings or other immovable property or concerning rights thereon,
- b) concessions and real estate lease agreements,
- c) contracts for the award of technical studies and/or execution of technical/construction works, i.e. execution of a set of construction and/or electromechanical works or civil engineering works, whose outcome allows independently for the performance of an economic or technical function,
- d) contracts concerning arbitration / conciliation services,
- e) contracts concerning financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments,
- f) loans, whether in connection with the issue, sale, purchase or transfer of securities or other financial instruments,
- g) employment contracts,
- h) service agreements concerning purchase, development, production, or co-production of programming material for audiovisual / broadcasting media services assigned by audiovisual / broadcasting media service providers, or contracts concerning the broadcasting time, or the supply of programmes awarded to audiovisual / broadcasting media service providers,
- i) legal services, and
- j) other specialised auditing, accounting or other related independent services, especially highly confidential services, save in the case of international tenders.

Article 3 - Definitions

1. In this Regulation, the following definitions shall apply:

- 01. **“Contractor”**: the Economic Operator selected to implement the Procurement.
- 02. **“Procurement Process Selection Body”**: the SNFCC SMSA body responsible for the approval of the selection of the Procurement Process and for the adoption of any decisions required as part of such Procedure, as defined in Article 9 hereof.
- 03. **“Tender Evaluation Body”**: the SNFCC SMSA body responsible for the evaluation of the tenders, as defined in Article 9 hereof.



04. **“Awarding Body”**: the SNFCC SMSA body responsible for the award of the Procurement to the Contractor, as defined in Article 9 hereof.
05. **“Acceptance Body”**: the SNFCC SMSA body responsible for the delivery of the Procurement, as defined in Article 9 hereof.
06. **“Procurement Manager”**: the natural person designated by the Initiating Department as responsible for the handling the Procurement process.
07. **“Request to Participate”**: the request submitted by Economic Operators to participate in Phase A of the Procurement process.
08. **“Inadmissible Tender”**: any Tender a) submitted by Candidate Economic Operators which does not meet the required qualification standards and selection criteria; b) quoting a price more than the binding SNFCC SMSA budget, as determined in the in the Tender Documents.
09. **“Procurement Process Selection Decision”**: the decision of the Procurement Process Selection Body.
10. **“Award Decision”**: the decision adopted by the Awarding Body.
11. **“Evaluation Decision”**: the decision issued by the Tender Evaluation Body.
12. **“International Tender”**: a tender procedure conducted for the award of procurements exceeding the applicable EU thresholds, which may take the types determined in Articles 18 - 26 hereof.
13. **“Options”**: the formative rights that are unilaterally exercised by SNFCC SMSA at its discretion, without Contractor’s acceptance or consent. Such rights, and how they are activated exactly, must be explicitly laid down in the Tender Documents. Options include the right to extend the Contract term and clauses to amend the Contract in terms of its scope or the rights and the obligations of the parties.
14. **“Economic Operator”**: any natural or legal person or public entity or group of such persons and/or entities, including temporary associations of undertakings, offering the supply of products or services on the market.
15. **“EU Thresholds”**: the thresholds laid down in the Directive, leading to applicability of the Directive if exceeded, as applicable pursuant to the regulations adopted by the European Commission by authorisation of the Directive.
16. **“Procurement Proposal”**: the proposal drafted by the Initiating Department of SNFCC SMSA, with the contents provided in Article 10 hereof.
17. **“Initiating Department”**: the SNFCC SMSA Department or Division, which records the procurements needs and launches, manages, and participates in the execution and



completion of the Procurement process, as applicable. Subject to prior authorisation of its Head/Director, the Initiating Department may designate an individual (employee or associate) as Procurement Manager. It is noted that the Initiating Department may comprise one or multiple SNFCC SMSA Departments or Divisions, which jointly launch the procurement process as per the SNFCC SMSA needs.

18. **“Market Research”**: the research conducted on the relevant market by the Initiating Department in accordance with Article 7 hereof.
19. **“European Single Procurement Document” (ESPD)**: an updated solemn declaration (generating effects as per the provisions of Law 1599/1986), which may be used by SNFCC SMSA in Procurement procedures as preliminary evidence, in lieu of certificates issued by public authorities or third parties attesting non-applicability of any grounds for exclusion and due fulfilment of all selection criteria and any other objective criteria set by SNFCC SMSA in the Tender Documents.
20. **“Electronic Tendering System”**: the electronic platform through which tendering procedures are conducted, which is selected by SNFCC SMSA at its discretion and meets the technical specifications laid down in Annex IV to the Directive.
21. **“SNFCC SMSA” or “Organisation”**: “Stavros Niarchos Foundation Cultural Center Single-Member SA”.
22. **“Regulation”**: the present SNFCC SMSA Procurement Regulation.
23. **“Ineligible Tender”**: any Tender a) which does not meet the requirements of the Call for Tenders; or b) which is submitted beyond the time limit; or c) in respect of which there is evidence of illicit practices, e.g. collusion or corruption; or d) which is considered by SNFCC SMSA as unusually low, in terms of the price offered, compared to the economic data of the relevant market.
24. **“Directive”**: Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014, as in force.
25. **“Tender Documents”**: the Call for Tenders or Call for Expression of Interest published or sent by SNFCC SMSA, setting out the terms governing the Procurement procedure, including a draft procurement contract and all related annexes, appendices, templates and any clarifications or supplementary information accompanying it.
26. **“Contract” or “Procurement Contract”**: the contract concluded between SNFCC SMSA and the Contractor in relation to the Procurement of specific supplies and/or services. This includes any Procurements concluded through acceptance of the Tenderer's offer and/or



placement of a purchase order by SNFCC SMSA.

27. **“Acceptance”**: acceptance of the Procurement by the Acceptance Body referred to in Articles 9 and 40 hereof. Acceptance includes all actions necessary to take delivery of the Procurement, including, where applicable, monitoring, control, and management of the Procurement, as per the procedure described in the Tender Documents or the Contract.
28. **“Procurement”**: procurement of a supply or service.
29. **“Tender” or “Tender Offer”**: the tender offer submitted by each Economic Operator in the context of the procurement process.
30. **“Tenderer”**: an Economic Operator submitting a Tender.
31. **“Budget”**: the estimated value of the Procurement.
32. **“Candidate”**: the Economic Operator participating in a specific tender procedure.

Article 4 - General Principles

1. SNFCC SMSA ensures free and equal access to the Procurement procedures for the Economic Operators, having environmental sustainability and social responsibility as key priorities.
2. SNFCC SMSA treats economic operators equally, always applying the following principles:
 - **equal treatment, transparency, protection of fair and effective competition**: This Regulation lays down rules to ensure compliance with the principles of transparency, equal treatment of Tenderers, proportionality, reciprocity, and free competition.
 - **Non-discrimination**: The rules governing the award and implementation of procurements and the contracting procedure apply without discrimination to all economic operators interested in being awarded a procurement.
 - **Efficacy and financial sustainability**: Projects, services and procurements are implemented by SNFCC SMSA in line with the principle of efficacy, in the context of timely and unhindered achievement of its statutory objectives.
 - **Environmental protection and sustainable green development**: Procurements are implemented in line with the Greek and EU legislation and international treaties protecting the natural and man-made environment.



Article 5 - Procurement Life Cycle

Successful completion of the award and execution of a Procurement requires the compliance with the following basic steps:

1. Recording the need for Procurement: the need for Procurement is recorded and the Procurement process is launched originally by the Initiating Department of SNFCC SMSA and includes the regular (planned) or extraordinary (unplanned) assessment of the need for Procurement in the context of the annual budget, the classification of the need under a certain category, the description of the scope of the Procurement with the indication of its qualitative and quantitative characteristics, technical specifications and any required certifications, the assessment of the financial scope and estimated budget of the Procurement, a timetable of the Procurement and the basic terms of collaboration with the Contractor.

2. Procurement need/budget reconciliation: the Procurement need must be reconciled against the SNFCC SMSA financial planning and budget, considering the individual characteristics of the budget (such as category/budget line, income/expenditure correlation, monthly allocation/calendarization, etc.).

3. Procurement Decision: depending on the scope and budget of the Procurement, a decision is adopted by the Procurement Process Selection Body referred to in Article 9 hereof, on the selection of the Procurement procedure.

4. Contractor Evaluation / Award: the Procurement process and the Tender Evaluation Body responsible for evaluating tenders and selecting a Contractor based on the type of the Procurement. This phase is completed when the Procurement is awarded to the Contractor by the Awarding Body.

5. Contract Signature: the agreement on the award of the Procurement may take the form of either a written contract, or an acceptance of an offer, or shipment of an order.

6. Execution - Acceptance of the Procurement: effective handling of the Procurement is ensured through monitoring of the Procurement by the Acceptance Body referred to in Articles 9 and 40 hereof. As part of such handling, any need to activate an option or extend the contract term shall also be examined.



CHAPTER B - PRELIMINARY PROCUREMENT IMPLEMENTATION PHASES

Article 6 - Recording the need for Procurement

The need for Procurement is recorded by the Initiating Department, with specific indication of the supplies/services needed. Once the procurement need is recorded, the Initiating Department shall conduct Market Research as per Article 7 and shall then determine the estimated value of the Procurement (Budget), in accordance with the provisions of Article 8.

Article 7 - Market Research

- 1.** The Initiating Department shall conduct Market Research prior to the launch of the Procurement process, save in the case of direct award procedure as per Article 14 and in the case of emergency as per Articles 17 and 26. Market Research is conducted for the purpose of identifying the appropriate specifications, defining the Procurement's budget and identifying market conditions (without limitation: number of suppliers, delivery dates, special terms of collaboration, etc.), with a view to achieving the optimal result for SNFCC SMSA both in terms of quality and price.
- 2.** Market Research is conducted by any appropriate means, based on the data available for the relevant market (without limitation: internet research, telephone research, use of a file/register of partners/suppliers, collaboration history, preliminary consultations with market operators, etc.), without essential recording of the results.
- 3.** The information collected through Market Research may be used to design and conduct the Procurement process, as far as such information does not distort competition or violate the principles of non-discrimination and transparency.

Article 8 - Procurement Budget

- 1.** The Procurement Budget determines (a) the Competent Procurement Bodies and (b) the Procurement Process to be applied by the Initiating Department, save where the Negotiated Procedure without a Prior Call for Tenders is applied, as per Article 26.
- 2.** The Initiating Department determines the Procurement Budget considering the following:
 - (a)** the value of any similar past procurements.



- (b) the results of any Market Research conducted.
 - (c) the current market conditions in relation to the intended Procurement.
 - (d) the existing competition, and achieving the optimal result for SNFCC SMSA, in terms of both price and quality.
 - (e) the quantity of supplies/services, the technical and other qualitative characteristics of the Procurement, unit prices and man-hours/man-months required, where required.
3. The Procurement Budget shall be equal to the total amount payable, VAT excluded, including any Options required for the Procurement.
 4. If the scope of the Procurement is divided into lots and may be awarded to multiple contractors, the budget shall be determined on the total estimated value of all lots. If the total value of the lots is equal to or exceeds the threshold for an International Tender, then the rules governing the conduct of an international tender in accordance with this Regulation shall apply to the award of each lot of the Procurement.
 5. The Budget must be substantiated in an objective and verifiable manner.
 6. Pursuant to the EU legislation, the following terms shall apply in the calculation of the Procurement Budget in the following situations:

(a) Procurements with recurrent nature

If the Procurement contract has a recurrent nature, i.e. if it has been concluded in the past and is concluded at regular intervals and/or is to be renewed within a specific period, then the estimated contract value is determined based on the total actual value of the successive contracts that were concluded in the preceding twelve months, readjusted, where possible, to take account of changes in quantities or values in accordance with paragraph (2) hereof.

(b) Procurements without recurrent nature

(i) In the case of Procurement contracts **without a fixed term** or with a term greater than 48 months, including any extension thereof, which have not recurrent nature, i.e. they are not repeated at regular intervals, the contract value is calculated on the monthly value multiplied by 48, unless it can be determined in another manner.



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(ii) In the case of **fixed** term contracts or contracts with a term shorter than 48 months, including any extension thereof, which have not recurrent nature, i.e. they are not repeated at regular intervals, the contract value is estimated as the aggregate value of all contracts, i.e. as the total value over their total term.

(c) Subject to paragraph 2 of this Article, regarding the following types of Service Agreements, the estimated contract value shall be calculated as follows:

- i) insurance services: the premium payable and other forms of remuneration,
- ii) banking and other financial services: the fees, commissions payable, interest and other forms of remuneration.

(d) With regard to the Framework Agreement and the Dynamic Purchasing System, the Budget to be calculated is the maximum estimated value, VAT excluded, of all contracts to be concluded over the entire term of the Framework Agreement or Dynamic Purchasing System.

(e) In the case of Innovation Partnerships, the estimated Budget is the maximum estimated value, net of VAT, of the research and development activities to be conducted in all stages of the partnership, as well as of the supplies or services to be developed and provided at the end of the partnership.

7. In any case, the Procurement budget must not be allocated in such a way as to avoid proper application of this Regulation or of the rules of this Regulation governing International Tenders.



Article 9 – Competent Bodies

1. The **Procurement Process Selection Body**, the **Awarding Body**, the **Tender Evaluation Body** and the **Acceptance Body** are determined based on the Procurement Budget as follows:

s/n	Procurement Process	Procurement Procedure Selection Body	Tender Evaluation Body	Awarding Body	Acceptance Body
1.	< € 10,000.00 (net of VAT)				
	Direct Award	Initiating Department	Initiating Department	Initiating Department	Initiating Department
2A.	€10,001.00– € 29,999.99 (net of VAT)				
	Brief Selection Procedure	Initiating Department	Initiating Department	Initiating Department	Initiating Department
2B.	€ 30,000.00- € 49,999.99 (net of VAT)				
	Brief Selection Procedure	CEO	Initiating Department	Initiating Department	Initiating Department
3.	€ 50,000.00- € 214,999.99 (net of VAT)*				
	Fast-track Tender	CEO	Initiating Department	Board of Directors	Initiating Department
4.	> € 215,000.00 (net of VAT)*				
	International Tender	Board of Directors	Evaluation Committee (set up <i>ad hoc</i>)	Board of Directors	Initiating Department, with an option to set up an <i>ad hoc</i> Committee at the discretion of the Competent Department and the Selection Body
5.	Extraordinary negotiated procedure without prior publication	Cf. categorisation above	Cf. categorisation above	Cf. categorisation above	Cf. categorisation above



2. As regards social services, i.e. educational services, exhibition and conference organisation services, cultural and other events and festivals organisation services, the above table is formed as follows:

s/n	Procurement Process	Procurement Process Selection Body	Tender Evaluation Body	Awarding Body	Acceptance Body
1.	< € 10,000.00 (net of VAT)				
	Direct Award	Initiating Department	Initiating Department	Initiating Department	Initiating Department
2A.	€10,001.00– € 29,999.99 (net of VAT)				
	Brief Selection Procedure	Initiating Department	Initiating Department	Initiating Department	Initiating Department
2B.	€ 30,000.00- € 49,999.99 (net of VAT)				
	Brief Selection Procedure	CEO	Initiating Department	Initiating Department	Initiating Department
3.	€ 50,000.00- € 749,999.99 (net of VAT)*				
	Fast-track Tender	CEO	Initiating Department	Board of Directors	Initiating Department
4.	> € 750,000.00 (net of VAT)*				
	International Tender	Board of Directors	Evaluation Committee (set up <i>ad hoc</i>)	Board of Directors	Initiating Department, with an option to set up an <i>ad hoc</i> Committee at the discretion of the Initiating Department and the Selection Body
5.	Extraordinary negotiated procedure without prior publication	Cf. categorisation above	Cf. categorisation above	Cf. categorisation above	Cf. categorisation above



* It is noted that the amounts of € 214,999.99, € 215,000.00, € 749,999.99, and € 750,000.00 set out above are listed based on the currently applicable EU thresholds, in accordance with the Commission Delegated Regulation (EU) 2021/1952 of 10 November 2021. Compliance with these thresholds should be verified on a case-by-case basis, as any readjustment thereto shall apply automatically, without an amendment to the Regulation.

3. The Competent Bodies and Committees referred to in this Article shall be assisted by the SNFCC SMSA Legal Services and Corporate Governance Department, as well as by SNFCC SMSA's external associates, in accordance with the provisions of Article 46 hereof.

Article 10 – Committees

1. For conducting Procurement procedures through International Tender, SNFCC SMSA shall appoint the following Committees, by decision of the Procurement Procedure Selection Body, with due regard to the needs of each specific procurement:

- a) Tender Performance and Evaluation Committee
- b) Appeals Committee
- c) Monitoring and Acceptance Committee

2. The **Tender Performance and Evaluation Committee ("Evaluation Committee")** comprises at least three (3) members and may appoint an equal number of alternate members. The Evaluation Committee is responsible for receiving, unsealing, reviewing, and evaluating the Tender Offers and/or Requests to Participate. It also makes recommendations to the Awarding Body to accept or reject the Tender Offers and/or Requests to Participate and award the contract or cancel the procedure.

3. The **Appeals Committee ("Appeals Committee")** comprises at least three (3) members and may appoint an equal number of alternate members. It is responsible for receiving, reviewing, and assessing any appeals filed as part of the tender procedure in accordance with Article 42 of the **Regulation**. The Appeals Committee is appointed *ad hoc* for the purposes of a specific Procurement.

4. The **Monitoring and Acceptance Committee ("Acceptance Committee")** comprises at least three members and may appoint an equal number of alternate members. In any situations where such a Committee is appointed as per the Tender Documents, it is responsible for monitoring and supervising the implementation of the Contract and taking delivery of the procurement, in accordance with the Tender Documents.



5. In each Procurement Process, each Committee is set up as follows:

	EVALUATION COMMITTEE	APPEALS COMMITTEE	ACCEPTANCE COMMITTEE
DIRECT AWARD	NO (Initiating Department)	NO (Initiating Department)	NO (Initiating Department)
BRIEF TENDER PROCEDURE	NO (Initiating Department)	NO (Initiating Department)	NO (Initiating Department)
FAST-TRACK TENDER	NO (Initiating Department)	NO (Initiating Department)	NO (Initiating Department)
INTERNATIONAL TENDER	YES	YES (ad hoc)	NO (An <i>ad hoc</i> Acceptance Committee may be appointed at the free discretion of the Initiating Department and the Selection Body)

6. It is noted that the above provisions may also apply (altogether or individually) to Fast-Track Tender procedures at SNFCC SMSA's discretion.

Article 11 - Launching of a Procurement Process

1. For Procurements with an estimated budget of over €10,000.00, the Initiating Department initiates the Procurement procedure by preparing a **Procurement Proposal** including the following:

- a) A statement as to the necessity of the Procurement and how it is associated with the SNFCC SMSA budget.
- b) A description of the scope of the Procurement, with specific reference, where necessary, to any technical specifications, specific quality features, required certifications, market data and characteristics of prospective suppliers. This should also include the results of any market research conducted in accordance with Article 7 hereof.
- c) The Procurement Budget and its justification. As regards Brief and Fast-Track Tender Procedures in particular, the Initiating Department may not disclose the financial scope to the interested Economic Operators, providing a reasoning in this regard in the Procurement Proposal.



- d) The award procedure selected and the award criteria.
 - e) The timetable of the tender procedure and the award of the Procurement.
 - f) Any special conditions applicable to the implementation of the Contract and the Contract term.
 - g) Any opinions of external consultants.
 - h) The details of the proposed Contractor in case of Direct Award as per Article 14 hereof.
 - i) The details of at least three (3) Economic Operators to whom a request for tender offer will be notified in case of a Brief Tender Procedure as per Article 15.
 - h) Any other information that may be deemed necessary by the Competent Body to facilitate the task of the Awarding Body.
2. The Procurement Proposal shall be executed in writing by any appropriate means. In case of an emergency, the Procurement Proposal may be submitted with the Awarding Body *a posteriori*. In this case, it shall provide thorough justification of the recourse to the extraordinary procurement procedure pursuant to Article 17 hereof.
3. The Procurement Process Selection Body then initiates the Procurement Procedure by selecting the appropriate procurement process.

CHAPTER C - ELIGIBILITY - SUPPLIERS REGISTER

Article 12 - Eligibility

Eligible to participate in the SNFCC SMSA Procurement procedures are economic operators (natural or legal persons) (or, in the case of associations of economic operators, their members) established in a) an EU Member State and b) an EEA Member State. For foreign economic operators established in third countries, eligibility for participation is considered as per applicable legal framework.

Article 13 - Suppliers Register

1. By decision of its Board of Directors SNFCC SMSA may determine the terms and conditions of operation of the **SNFCC SMSA Suppliers Register** ("**Suppliers Register**"). The Suppliers Register may include individual categories of procurements conducted by the SNFCC SMSA, with reference to the respective suppliers with whom the SNFCC SMSA has worked with or may collaborate in the future. The decision referred to in the first section shall specify all other details pertaining to the operation of the Register, subject to the provisions of this Article.



2. To establish the individual categories of procurements in the Suppliers Register, a Call for Expression of Interest is issued, inviting Economic Operators to submit Requests to Participate and the information and documents specified in the Call, as the case may be.
3. The Call for Expression of Interest is published on the SNFCC SMSA website and/or published/sent to the Economic Operators by any appropriate means, to ensure the broadest possible participation.
4. The decision referred to in para. 1 provides, among others, that the individual categories of procurements (e.g. without limitation, photographers, translators, editors, graphic designers) are formed and the Call for Expressions of Interest (per category and/or group of categories) is drafted and published by the Initiating Department, subject to approval by the CEO. The Initiating Department shall ensure that the individual categories of the Suppliers Register are updated regularly, and in any case on an annual basis, save as otherwise dictated in the decision referred to in paragraph 1, to ensure the broadest possible participation of economic operators to the benefit of the SNFCC SMSA.
5. The Initiating Department responsible for the specific category may use the Register both for market research and for awarding services and supplies to suppliers listed in the Register, in accordance with the provisions of the Regulation, with a view to effectively meeting the operational needs of the SNFCC SMSA.

CHAPTER D - DIRECT AWARD & BRIEF SELECTION PROCEDURE

Article 14 - Direct award

1. The Procurement Procedure Selection Body initiate the procedure.
2. The Contractor is evaluated and selected by the SNFCC SMSA Evaluation Body, which reviews the Contractor's Tender Offer in terms of fulfilment of the requirements applicable in each case.
3. The SNFCC SMSA Evaluation Body may conduct negotiations with the Contractor whose Tender Offer has been selected as appropriate, to determine the technical, qualitative, and other characteristics of the procurement and select the Tender Offer that is most advantageous for SNFCC SMSA.



4. The procedure is completed by signing a Contract, accepting Contractor's Offer, or placing an order with the Contractor.
5. The Procurement is officially accepted by the Acceptance Body referred to in Article 9, in accordance with Article 40 hereof.

Article 15- Brief Selection Procedure

1. The Procurement Process Selection Body, as defined in Article 9 hereof, initiates the procurement process by designating the procurement award procedure.
2. To conduct this procedure, a Call for Tenders is drafted and sent by any appropriate means to at least three (3) Economic Operators if this is possible given the nature of the procurement and the active Economic Operators in the relevant market.
3. The submitted Tenders are evaluated by the Evaluation Body, as defined in Article 9 hereof, in terms of completeness and eligibility, as per the requirements of the Call for Tenders.
4. The Procurement is awarded to the Economic Operator who submitted the most advantageous tender in terms of lowest price or price/quality ratio.
5. In addition, the Evaluation Body may conduct negotiations with the selected Economic Operators prior to the award of the Contract, to reach the most advantageous final Offer, if this is permitted in the Call for Tenders, subject to compliance with the principles of transparency and equal treatment. In any case, the Evaluation Body may conduct negotiations with the Economic Operators in case no Tender Offer was found eligible or if no Tenders were submitted.
6. The decision to award the Procurement is made by the Awarding Body, as defined in Article 9 hereof.
7. The procedure is completed by signing a Contract, accepting Contractor's Offer, or placing an order with the Contractor.
8. The Procurement is officially accepted by the Acceptance Body referred to in Article 9, in accordance with Article 40 hereof.



CHAPTER E - FAST-TRACK TENDER

Article 16 - Fast-Track Tender Procedure

1. Without prejudice to Articles 6 through 11, a Fast-track Tender Procedure is initiated upon approval of the Procurement Proposal submitted by the Initiating Department by the Procurement Process Selection Body referred to in Article 9 hereof.
2. This type of Tender is conducted by publishing a Call for Expression of Interest either on the SNFCC SMSA website or in the Electronic Tendering System or by sending it out directly to selected Economic Operators, following a Procurement Proposal. The procedure may be completed either in a single Phase as described in Article 19 or in two Phases, as described in Article 20.
3. The Call for Expression of Interest shall include the following:
 - a) the official contact details of SNFCC SMSA (name, address, telephone number, e-mail address, competent body/contact person).
 - b) a precise description of the scope of the procurement as well as any Options available and how they shall be exercised.
 - c) the deadline for the submission of Tenders/Requests to Participate and the submission procedure.
 - d) the bodies responsible for unsealing and evaluating the Tenders, the date and time of the unsealing and other relevant information.
 - e) the type of award procedure selected.
 - f) any required guarantees, the type / value (amount) of such guarantees, the applicable rates, the guarantee' submission deadline, all relevant terms and conditions and any other securities required or other specific features and conditions, e.g. insurance requirements.
 - g) the qualitative selection conditions and criteria, including applicable thresholds, relating to grounds for exclusion, and the economic and financial capability and technical / business capability of the Tenderers.
 - h) reference that Tenderers an submit Tender Offers for a single or multiple lots of the Procurement.



- i)** the award criterion, and the Tender evaluation procedure and criteria.
 - j)** the validity period of Tenders.
 - k)** any mandatory conditions, as set out in the Call for Expressions of Interest, which may lead to disqualification.
 - l)** the material conditions for implementing the Contract, as the case may be.
 - m)** the documentation required as evidence of fulfilment of the qualitative selection criteria and non-applicability of any grounds for exclusion.
 - n)** the possibility of cancellation of the the Procurement process by SNFCC SMSA.
- 4.** The Tenders submission deadline may not be shorter than ten (10) days from the date the Call for Expression of Interest is published on the SNFCC SMSA website or the Electronic Tendering System or sent to the Economic Operators unless there are urgent reasons justifying a shorter deadline.
- 5.** The Evaluation Body then evaluates the Tenders submitted. The evaluation is completed when the Evaluation Body issues Minutes to that effect. SNFCC SMSA then notifies Tenderers of the outcome of the evaluation procedure.
- 6.** In addition, SNFCC SMSA may conduct negotiations with the selected Economic Operators before the Contract is awarded, to reach the most advantageous final Offer, if this is permitted in the Tender Documents, subject to compliance with the principles of transparency and equal treatment.
- 7.** The decision to award the Procurement is adopted by the Awarding Body, as defined in Article 9 hereof.
- 8.** The Procurement is officially accepted by the Acceptance Body referred to in Article 9 as per the procedure laid down in Article 40 hereof.



CHAPTER F - GENERAL EXCEPTION

Article 17 - Exception

1. In extraordinary, urgent or force majeure situations, SNFCC SMSA may derogate from the procurement procedures described in this Regulation, e.g. from the obligation to conduct Market Research and prepare a Procurement Proposal, and may shorten the applicable deadlines, subject to approval of the CEO.
2. In these situations, a Procurement Proposal shall be prepared after official Acceptance of the Procurement and shall include thorough documentation of the exceptional reasons / force majeure situation / urgency that dictated deviations from the applicable formalities, as well as the need for immediate implementation of the Procurement.
3. The exceptional procedure laid down in this Article shall apply without prejudice to the rules of the Directive and may under no circumstances be used to circumvent the provisions of the Regulation and the Directive.



CHAPTER G - INTERNATIONAL TENDERS

Article 18 - Common Provisions

1. International Tenders are divided into:
 - a) Open Tenders,
 - b) Restricted Tenders,
 - c) Negotiated Tenders,
 - d) Competitive Dialogue,
 - e) Innovation Partnerships,
 - f) Framework Agreements, and
 - g) Dynamic Purchasing Systems.

2. The terms of the Call for Tenders / Call for Expression of Interest, as applicable, must be clear and thorough enough to enable Tenderers to submit complete and comparable Tenders and Requests to Participate and shall include at least the following:
 - a) the name, tax registration number, address, telephone number, e-mail address and the competent contact person of SNFCC SMSA,
 - b) a precise description of the physical and financial scope of the procurement as well as any Options available and how they are to be exercised,
 - c) the deadline for submission of Tenders/Requests to Participate and the submission procedure,
 - d) the bodies responsible for unsealing the Tenders, the date and time of the unsealing and other relevant information,
 - e) the type of award procedure selected,
 - f) any required guarantees, the type of such guarantees, the applicable rates, the guarantee' submission deadline, all relevant terms and conditions and any other securities required or other specific features and conditions,
 - g) the qualitative selection conditions and criteria, including applicable thresholds, relating to grounds for exclusion, and the economic and financial capability and technical / business capability of the Tenderers,



- h)** reference that Tenderers may submit Tender Offers for a single or multiple lot of the Procurement,
 - i)** the award criterion, and the Tender evaluation procedure and the evaluation criteria,
 - j)** the validity period of Tenders,
 - k)** any mandatory clauses which lead to disqualification in case of failure to comply with them,
 - l)** the special and general terms governing the implementation of the Contract and the terms of payment,
 - m)** the documentation required as evidence of fulfilment of the qualitative selection criteria and non-applicability of any grounds for exclusion.
- 3.** As a prerequisite for launching an international tender, a contract notice must be submitted with the EU Publications Office and published on SNFCC SMSA's website.
- 4.** International tender procedures, communications and exchange of information shall be conducted preferentially through the Electronic Tendering System, subject to the exceptions of Article 22(1) of the Directive.
- 5.** The general and particular terms governing the Contract implementation are defined in the Tender Documents depending on the nature of the Procurement.
- 6.** In restricted tenders, negotiated procedures, competitive dialogue procedures and innovation partnerships, SNFCC SMSA may limit the number of candidates that meet the selection criteria, who will be called to submit a tender offer or participate in the dialogue, provided there is a minimum number of candidates who meet the criteria. In the contract notice or the call for expressions of interest, SNFCC SMSA shall specify, objectively and without discrimination, the rules, or criteria it intends to apply, the minimum number of candidates to be invited and, where appropriate, the maximum number of candidates permitted.
- In restricted tenders, the minimum number of candidates is five. In negotiated procedures, competitive dialogue procedures and innovation partnerships, the minimum number of candidates is three. In any case, the number of candidates invited must be sufficient to ensure effective competition.



SNFCC SMSA shall invite a number of candidates at least equal to the minimum number of candidates. However, if the number of candidates who meet the selection criteria and the minimum levels of competence required in the contract notice or call for expression of interest is lesser than the minimum number, then SNFCC SMSA may continue the procedure by inviting candidates that meet the requirements. In the context of this procedure, SNFCC SMSA may not include other Economic Operators who failed to submit a Request to Participate or candidates who not meeting the applicable requirements.

7. Whenever SNFCC SMSA exercises the option to limit the number of tenders to be negotiated, as per Article 21 hereof, or the number of solutions to be discussed, as per Article 22, such limitation shall be implemented by applying the criteria defined in the Tender Documents. In the final phase, this number must be such as to ensure conditions of effective competition, if there are sufficient tenders, solutions, or pre-selected candidates.

Article 19 - Open Tenders

1. This procedure is selected when **a)** all features of the Procurement are known in advance and **b)** when the Procurement Process Selection Body finds it inappropriate to pre-select candidate Economic Operators. In the open tender, every Economic Operator may submit tender offer.
2. The minimum time limit for the submission of Tenders shall be thirty-five (35) days from the date on which the contract notice was sent to the EU Publications Office.
3. If an urgent situation, duly justified by SNFCC SMSA, prevents compliance with the minimum time limit laid down in this article, SNFCC SMSA may set a minimum deadline not shorter than fifteen (15) days from the date the contract was sent to the EU Publications Office.
4. SNFCC SMSA may reduce by five (5) days the time limit for receipt of tenders set out in the above paragraphs, where it accepts that tenders may be submitted by electronic means.
5. Tenders are evaluated by the Evaluation Body referred to in Article 9 in accordance with the provisions of Article 32 hereof.
6. The Procurement is officially accepted by the Acceptance Body referred to in Article 9, in accordance with Article 40 hereof.



Article 20 - Restricted Tenders

1. A restricted tender procedure is followed when the Procurement Process Selection Body considers it appropriate to pre-select candidates Economic Operators. For this reason, this procedure is conducted in two distinct phases: Open pre-selection phase / Call for Expression of Interest (Phase A) and Tender Submission phase (Phase B).
2. As part of the open pre-selection phase (Phase A), Economic Operators may freely submit Requests to Participate, providing the qualitative selection information requested by SNFCC SMSA.
3. As part of Phase B, which comprises the technical and/or financial offers as provided for in the Tender Documents, tender offers are only submitted by the Economic Operators invited by SNFCC SMSA following evaluation of the information provided during Phase A.
4. The minimum time limit for submission of Requests to Participate in Phase A is thirty (30) days from the date the contract notice was sent to the EU Publications Office. The minimum time limit for receipt of tender offers in Phase B is 30 days from the date the Call for Tenders is sent. The deadline prescribed in the preceding section may be reduced by five (5) days if SNFCC SMSA accepts tenders submitted by electronic means.
5. If an urgent situation, duly justified by the Procurement Process Selection Body, prevents compliance with the minimum time limit prescribed in this Article, the competent SNFCC SMSA body may determine:
 - a) a deadline for receipt of Request to Participate not shorter than fifteen (15) days from the date the contract notice is notified,
 - b) a deadline for submission of tender offers not shorter than ten (10) days from the date the Call for Tenders is sent.
6. Tenders are evaluated by the Evaluation Body referred to in Article 9 in accordance with the provisions of Article 32 hereof.
7. The Procurement is officially accepted by the Acceptance Body referred to in Article 9, in accordance with Article 40 hereof.



Article 21 - Negotiated Tenders

1. A negotiated tender procedure is selected in the following situations:
 - (a) regarding Procurements that meet one or more of the following criteria:
 - aa) SNFCC SMSA's needs cannot be met without adapting the readily available solutions, i.e. the solutions currently available to the SNFCC SMSA,
 - bb) the procurement includes innovative solutions, which are not available to SNFCC SMSA,
 - cc) the contract may not be awarded without prior negotiation due to exceptional circumstances relating to the nature, complexity or legal or financial organisation or risks associated with the above factors,
 - dd) the technical specifications cannot be sufficiently predetermined by SNFCC SMSA by reference to a standard, European technical evaluation, common technical specification, or technical reference framework, or
 - (b) with respect to Procurements (supplies or services) in respect of which only Non-Eligible or Inadmissible Tenders were submitted as part of an open or restricted tender procedure.
2. This procedure is conducted t in two (2) Phases: Open pre-selection / Call for Expression of Interest phase (Phase A), in which Economic Operators may freely file Requests to Participate in accordance with the Call for Expression of Interest, providing the qualitative selection information requested by SNFCC SMSA, and the Tenders Submission phase (Phase B), in which technical and financial offers are submitted by the pre-selected candidates of Phase A. Only Economic Operators who have been pre-selected and invited by SNFCC SMSA may submit an initial offer, which will form the basis of the subsequent negotiations.
3. The minimum deadline for receipt of Requests to Participate in Phase A is thirty (30) days from the date the contract notice is notified to the EU Publications Office. The minimum time limit for receipt of initial offers in Phase B is thirty (30) days from the date the Call for Tenders is sent out. The time limit prescribed in the preceding section may be reduced by five (5) days if SNFCC SMSA accepts tenders submitted by electronic means. Article 20(5) of the Regulation shall also apply to the procedure described in this Article.
4. SNFCC SMSA shall negotiate with Tenderers their initial and subsequent Tenders, excluding final Tenders, to improve their contents.



5. During the negotiations, SNFCC SMSA shall ensure the equal treatment of all Tenderers. To this end, SNFCC SMSA shall not discriminate by providing information that may favour certain Tenderers over others. SNFCC SMSA shall notify all Tenderers whose Tenders have not been rejected in accordance with this paragraph of any changes to the technical specifications or other documents of the Procurement other than those setting out the minimum requirements. Following such changes, SNFCC SMSA shall allow sufficient time to Tenderers to submit amended offers, as appropriate.
6. SNFCC SMSA shall not disclose to other participants confidential information that is disclosed by Candidates or Tenderers participating in the negotiations, save with the latter's consent. Such consent shall not take the form of a general waiver, but only granted in relation to specific information.
7. When SNFCC SMSA is ready to conclude the negotiation, it shall notify the other Tenderers and shall set a common deadline for submission of new or revised Tenders.
8. The procedure of evaluating Requests to Participate and Tenders and the conditions governing implementation and delivery of the Procurement are thoroughly determined in the Tender Documents.

Article 22 - Competitive Dialogue

1. The competitive dialogue is selected in the cases referred to in Article 21(1) hereof referring to negotiated procedures and is applied when, in those cases, SNFCC SMSA:
 - a) is unable to decide which of the available options/solutions best meets its needs; or
 - b) is unable to identify the technical means to be used to achieve its intended purpose.
2. This procedure is conducted in two (2) or more phases: Open pre-selection / Call for Expression of Interest phase (Phase A), in which Economic Operators may file Requests to Participate in accordance with the Call for Expression of Interest, providing the qualitative selection information requested by SNFCC SMSA, and Phase B, consisting of phase B.I (Call to Participate in Dialogue) and Phase B.II (Call for Submission of Tenders). Eligible to participate in Phase B are solely the Economic Operators pre-selected in Phase A.
3. The minimum time limit for receipt of Requests to Participate in Phase A is thirty (30) days from the date the contract notice is notified to the EU Publications Office.



4. The contract is awarded based solely on the criterion of the most advantageous Tender in terms of price and quality ratio.
5. SNFCC SMSA shall present and identify its needs and requirements in the Call of Phase A and shall specify those needs and requirements in the Call for Tenders and/or in a descriptive document. In the same documents, SNFCC SMSA shall present and specify the selected award criteria and shall define an indicative timetable.
6. SNFCC SMSA shall engage in dialogue with the selected candidates, with a view to exploring and identifying the means that can best meet its needs. As part of this process, SNFCC SMSA may consult the pre-selected Economic Operators on all aspects of the procurement.
7. During the dialogue SNFCC SMSA ensures the equal treatment of all candidates. To this end, SNFCC SMSA shall not discriminate by providing information that may favour certain candidates over others. SNFCC SMSA shall not disclose to other participants the proposed solutions or other confidential information that is disclosed by Candidates participating in the dialogue, save with the latter's consent.
8. A Competitive Dialogue may be conducted in successive phases, in order to reduce the number of proposed solutions under consideration during the dialogue phases, by applying the award criteria specified in the Tender Documents. In the Call for Tenders or descriptive document SNFCC SMSA shall indicate whether it intends to exercise the above option.
9. SNFCC SMSA may continue the dialogue until the identification of the solution(s) that effectively meet its needs. After declaring the dialogue completed and notifying the other candidates, SNFCC SMSA invites each candidate to submit a final offer based on the solution(s) presented and identified during the dialogue.
10. If requested by SNFCC SMSA, these Tenders may be clarified, specified, and optimised. Any such clarification, specification, optimisation, or additional information supplied, however, may not entail changes to the essential contents of the Tenders or the Procurement, including the needs and requirements specified in the Contract Notice or in the descriptive document, where changes to such contents, needs and requirements are likely to distort competition or cause discrimination.
11. At the request of SNFCC SMSA, negotiations may be conducted with the Tenderer who



has submitted the most advantageous offer in terms of price/quality ratio, in order to confirm the financial commitments or other terms contained in the Tender Offer and finalise the Contract terms, provided that this does not substantially modify the basic elements of the Tender Offer, including the needs and requirements specified in the Tender Documents.

12. The procedure of evaluating Requests to Participate and Tenders and the conditions governing implementation and delivery of the Procurement are thoroughly laid down in the Tender Documents.

Article 23 - Innovation Partnerships

- 1.** This procedure is selected when SNFCC SMSA wishes to procure innovative products or services which are not available on the market.
- 2.** Economic Operators can freely participate in this procedure - which is conducted in two (2) Phases in accordance with the provisions of Article 20 - by providing the qualitative selection information requested by SNFCC SMSA. In the Tender Documents SNFCC SMSA defines the need for innovative products or services which are not available on the market. SNFCC SMSA also states which elements of the description lay down the minimum requirements to be met by the Tender Offers. The information provided must be precise enough to enable Economic Operators to understand the nature and scope of the solution required and decide whether to submit a Request to Participate.
- 3.** The minimum time limit for receipt of Requests to Participate is thirty (30) days from the date the Contract notice is notified to the EU Publications Office. Eligible to participate are only the Economic Operators who have been invited by SNFCC SMSA, following evaluation of the information they have submitted. The contract is awarded based solely on the criterion of the most advantageous Tender in terms of price and quality ratio.
- 4.** The procedure of evaluating Requests to Participate and Tenders and the conditions governing implementation and delivery of the Procurement are thoroughly provided with the Tender Documents.



Article 24 - Framework Agreement

1. With respect to similar services, certain aspect of which (e.g. quantities or delivery dates) cannot be precisely determined in advance, SNFCC SMSA may conclude Framework Agreements. A framework agreement is an agreement concluded between SNFCC SMSA and one or multiple Economic Operators, laying down the general terms governing the implementing agreements to be concluded over a given period, in principle as per the prices and the quantities as the case may be. Multiple Framework Agreements may be concluded with multiple Economic Operators for a single supply or service.

2. Framework Agreements may not exceed four (4) years in duration, save in exceptional cases duly justified, by the scope of the Framework Agreement. Framework Agreements concluded for a term of up to four years may be extended, subject to four-year limit referred to in the preceding section if this is permitted under the Contract documents. The term of the individual contracts concluded during the implementation period of the Framework Agreement may exceed the expiry date of the Framework Agreement.

3. If the Framework Agreement is concluded with multiple Economic Operators, it shall be implemented in any of the following ways:

a) following the terms and conditions of the Framework Agreement, without a second tender, provided that all conditions governing the provision of the supplies and services procured and the objective conditions for determining the Economic Operator / party to the Framework Agreement that will perform them are laid down in the Tender Documents,

b) where the Framework Agreement sets out all the terms governing the provision of the supplies and services concerned: partly without a new tender in accordance with point (a) and partly by means of a new tender among the Economic Operators contracted to the Framework Agreement, in accordance with section (c), provided that this is permitted under the Tender Documents in relation to the Framework Agreement (implementing agreements following a second tender). The Tender Documents shall specify the terms of the second tender.

(c) if the Framework Agreement does not specify all conditions governing the procurement of the supplies and services concerned: by means of a second tender among the Economic Operators contracted to the Framework Agreement.



4. The procedure of evaluating Requests to Participate and Tenders and the conditions governing implementation and delivery of the Procurement are thoroughly laid down in the Tender Documents.

Article 25 - Dynamic Purchasing Systems

1. For current-year purchases which, as same are available on the market, meet the requirements of SNFCC SMSA, SNFCC SMSA may use a dynamic purchasing system. This system operates entirely as an electronic process throughout the validity period of the purchasing system stipulated with each Economic Operator that meets the selection criteria. It may be further divided based on the products or services procured. Categories are objectively defined based on the characteristics of the Procurement to be implemented under each category. Such characteristics may refer to the maximum permissible value of any subsequent special agreements or to a specific geographical area in which any such agreements will be implemented.

2. To conduct a Procurement under the dynamic purchasing system, SNFCC SMSA applies the rules applicable to the restricted tenders as per Article 20 hereof. The minimum deadline for receipt of tender offers is 10 days from the date the Call for Tenders is sent out.

3. The Tender evaluation procedure and the conditions governing implementation and delivery of the Procurement are thoroughly laid down in the Tender Documents.

Article 26 – Extraordinary negotiated procedure without prior publication

1. This tender procedure is only applied in the following cases:

(a) if, following an open or restricted tender, no Tenders or Requests to Participate have been submitted or if those submitted are not eligible, provided that the original terms of the Contract have not been substantially modified,

(b) if the supplies or services concerned may only be provided by a particular Economic Operator for any of the following reasons:

- i) the purpose of the Procurement is to create or acquire a unique work of art / work or service of artistic uniqueness / unique service (e.g. graphic design services) / artistic event or conduct educational or sports activities related to the scope of SNFCC SMSA,



- ii) there are no competitors due to technical reasons,
 - iii) for reasons of protection of exclusivity rights, including intellectual property rights.
- c) Insofar as it is imperative, if, due to an urgent need arising from events reasonably unforeseeable to SNFCC SMSA, it is impossible to meet the deadlines applicable to open, restricted or negotiated tenders.
- (d) If the supplies or services concerned are manufactured exclusively for the purpose of research, experimentation, study, or development. However, contracts awarded as above shall not entails production of quantities sufficient to ensure the commercial viability of the product or amortisation of research and development costs.
- (e) for supplementary deliveries by the original supplier, as partial renewal or extension of supplies or services already procured, where a change of supplier would force SNFCC SMSA to procure supplies with different technical characteristics, and this would cause incompatibilities or disproportionate technical problems in use and maintenance. The term of these contracts, as well as of any renewable contracts, shall not normally exceed four years and shall not be determined with a view to circumventing the provisions of this Regulation (in particular those of Article 38),
- (f) if the procurable supplies are listed and traded on a commodity exchange,
- (g) for the purpose of procuring supplies or services on particularly advantageous terms, from a supplier who is permanently wound up or enters bankruptcy, composition with creditors or a similar procedure under the national laws or regulations,
- (h) in respect of new services that are a repetition of similar services previously procured from the Contractor, provided that such services are consistent with the basic plan for which the original contract was awarded under the procedure described in the table presented in Article 9 hereof. The basic plan shall indicate the scope of any additional services and the conditions under such services will be awarded. Reference to potential application of this procedure shall be made in the first Call for Tenders and the total estimated value of any subsequent awards shall be considered by SNFCC SMSA when applying Article 8. This procedure may only be applied within four years of the conclusion of the initial contract.



CHAPTER H - EVALUATION PROCEDURE - AWARD

Article 27 - Qualitative Selection Criteria

1. The Qualitative Selection Criteria are determined with due regard to the needs of SNFCC SMSA and represent the minimum requirements for participation in the Procurement. Such criteria may relate to the following:

- a) ability to conduct the business activity concerned
- b) economic and financial capacity
- c) technical and business capability
- d) non-applicability of the Grounds for Exclusion set out in Annex A hereto.

2. The Qualitative Selection Criteria are specified in the Call for Tenders / Call for Expression of Interest, with regard to the nature of the Procurement, in order to achieve the best possible result for SNFCC SMSA.

3. The type of evidence Tenderers need to submit as proof of fulfilment of the Qualitative Selection Criteria and non-applicability of any Exclusion Criteria are specified in the Tender Documents, based on the nature of the Procurement.

4. As regards International Tenders in particular, the following additional rules shall apply:

a) Tenderers shall not meet the Grounds for Exclusion referred to in paragraphs 1 and 2 of Annex A hereto; Paragraph 4 of Annex A hereto shall also apply to the Grounds for Exclusion set out in paragraph 1 of the same Annex. As per the rest, all other rules in Annex A hereto shall apply.

b) The Qualitative Selection Criteria set out in points a) to c) of paragraph 1 of this Article shall be specified with due regard to the mandatory rules of Article 58 of the Directive.

c) The evidence adduced as proof of fulfilment of the Qualitative Selection Criteria and non-applicability of any Grounds for Exclusion shall be specified with due regard to the mandatory rules of Articles 59 et seq. of the Directive.



Article 28 - Reliance on third-party capabilities

1. Regarding the Qualitative Selection Criteria set out in points (b) and (c) of Article 27(1) of the Regulation, Economic Operators may, in the context of a specific contract, rely on the capabilities of other entities, irrespective of the legal nature of their relationship with them.
2. In this regard the following shall apply:
 - (a) Any parties relied upon by Candidates shall be jointly and severally liable with the Candidates concerned vis-à-vis SNFCC SMSA,
 - (b) In case of reliance on third-party technical and/or professional capabilities related to the educational certifications and professional qualifications set out in Annex XII, Part II, point (f) of the Directive or to relevant professional experience, Candidates may only rely on the capacities of third parties if the latter will implement themselves the services for which such capacities are required (as subcontractors); and
 - c) If the contract scope so justifies, the Tender Documents may provide that the relevant capability must be offered by a single (third-party) Economic Operator or, where appropriate, by a limited number of (third-party) operators or may dictate that certain tasks that are critical for contract implementation be carried out directly by the Candidate or by a member of the Candidate.
3. Candidates are liable to declare reliance on the skills of third parties in their Tenders or Requests to Participate. If an ESPD is required by SNFCC SMSA, such reliance shall be stated in the relevant ESPD.
4. SNFCC SMSA shall verify such third parties' compliance with the Qualitative Selection Criteria in accordance with this Regulation. SNFCC SMSA reserves the right to require Economic Operators to replace an entity that fails to meet any of the Quality Selection Criteria.

Article 29 - Preliminary Evidence of Compliance with Selection Criteria

1. Without prejudice to Article 27(4) of the Regulation, the documents and supporting evidence required to be submitted by Economic Operators to participate in the tender procedures described in the Regulation shall be defined in the Call for Tenders / Call for Expression of Interest.



2. Without prejudice to Article 27(4) of the Regulation, SNFCC SMSA may use ESPDs in Procurement procedures.

Article 30 - Award Criteria

1. SNFCC SMSA shall award procurements based on the most advantageous offer, which is determined exclusively by lowest price or on a price/quality ratio basis.
2. The most advantageous offer in terms of price/quality ratio, in SNFCC SMSA's opinion, is determined based on criteria including, among others, qualitative, environmental and/or social aspects related to the scope of the procurement. Such criteria may indicatively include the following:
 - (a) quality, including technical merit, aesthetic and functional features, accessibility, all-user design, social / environmental / innovative features, marketing criteria, good understanding of the scope of the procurement, approach methodology,
 - (b) organisation, qualifications, and experience of the staff to be assigned with the implementation of the procurement; techniques and tools to be used; proposed timetable and deliverables, if the quantity and/or quality of such staff may have a significant impact on contract implementation,
 - (c) after-sales service and technical support; delivery terms, such as delivery dates/procedures/deadlines; implementation period.
3. The award criteria shall ensure effective competition and shall include specifications that allow for effective verification of the information provided by Tenderers, to assess their compliance with the award criteria.
4. SNFCC SMSA may set weighting factors for the award criteria in the Tender Documents, having due regard to the physical scope of the procurement, unless this is determined solely on the price offered. Such weighting factors may be expressed in the form of variation margin, subject to a maximum range. If such weighting is impossible for objective reasons, SNFCC SMSA shall rank the criteria in descending order of importance.



Article 31 - Guarantees

1. Letters of guarantee (participation / performance / advance payment guarantee, as applicable) shall be issued by credit or financial institutions or insurance undertakings, within the meaning of points (b) and (c) of Article 14(1) of Law 4364/2016 (Government Gazette Series A, Issue 13), operating legitimately in any EU / EEA / SAA Member State, being permitted to participate in tenders under the applicable laws. Letters of guarantee may also be issued by Engineers and Public Works Contractors Fund (T.M.E.D.E.) or under the form of promissory notes issued by the Deposits and Loans Fund against deposit of the corresponding amount. If a deposit is registered by the Deposits and Loans Fund as above, any interest coupons or dividends maturing during the term of the Letters of guarantee shall be returned to the beneficiary of the guarantee upon maturity. Letters of guarantee may be issued by one or more issuers as above, at the Tenderers' preference. Letters of guarantee from issuers not listed in this Article may be accepted by reasoned decision of the SNFCC SMSA Procurement Process Selection Body.

2. Letters of guarantee shall essentially include the following information: a) date of issue; b) issuer; c) the awarding authority to which it is addressed; d) serial number; e) the guaranteed amount; f) the trade name, Tax Registration Number and address of the Tenderer concerned (in case of a consortium, this information shall be indicated in respect of each member); g) the following statements: aa) that the Letter of guarantee is irrevocable and unconditional and that the issuer waives the right to contest or divide liability, and bb) that, in case of forfeiture, the forfeited amount shall be subject to stamp duty as per the laws applicable at the time; h) the details of the Call for Tenders and the date of the Tender procedure or Call for Expression of Interest; i) expiry date or validity period; j) a statement by the issuer that they undertake to pay the guaranteed amount in whole or in part, within five (5) days from receipt of a simple notice from the authority to which it is addressed, and k) in case of performance / advance payment guarantees, the number and title of the relevant contract.

3. Letters of guarantee issued in a foreign country shall be accompanied by a certified Greek translation.

4. SNFCC SMSA may contact the issuers of Letters of guarantee to verify their validity.



Article 32 - Evaluation Procedure

1. Tenders and Requests to Participate in Procurement procedures conducted under an International Tender shall be evaluated by the Evaluation Body referred to in Article 9 hereof, as per the Tender Documents, as follows:

2. In case of a single-phase selection procedure, the following shall apply:

a) The supporting documents and the technical offers, where applicable, shall be unsealed on the date and at the time provided for in the Tender Documents or Call for Tenders/Expression of Interest. At this stage, the information included in Tender Offers is only accessible to the Tender Evaluation Body. The Evaluation Body first reviews the supporting documents and then evaluates and, where appropriate, grades, only any technical offers submitted by Tenderers whose supporting documents were found admissible. The evaluation procedure is completed when the Tenderers and the results of the supporting documents and technical offers review procedure are recorded in minutes. The results of the supporting documents / technical offers review procedure are validated by decision of the SNFCC SMSA Authorising Body. Such decision is subject to appeal before SNFCC SMSA in accordance with Article 42 hereof. Once a decision is rendered as above, Tenderers are notified of the other participants and of the information submitted by them.

b) Once the procedure described in point (a) is completed, the financial offers of any Tenderers whose supporting documents and technical offers were found admissible and graded as above shall be unsealed and evaluated. Tender Offers are entered in minutes and ranked based on total score (where the award criterion is the price/quality ratio) or the price offered (where the award criterion is the lowest price).

c) Once the procedure described in point (a) is completed, the Awarding Body (provided it approves the ranking of Tenders by decision issued to that effect) shall invite in writing the Tenderer whose offer ranked first (who will be awarded the procurement ("**Temporary Contractor**")) to submit the award documents, in accordance the Tender Documents. The decision approving the ranking of Tenders is not communicated to the Tenderers and is incorporated in the final award decision.

d) The review of supporting documents is completed when the Evaluation Body issues minutes to that effect.



e) The results of the award documents review procedure, as above, are validated by the award decision of the Authorising Body, which incorporates the decision approving the ranking of Tenders as per section (c).

f) Once the award decision is issued, Tenderers will be notified of the financial offers that were unsealed, of the ranking of Tenders and of the award documents submitted.

g) The above decision is subject to appeal before SNFCC SMSA in accordance with Article 42 hereof.

3. In case of a two-phase selection procedure (Restricted Tender), the following shall apply:

a) The Requests to Participate and supporting documents submitted in the context of Phase A shall be unsealed on the date and at the time limit provided for in the Tender Documents or Call for Tenders/Expression of Interest. At this stage, the information contained in the Request to Participate is only accessible to the Tender Evaluation Body. The Evaluation Body first verifies the admissibility of the Requests to Participate and supporting documents and then proceeds to their evaluation. The evaluation procedure is completed when the Candidates and the results of the supporting documents / technical offers review procedure are recorded in minutes. The results of the Requests to Participate / supporting documents review procedure are validated by decision of the SNFCC SMSA Authorising Body. Such decision is subject to appeal before the Appeals Committee in accordance with Article 42 hereof. Once a decision is issued as above, Candidates are notified of the other participants and of the information submitted by them.

b) Following the above, once the Candidates whose Requests to Participate and supporting documents were found as admissible, shall be invited to take part in Phase B, the Evaluation Body proceeds to unsealing and evaluation of the Technical and Financial Offers as per the procedure described in paragraph 2 of this Article.

4. As part of the Tender/Request to Participate evaluation process, SNFCC SMSA may request Candidates - having due regard to the principles of equal treatment and transparency - to submit additional information or clarifications or to complete their information/documentation in case the information/documentation submitted (including the ESPD) appears to be deficient or inaccurate. This applies to all procurement procedures provided for in this Regulation.



5. Where the procurement process is conducted through competitive dialogue, negotiated tender, innovation partnership, framework agreement or a dynamic purchasing system, the evaluation terms are specified in the Tender Documents.
6. Following a duly documented recommendation of the Procurement Process Selection Body, the Awarding Body reserves the right to award a greater or lesser percentage of supplies or services concerned (on the basis of appropriate criteria, such as satisfactory /unsatisfactory discount rate, SNFCC SMSA needs, technological progress developments), which may not exceed 50% of the supplies or services specified in the Tender Documents, subject to the Procurement Procedure Selection Rules laid down in Article 9 hereof.
7. This article shall apply *mutatis mutandis* to any other procurement procedures at SNFCC SMSA's discretion.

Article 33 - Tender Cancellation

1. The Awarding Body may cancel the tender procedure at any stage without cost, at its discretion (in which case any third parties shall hold no claims for damages or other claims) by reasoned decision, following a justified opinion of the Initiating Department or the Tender Committee for the following reasons (without limitation):
 - a) if the Tender is declared unfruitful because no Tenders or Requests to Participate were submitted or because all Tenders / Requests to Participate were rejected or if all Tenderers / Candidates were excluded, in accordance with the provisions of the Contract Notice or the Call for Tenders and/or
 - b) If no Tenderer appears for Contract signature, save due to force majeure, within the deadline prescribed in the notice to sign the Contract; and/or
 - c) Due to irregular conduct of the tender procedure, unless SNFCC SMSA can remedy the irregularity or omission; and/or
 - d) If any economic or technical aspects associated with the award procedure have been altered substantially or if there is an extraordinary change of circumstances, including lack of SNFCC SMSA resources, leading to SNFCC SMSA having no longer interest in the procurement, and/or
 - e) if the implementation of the contract is impossible due the occurrence of force majeure and/or



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- f) if the selected Tender is considered by SNFCC SMSA to be economically disadvantageous and/or
 - g) if all Tenders have expired; and/or
 - h) if the conditions for sufficient and effective competition are not met in SNFCC SMSA's opinion, in which case third parties shall hold no claims against SNFCC SMSA.
2. If SNFCC SMSA identifies any errors or omissions at any stage of the award procedure, the Awarding Body may, following prior opinion of the Initiating Department or the Procurement Committee, as the case may be, cancel the tender in part / readjust its outcome / decide to repeat the procedure from the point where the error or omission occurred, without cost, in which case third parties shall hold no claims against SNFCC SMSA.

CHAPTER I - CONTRACT SIGNATURE

Article 34 - Contract Signature

1. Once the award decision generates legal effects, the Tender Committee shall notify the Contractor a written notice to appear for Contract signature and submit any legalisation documents and performance guarantee, as applicable, within the deadline defined in the Tender Documents.
2. SNFCC SMSA shall be represented at Contract signature as specified in the SNFCC SMSA representation minutes effective at the time. Contracts shall be signed by physical or digital signature.
3. The signing of the written Contract constitutes proof. If the Contractor does not appear for the Contract signature within the deadline defined in the special notice, save due to force majeure, then the Contractor shall be declared forfeited; any participation guarantee shall be forfeit in favour of SNFCC SMSA subject to any penalty clauses; and the Contract shall be awarded to the Tenderer who submitted the next most economically advantageous Tender.



Article 35 - Essential Contract Contents

1. Contracts concluded as per this Regulation shall be executed and signed in writing, if the contract value exceeds ten thousand Euros (€10,000.00), save as otherwise determined by special SNFCC SMSA resolution, or whenever this is required by law, in accordance with the terms of the Call for Tenders/ Call for Expression of Interest.
2. Unless otherwise specified in the Contract Notice or Call for Expression of Interest, in case of discrepancy between the Contract, the Tender Documents and the Contractor's Tender Offer, these documents shall apply in the following order: **a)** Contract, **b)** Tender Documents, **c)** Contractor's Tender Offer.

Article 36 - Subcontractors

1. Contractor shall not be discharged of any obligations and responsibilities under the Contract if any part(s) of the Contract is/are subcontracted to third parties. Partial implementation of the Contract by subcontractors may under no circumstances release the Contractor from liability towards SNFCC SMSA.
2. As regards partial award of the Contract scope to subcontractors (where this is permitted by the Tender Documents), the following special conditions shall apply:
 - a) SNFCC SMSA may request the Candidate to disclose their subcontracting intentions as early as at the stage the Tenders or Requests to Participate are submitted,
 - b) SNFCC SMSA may check the Grounds for Exclusion laid down in Annex A hereto in relation to the subcontractors, as early as the stage the Contract is awarded, especially in any situations where the subcontracted scope exceeds 30% of the total Contract value,
 - c) In case any Grounds for Exclusion are met, the Candidate must replace the subcontractor(s), as far as this does not constitute a material amendment to the Contract.
 - d) SNFCC SMSA may at its discretion pay directly to the subcontractors any amounts due for services or supplies supplied to the Contractor.
3. At the time the contract is signed, the Contractor shall disclose to SNFCC SMSA the names, contact details and legal representatives of any subcontractors involved in the implementation of the Procurement. The contractor shall also keep SNFCC SMSA regularly updated on any changes that might be made to such information during the implementation



of the procurement. This includes information about new subcontractors and the relevant collaboration agreements, or such other documents as may be requested by the Monitoring and Acceptance Body. If Contractor's collaboration with a subcontractor is terminated, the Contractor shall promptly notify the Acceptance Body referred to in Article 40 hereof and ensure effective implementation of the procurement.

CHAPTER J- DELIVERY

Article 37- Contract Monitoring and Supervision

1. Monitoring and supervisory procedures for Contracts concluded by SNFCC SMSA include the following, as applicable: **a)** Contract management and monitoring; **b)** qualitative and quantitative acceptance of the procurement; **c)** payment of Contractor's fees; **d)** thorough implementation of the Procurement and **e)** checking whether any Options or Contract term extension rights are activated, as applicable.
2. Contract implementation is monitored by the Acceptance Body referred to in Article 40 hereof.
3. The duties of the Acceptance Body consist in the following:
 - (a) monitoring compliance with the general and specific terms of Contract throughout Contract implementation,
 - (b) monitoring, control and acceptance of the quality and quantity of deliverables during Contract implementation; monitoring compliance with Contract implementation timetables; reviewing invoices and recommending settlement thereof,
 - c) requesting explanations and clarifications from the Contractor, where necessary.
4. Contract monitoring is initiated from the date the Contract is signed and continues until final delivery and acceptance of the Procurement or Contract termination / expiry as per the terms thereof.
5. The Contractor is liable to consider the observations of the Acceptance Body and comply within the deadlines defined.



Article 38 - Contract Amendment during its Term

- 1.** Contract amendments are subject to authorisation by the Awarding Body, following a reasoned recommendation of the Initiating Department. Amendments may include, without limitation, an expansion or limitation of the physical and/or financial scope of the Procurement, extension of the Contract term, amendments to the overall delivery deadline or any other amendments to the Contract terms.
- 2.** A Contract may be amended without a new Procurement Process, as per the preceding section, in the following situations:
 - a)** If the amendment, irrespective of its financial value, is provided for in the Tender Documents and the Contract, as applicable, in the form of clear, precise, and explicit revision clauses, including, where appropriate, price revision clauses or options. Such clauses shall define the scope and nature of any amendments or exceptions and the terms on which those may be applied. Amendments or exceptions must not alter the general nature of the Contract.
 - b)** in relation to additional supplies or services to be supplied by the Contractor, as far as they have become necessary and were not included in the Contract, if Contractor's replacement:
 - i) is not possible for financial or technical reasons, e.g. For reasons of interchangeability or interoperability with the equipment, services or installations supplied as part of the original Procurement, and
 - ii) would cause significant disruption or substantial cost overlaps for SNFCC SMSA.
 - c)** If the following conditions are cumulatively met:
 - i) the need for amendment has arisen from circumstances that were unforeseeable to SNFCC SMSA, despite proper diligence,
 - ii) the amendment does not modify the general nature of the Contract,
 - iii) the increase in Contract value (if any) does not exceed 50 % of the value of the original Contract. In case of successive amendments, this limitation shall apply to the value of each amendment. Subsequent amendments are not intended to circumvent the rules laid down herein.
 - d)** If a new Contractor replaces the original Contractor due to:



- i) an explicit review or option clause as per point (a),
 - ii) partial or total succession of the original Contractor, following corporate restructuring, including takeover, merger, and insolvency, by another Economic Operator that meets the selection criteria defined in the Tender Documents, provided that the succession entails no substantial amendment to the Contract and is not intended to circumvent this Regulation, or
 - iii) SNFCC SMSA assuming obligations of the Contractor towards its subcontractors.
- e)** If the amendments, irrespective of their financial value, are not material within the meaning of paragraph 3 below.
- 3.** An amendment made during the Contract term shall be considered material within the meaning of section (e) of the preceding paragraph if it renders the Contract materially different in nature from the one originally concluded. Subject to paragraphs 1 and 2, an amendment is considered material if any of the following conditions is met:
- (a) the amendment introduces terms which, if included in the original Procurement process, would have led to participation of different candidates from those initially selected or acceptance of a different Tender Offer from the one initially selected or would have attracted other participants in the Procurement process; or
 - (b) the amendment changes the financial balance of the Contract to the benefit of the Contractor in a manner that is not provided for in the original Contract; or
 - (c) the amendment expands the Contract scope significantly; or
 - (d) when the original Contractor is replaced in cases other than those provided for in paragraph 2(d) above.
- 4.** As regards the extension of existing Contracts, the following shall apply:
- a)** Contracts awarded by Direct Award, Brief Award Procedure or Fast-Track Tender, may be extended by recommendation of the Initiating Department, subject to the provisions of this Regulation. The decision on the extension shall be taken by the Body referred to in Article 9 hereof, depending on the total Contract value following such extension.
 - b)** For Contracts awarded through International Tender as per under Articles 19 to 26, it is verified whether the possibility of extension is explicitly stated in the Tender Documents



and the Contract. If no such reference is made, the Contract shall either be amended by virtue of this Article or a new Procurement procedure shall be initiated and the Contract budget shall be calculated anew, considering the provisions of the Article 8 hereof.

Article 39 - Suspension

SNFCC SMSA reserves the right to suspend Contract implementation in whole or in part by written notice to the Contractor. Such notice shall specify the reasons dictating the suspension, the effective date of the suspension and its estimated duration. As of the effective date of the suspension, Contractor's obligations under the Contract shall be suspended temporarily, however, the Contractor shall take any required measure to mitigate any damages or additional costs of the Contractor or SNFCC SMSA.

Article 40 - Quantitative and Qualitative Acceptance

1. Quantitative and qualitative Acceptance of the Procurement is conducted by the Acceptance Body, which is determined as follows:

s/n	Procurement Process	Acceptance Body
1.	Direct Award	Initiating Department
2.	Brief Selection Procedure	Initiating Department
3.	Fast-track Tender	Initiating Department
4.	International Tender as per Directive	Initiating Department in cooperation with the Acceptance Committee, where such a Committee is set up under the Tender Documents.

2. This procedure may be applied in any type of acceptance specified in the Tender Documents, including partial, provisional, final, and conditional acceptance, and may be further specified in the Tender Documents.

3. As part of qualitative and quantitative acceptance, the Acceptance Body may carry out checks to verify compliance with the technical requirements and specifications laid down in the Contract. In the case of procurement of supplies, such checks may be on all or part of the Procurement.

4. Once checks are completed, the Acceptance Body shall proceed as follows:

a) if compliance with technical requirements and specifications is verified, it delivers/accepts



the Procurement, executing an acceptance protocol as per Article 41 hereof (if applicable in the specific Procurement procedure) and notifies the Finance Division accordingly, in order to pay Contractor's fees, release any letters of guarantee and issue, if so requested by the Contractor, a good performance / completion certificate;

b) if compliance with technical requirements and specifications is not verified, the Acceptance Body prepares a recommendation addressed to the Awarding Body, stating any deviations identified and opining on whether suitability of the deliverables for their intended use is impaired. If suitability is not impaired, the Acceptance Body shall render a decision accepting the Procurement. In the opposite case the Procurement is rejected.

5. The above provisions shall also apply to partial deliveries.

Article 41 - Completion

1. Upon final acceptance of the Procurement by the Acceptance Body, the latter draws up a Completion Protocol, if this is provided for in the Tender Documents, and submits it with the Awarding Body for approval.

2. Such Protocol includes the following, as appropriate:

- a) a description of the Contract scope,
- b) checks conducted to identify deviations from initial contractual requirements (e.g. Deviations in quantities, quality, time / legal / economic / commercial / technical deviations),
- c) a financial review of the Contract, i.e. a reconciliation of initial and final prices, orders for additional services, advance payments, Letters of Guarantee, estimates of deviations costs, if any, and estimates of costs arising as an indirect result of such deviations,
- d) any defective performance of the Contract terms,
- e) any Penalties imposed.

3. The Finance Division takes all steps necessary to return the Letters of Guarantee to the Contractor and settle any financial liabilities outstanding towards the Contractor.

4. This Article shall apply to Restricted Tenders, International Tenders and Brief Selection Procedures, as the case may be.



CHAPTER K - DISPUTE RESOLUTION

Article 42 - Appeals

1. Any tenderer(s) interested or previously interested in the Procurement, who have sustained or could sustain losses as a result of an act or omission of SNFCC SMSA that is inconsistent with EU or Greek law, shall have a right to appeal against such act or omission before the Awarding Body or the Appeals Committee referred to in Article 10 (3) hereof, as applicable, presenting their legal and factual objections and substantiating their request, within ten (10) calendar days from the date the contested act or omission is notified or otherwise made known to them.
2. The Awarding Body or Procurement Committee shall render a decision within ten (10) working days from receipt of the appeal. If an Appeals Committee has been appointed, it shall execute an Appeal Review Protocol and submit it with the SNFCC SMSA Awarding Body. Within ten (10) working days the Competent Body shall render a decision approving or rejecting the Protocol. In case of approval, Candidates shall be notified of the result. If the above deadline lapses, the appeal is presumed to be tacitly dismissed.

CHAPTER L - FINAL PROVISIONS

Article 43 - Language of the Procurement and Contract

1. All Procurement documents and related Contracts shall be executed in Greek and/or English and may be accompanied by documents in any other language, as the case may be, in accordance with the provisions of the Tender Documents. In case of discrepancy, the Greek version of a document shall prevail.
2. SNFCC SMSA may also accept documents submitted by Economic Operators in English.

Article 44 - Procurements Record

The Initiating Department shall keep an updated record of all Contracts concluded, including all relevant documents and information, such as, without limitation: proposals, tender documents (Call for Tenders, Call for Expression of Interest, etc.), Tenders and supporting documents submitted, award documents (minutes, approval decisions, etc.), as well as payment documents and monitoring and acceptance documents.



Article 45 - Confidentiality

1. In its capacity as data controller, SNFCC SMSA processes, in accordance with Regulation (EU) 2016/679 and the applicable provisions of the national and EU legislation, the personal data of Economic Operators included in Tenders / Requests to Participate submitted in the context of a Procurement hereunder or during the signing of the Contract and generally data collected during implementation of the Procurement.
2. SNFCC SMSA takes all the required steps to protect the confidentiality of any information characterised as confidential. A tenderer who designates any information as confidential on grounds of a technical or business secret shall clearly indicate in the relevant statement the statutory provisions or administrative acts imposing such confidentiality. Information relating to unit prices, quantities offered, the technical offer or the elements of the technical offer used to assess the offer may not be designated as confidential.
3. Confidentiality is automatically waived if an appeal, court procedure or arbitration is initiated, but only to the extent it is strictly necessary and only towards the parties involved, their attorneys and the members of the court or the Arbitral Tribunal.
4. SNFCC SMSA is under no circumstances bound by confidentiality towards the Greek Authorities or the EU Bodies.

Article 46 - External Consultants

SNFCC SMSA may appoint external technical, legal, financial, or other specialised consultants to support the award procedures and the implementation of Contracts awarded hereunder, following a reasoned recommendation from the Initiating Department, on special matters requiring specialised support, such as, without limitation, technical specifications, evaluation, monitoring, controls, measurements.

Article 47 - Amendments to the Regulation - Transitional Provisions

1. Any amendments or additions to this Regulation shall be executed in writing and approved by decision of the Board of Directors of SNFCC SMSA. Following each amendment and approval, the Regulation shall automatically generate binding legal effects for SNFCC SMSA (Management, executives, staff) and third parties, 10 days after it is published on SNFCC SMSA's website.
2. Procurements for supplies and services for which a Call for Tenders/Call for Expression of



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Interest has been published or a Contract has been concluded or a purchase order has been placed prior to the adoption of this Regulation shall continue to be governed by the terms and conditions applicable at the time the Call for Tenders/Call for Expression of Interest was published, the Contract was signed, or the purchase order was placed. The provisions of this paragraph shall also apply to any amendments or supplements to the Regulation, unless otherwise stated in the decision referred to in paragraph 1 of this Article.

3. Renewal, extension, or amendment of SNFCC SMSA Contracts concluded prior to the effective date of this Regulation is expressly permitted in accordance with the terms of the respective Contract, if this does not circumvent the provisions of this Regulation regarding selection of the appropriate Procurement Process, or the rules of the Directive.

Article 48 - Effective Date - Publicity

This Regulation shall enter into force as of the date determined in the relevant decision of the Board of Directors and shall be published on the SNFCC SMSA's website.



ANNEX A - GROUNDS FOR EXCLUSION

1. SNFCC SMSA shall exclude from any Procurement Process any candidate Economic Operators having been irrevocably convicted of any of the following crimes:

(a) Participation in criminal organisation, as defined in article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (OJ L 300 of 11.11.2008, p. 42) or of the crimes referred to in Section 187 of the Penal Code (criminal organisation);

(b) Active bribery, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (OJ C 195 of 25 June 1997, p. 1) and Article 2(1) of Council Framework Decision 2003/568/JHA of 22 July 2003, on combating corruption in the private sector (OJ L 192 of 31.7.2003, p. 54) and in the economic operator's national legislation, or of the crimes referred to in Sections 159A (bribery of political persons), 236 (bribery of officers), 237 (2) through (4) (bribery of members of the judiciary), 237A (2) (exploitation of influence - mediators), 396 (2) (bribery in the private sector) of the Penal Code;

(c) fraud committed to the detriment of the Union's interests, within the meaning of Articles 3 and 4 of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (L 198/28.07.2017) and the crimes of Sections 159A (bribery of political persons), 216 (forgery), 236 (bribery of officers), 237 (2) through (4) (bribery of members of the judiciary), 242 (false statement, adulteration etc.), 374 (aggravated theft), 375 (misappropriation), 386 (fraud), 386A (computer fraud), 386B (subsidy fraud), 390 (infidelity) of the Penal Code and Sections 155 ff. of the Hellenic Customs Code (Law 2960/2001, GG, 265), if the committed actions are detrimental to the financial interests of the European Union or linked to actions that are detrimental thereto, or the crimes referred to in Articles 23 (cross-border VAT fraud) and 24 (auxiliary provisions on penal protection of the financial interests of the European Union) of Law 4689/2020 (GG A 103);

(d) terrorist offences or offences related to terrorist activities, as respectively defined in Articles 3-4 and 5-12 of Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision



2002/475/JHA and amending Council Decision 2005/671/JHA (OJ L 88/31.03.2017) or aiding and abetting, inciting and attempting, as defined in Article 14 of the same Directive, and the crimes referred to in Sections 187A and 187B of the Penal Code, as well as the crimes referred to in Articles 32-35 of Law 4689/2020 (GG A 103);

(e) money laundering or terrorist financing, as defined in Article 1 of Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141/05.06.2015), and the crimes referred to in Articles 2 and 39 of Law 4557/2018 (GG A, 139); **f)** child labour or other forms of human trafficking, as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101 of 15.4.2011, p. 1), and the crimes referred to in Section 323A of the Penal Code (human trafficking).

Economic operators shall also be excluded when the person against whom an irrevocable court order has been issued is member of their administrative, management or supervisory body or empowered to represent, take decisions, or control it. The restriction prescribed in the preceding section applies to:

- a) The administrators of Limited Liability Companies ("EPE"), Private Limited Companies ("IKE") and General or Limited Partnerships ("OE" or "EE"); or
- B) The CEO, the Directors and any persons designated by the Board of Directors as general managers and representatives, in the case of Sociétés Anonymes, or
- c) The members of the Board of Directors of Cooperations, or
- d) The legal representatives of legal persons of any other form.

2. Any Economic Operator may be excluded from a Procurement hereunder, if SNFCC SMSA:

- a)** is aware that such Candidate is in breach of their tax / social security obligations, and this has been established by court order or administrative decision having final and binding effect in accordance with the laws of the country in which the Candidate is established or with national law; or



b) can prove by appropriate means that the Economic Operator has defaulted on their tax or social security obligations.

3. If the Economic Operator referred to in para. 2 is a Greek citizen or an entity established in Greece, their social security obligations include both primary and secondary insurance.

The obligations referred to in points (a) and (b) of paragraph 2 above shall not be deemed breached: (i) unless overdue, or (ii) if they have become the subject of a binding settlement arrangement which is being observed.

In that case, the Candidate is under no obligation to provide a positive answer to the relevant ESPD question (Article 29 of the Regulation) or other form/statement (whether the Candidate has outstanding obligations relating to payment of taxes or social security contributions or whether it has breached the above obligations, as appropriate).

4. SNFCC SMSA may introduce deviations from mandatory exclusion as per para. 2 in the Contract documents, if exclusion would be clearly disproportionate, especially if the defaulted tax or social security obligations are minor or if the debtor was informed of the outstanding tax/social security payment at a time when he was unable to take any action to that effect, according to Article 2 last section, prior to the tender offers' submission deadline.

5. SNFCC SMSA may exclude from a public procurement any Economic Operators in any of the following situations:

a) SNFCC SMSA can prove by appropriate means a breach of effective obligations arising from environmental, social security or labour legislation of the EU law, the national law, collective agreements, or international provisions of environmental, social, and labour law,

b) the Economic Operator was declared bankrupt or entered insolvency / special liquidation / or was placed under administration by a liquidator or under court administration / entered composition in bankruptcy / suspended business operations / entered a rationalisation procedure and failed to meet its terms or has entered any similar situation or procedure applicable under national law,

c) Without prejudice to Article 44(3b) of Law 3959/2011 (GG A, 93) on penal sanctions and other administrative fines, SNFCC SMSA has reasonable indications indicating that the Economic Operator has arrangements in place with other Economic Operators with a view to distort competition,



- d)** There is a conflict of interest, which may not be effectively remedied in other, less intrusive, means,
- e)** A situation which distorts competition because of the prior involvement of Economic Operators in the preparation of the procurement procedure, or prior involvement of candidates /Tenderers, cannot be remedied by other, less intrusive, means,
- f)** An Economic Operator has engaged in serious or repeated misconduct in the performance of a material obligation under a previous contract, a contract with the awarding authority or a previous concession agreement, leading to termination of such contract/agreement or liability for indemnification or similar sanctions,
- g)** An Economic Operators was convicted on grounds of serious false representations with respect to information supplied to SNFCC SMSA for the purpose of assessing the grounds for exclusion or the award criteria, or withheld relevant information or is unable to provide the documentation required under Article 29 of Law (European Single Procurement Document),
- h)** An Economic Operator has tried to illicitly influence SNFCC SMSA's decisions or gain access to confidential information which could potentially afford an unfair advantage in the tender procedure, or fraudulently provides misleading information which may have a material impact on SNFCC SMSA's decision to disqualify the Candidate / declare same eligible / award him the contract,
- i)** SNFCC SMSA has sufficient evidence to prove that the Economic Operators concerned has engaged in serious business misconduct which raises reasonable doubts as to their professional integrity.
- 6.** By derogation from the provisions of paragraph 5(b), SNFCC SMSA may not exclude an Economic Operator who meets any of the above conditions, if SNFCC SMSA provably asserts that the Economic Operator can implement the Contract, considering the applicable regulations and any measures applied to ensure the continuance of the operator's business activity [in the situations referred to in para. 5(b)].
- 7.** SNFCC SMSA may exclude an Economic Operator at any stage of the award procedure, if it is solidly established that the Economic Operator meets any of the conditions of para. 2 because of their own acts or omissions, either before or during the Tender procedure.
- 8.** SNFCC SMSA may exclude an Economic Operator at any stage of the award procedure, if it is solidly established that the Economic Operator meets any of the conditions of para. 5



because of their own acts or omissions, either before or during the Tender procedure.

9. Economic Operators falling under the categories referred to in para. 1 and para. 5 [save for point (b) thereof] may adduce evidence to prove that the measures they have applied prove their credibility, even though a ground for exclusion applies. If such evidence is adequate, the Economic Operator shall not be excluded from the Tender.

10. For that purpose, the Tenderer(s) shall prove that they have paid or undertaken to pay indemnification for all damages caused because of their crime or misconduct; they have thoroughly clarified the facts and circumstances of the act, in cooperation with the investigation authorities, and that they have taken specific technical and organisational measures and staff-related measures to prevent further criminal acts or misconduct. The remedial measures taken by Tenderers shall be evaluated in conjunction with the severity and the special circumstances of the criminal act or misconduct concerned. If such measures are found to be inadequate, the rationale of the decision is notified to the Tenderer.

11. A Tenderer excluded from any tender or concession procedures as per the applicable regulations by means of an irrevocable court order, may not exercise the remedies provided to them hereunder during the exclusion period defined in the decision in the member state where such decision applies.