



ATTIKO METPO A.E.

TITLE OF THE TENDER: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”

RFP-319/17 A.Σ. 41381

INVITATION TO TENDER



	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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TABLE OF CONTENTS

Article 1	Introduction - Awarding Authority Information
Article 2	Scope – Code CPV
Article 3	Title of the Tender
Article 4	Procedure for the Selection of the Contractor – Criterion for the Award of the Contract
Article 5	Deadlines for the Delivery of the Supply
Article 6	Estimated Budget - Funding - Advance Payment
Article 7	Eligible to Participate
Article 8	Participation Letter of Guarantee - Good Performance Letter of Guarantee
Article 9	Provision of Tender Documents - Clarifications
Article 10	Deadline and Manner of Submittal of the Offer
Article 11	Manner of Preparation and Contents of the Offer
Article 12	Reasons for Disqualifying the Economic Operator
Article 13	Selection Criteria – Minimum Requirements – Back up Documentation
Article 14	“Participation Supporting Documents – Technical Offer” Sub-envelope
Article 15	Technical Offer
Article 16	“Financial Offer” Sub-envelope
Article 17	Tender Phases - Evaluation Method of the Offers
Article 18	Evaluation of Technical Offers
Article 19	Invocation of Third Party Resources
Article 20	Annulment of the Procedure
Article 21	Back-up Documentation for the Award
Article 22	Execution of the Contract
Article 23	Language for the Conduct of the Tender - Language of the Contract
Article 24	Applicable Legislation
Article 25	Publicity

Attachments:

- 1. SAMPLE A1: Participation Letter of Guarantee in Greek**
- 2. SAMPLE A2: Participation Letter of Guarantee in English**

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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ARTICLE 1 INTRODUCTION – AWARDING AUTHORITY INFORMATION


- 1.1** ATTIKO METRO A.E. (henceforth called AM) was established via Article First of Law 1955/91. AM purpose, which is determined via Article 2 of Article Second of Law 1955/91, as this is amended through article 35 of L. 3202/03 (and articles 121 and 145 of Law 4070/12 is the design, construction, running, operation and development of the Urban Railway Network of Attica and Thessaloniki Region and, in general, of the Electric Railway of Attica and Thessaloniki Region (with the exception of OSE Railway Network) as well as of the TRAMWAY network in whole Greece.

AM announces an international electronic Tender based on the open procedure and invites all interested economic operators to submit offers, in accordance with the stipulations of this Invitation to Tender and its associated documents for the appointment of a Contractor responsible for the Supply of equipment for the modification of the building automation and control systems (BACS) in the Metro Stations of Lines 2 and 3 extensions and their interface with the Automatic Fare Collection System (AFCS) of the Athens Urban Transport Organization (OASA).

- 1.2** The Awarding Authority, Owner of the Supply and Employer for the Contract to be concluded is ATTIKO METRO S.A. (AM).

Title	ATTIKO METRO S.A.
Postal Address	191-193 Messogion Avenue,
City	Athens
Postal Code	11525
Contact Person	Aikaterini Saiti
Tel. No.	210 - 6792473
Fax No.	210 - 6726126

- 1.3** The Contract for the execution of the Supply shall be concluded between AM and the Bidder to be appointed as the Contractor following the conduct of the Tender procedure.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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ARTICLE 2 SCOPE – CODE CPV

- 2.1** The scope of this Contract, as extensively described in the document entitled “Technical Description - Specifications” and the remaining Tender Documents, is the Supply of equipment for the modification of the building automation and control systems (BACS) in Metro Stations extensions in order to ensure their interface with the Automatic Fare Collection System (AFCS) of OASA.

The scope of the Tender includes the following extensions, namely:

Phase A of the Metro Extensions (7 Stations):


1. Line 2 Extension “Sepolia – Ag. Antonios” (1 Station, namely AGHIOS ANTONIOS Station)
2. Line 2 Extension, “Dafni - Ag. Dimitrios” (1 Station, namely AGHIOS DIMITRIOS Station)
3. Line 3 Extension, “Ethniki Amaryna – Doukissis Plakentias” (2 Stations, i.e. HALANDRI and DOUKISSIS PLAKENTIAS Stations)
4. Line 3 Extension, “Monastiraki – Egaleo” (3 Stations, namely KERAMEIKOS, ELEONAS and EGALEO Stations)

Phase B of the Metro Extensions (10 Stations):

1. Line 2 Extension to Elliniko (4 Stations, namely ILIOUPOLI, ALIMOS, ARGYROUPOLI and ELLINIKO Stations)
2. Line 2 Extension to Anthoupoli (2 Stations, namely PERISTERI and ANTHOUPOLI Stations)
3. HOLARGOS, NOMISMATOKOPIO and AGHIA PARASKEVI Stations in Line 3
4. Line 3 Extension to Haidari (1 Station, namely HAIDARI Station)

- 2.2** The terms of the Contract to be signed between AM and the Contractor shall be those included in the contractual documents.

The scope of the Contractor’s works, the equipment and the materials to be delivered as well as the remaining works to be executed in the framework of the Contract to be concluded are described in detail in the Tender Documents.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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- 2.3 The CPV Code for the Contract is: 48151000-1-4 “Control System with the Use of P/C”**

ARTICLE 3 TITLE OF THE TENDER

The title of the Tender is: **“Procurement of equipment for the modification of the building automation and control systems (BACS) in the Metro stations on Lines 2 and 3 extensions and their interface with the automatic fare collection system (AFCS)-OASA”**. This title, accompanied by the reference code **RFP-319/17**, shall be shown on all Envelopes and Sub-envelopes of the Offers and, in general, on all documents to be submitted within the framework of this Tender.

ARTICLE 4 PROCEDURE FOR THE SELECTION OF THE CONTRACTOR – CRITERION FOR THE AWARD OF THE CONTRACT


- 4.1** The Tender shall be conducted electronically through the web portal www.promitheus.gov.gr of E.S.I.D.I.S. - National Electronic Public Procurement System, it shall be based on the open procedure in accordance with article 264 of Law 4412/16.

The Invitation shall be published in the Official Journal of the European Union. In addition, a summary of this Invitation shall be published in the Greek Press and shall be posted in Diavgeia, and AM's web page. The Invitation document is registered in KIMDIS and all documents of the subject Tender are registered in the web portal of E.S.I.D.I.S and in AM web page.

The Bidders shall submit their offers, in line with the provisions of the Tender Documents.

- 4.2** The Tender shall be conducted as per Law 4412/16 (FEK A' 147/08.08.2016) and the stipulations of Directive 2014/25/EU “about the procurement by entities operating in the water, energy, transport and postal services sectors (E.U. L 94/243/28.03.2014).


- 4.3** The criterion for the Contract award shall be the most advantageous offer, in financial terms, on the basis of the price offered, in accordance with article 311, Directive 2014/25/EU.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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ARTICLE 5 DEADLINES FOR THE DELIVERY OF THE SUPPLY

The contractual time period foreseen for the delivery of the Supply is defined in **calendar days following the signing of the Contract** and is determined on the following table.

Scope	Contractual Delivery Time (calendar days)
<p><u>Stations of Metro Network Lines 2 and 3 Extensions</u></p> <p>Completion of the design, supply, installation, and commissioning of the modification of the building automation and control systems (BACS) in the stations of the Metro Extensions in view of their interface with the AFCS of OASA; more specifically:</p> <ol style="list-style-type: none"> 1. Line 2 Extension “Sepolia – Ag. Antonios” (1 Station, namely AGHIOS ANTONIOS Station) 2. Line 2 Extension, “Dafni - Ag. Dimitrios” (1 Station, namely AGHIOS DIMITRIOS Station) 3. Line 3 Extension, “Ethniki Amaryna – D. Plakentias” (2 Stations, i.e. HALANDRI and DOUKISSIS PLAKENTIAS Stations) 4. Line 3 Extension, “Monastiraki – Egaleo” (3 Stations, namely KERAMEIKOS, ELEONAS and EGALEO Stations) 5. Line 2 Extension to Elliniko (4 Stations, namely ILIOUPOLI, ALIMOS, ARGYROUPOLI and ELLINIKO Stations) 6. Line 2 Extension to Anthoupoli (2 Stations, namely PERISTERI and ANTHOUPOLI Stations) 7. HOLARGOS, NOMISMATOKOPIO and AGHIA PARASKEVI Stations in Line 3 8. Line 3 Extension to Haidari (1 Station, namely HAIDARI Station) 	<p>130</p>

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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More detailed data about the time schedule and the relevant obligations of the Contractor are included in articles 8 and 9 of the Conditions of Contract.

ARTICLE 6 ESTIMATED BUDGET - FUNDING - ADVANCE PAYMENT

6.1 The Contract Scope overall estimated Budget amounts to **five hundred seventy five thousand EURO (575,000.00 €), VAT not included.**

The Bidder shall prepare and submit his Financial Offer, based on the aforementioned amount. **The estimated budget is binding and should not be exceeded by bidders.**

6.2 No price re-adjustment is foreseen for the Contract validity period.

6.3 It is clarified that VAT shall be borne by the Project Owner.


6.4 Provision is made for an **interest-bearing Advance Payment** to the Contractor equal to ten percent (10%) on the Financial Offer. This advance payment shall be optional. The said advance payment shall be provided upon the Contractor's request, as foreseen in detail in article 10.1 of the CC.

6.5 The Advance Payment shall be amortized, in line with article 10.1 of the Conditions of Contract.

6.6 Upon granting the Advance Payment to the Contractor, payments of the Contractual Price shall be effected, in accordance with the provisions of article 10, paragraph 2 of the document entitled “Conditions of Contract”.

6.7 The Contractor shall bear all taxes, duties, retention, etc., as per the Greek Legislation and article 10 of the CC.

6.8 The Supply shall be funded by the national part of the Public Investment Plan (2016/ΣΕ/06550001).

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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ARTICLE 7 ELIGIBLE TO PARTICIPATE

7.1 Acceptable to the Tender shall be individual economic operators and individual companies or associations thereof that are established:

- a) in a member – state of the European Union;
- b) in a member – state of the European Financial Area (EFA), or
- c) in third countries which do not fall under the aforementioned cases and have signed and ratified the Public Procurement Agreement (PPA), to the extent that the contract under award is covered by Annexes 1, 2, 4 and 5 and the general notes of Appendix I of the aforesaid PPA, or
- d) in third countries that do not fall under item c. above and have concluded a bilateral or multilateral agreement with the European Union on issues pertaining to the procedures for the award of public contracts;

AND


The economic operators should prove that they fulfil the terms of this Invitation.

7.2 Each Bidder shall be eligible to participate in the Tender either individually or as a member of only one association. **In any other case, all associations, in which the common member participated, shall be disqualified from the tendering procedure.**

In order to participate in the tender in the form of associations, the Bidders shall not be obliged to be vested with a specific legal form. However, the Association to be selected, shall be obliged, if the contract is assigned to it, to submit to AM a notary act about the establishment of the Joint Venture or the Consortium.

In any case, the legalizing documents related to the establishment should prove that each member of the Association is jointly and indivisibly liable before AM for the execution of the contract,


7.3 In order to participate in the tender, the economic operators interested in the subject tender shall possess a digital signature granted by an accredited authority providing digital signatures and shall be registered in the electronic system (E.S.I.D.I.S. - National

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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Electronic Public Procurement System – web portal www.promitheus.gov.gr), adhering to the registration procedure detailed herebelow, in line with law 4281/2014, articles 134-138 and Decision Π1/16.10.13 issued by the Ministry of Development and Competitiveness.

Visiting the website E.S.I.D.I.S. and following the link <Register as Economic Operator>, the economic operators request their registration (they should provide all necessary information and they should accept all terms of use), providing the following identification details:

- Those economic operators having a Greek Tax Payer’s Number (AFM) shall identify and authenticate themselves to the System using their credentials (Username and password) already given to them by the TAXISNET of the General Secretariat of Information System. Upon identification, the registration of the user shall be approved by the General Department of Public Procurement – Department of Procurement Policy - Programming and Information Section.
- Those economic operators – users belonging to the member states of the European Union, not having a Greek Tax Payer’s Number (AFM) shall request for their registration filling in the VAT Identification Number and shall identify and authenticate themselves to the System using the credentials they possess by the respective System. Upon identification, the registration of the user shall be approved by the General Department of Public Procurement – Department of Procurement Policy - Programming and Information Section.
- Those economic operators – users belonging to Third Countries shall request for their registration and shall identify and authenticate themselves via the General Secretariat for Trade, submitting:
 - Either a legal statement – bearing a digital signature – accompanied by an official translation into Greek;
 - Or a statement under oath or a certificate in PDF format accompanied by an official translation into Greek, and in line with the terms prevailing in the member-state where the economic operator is seated; the statement under oath or the certificate shall state / prove the registration of the

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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economic operator in a Professional or Trade Registry and shall be submitted to the Service concerned in a printed form (original or true copy) within three (3) working days.

The request for registration shall be submitted electronically by all prospective users using the System’s web portal, as referred to above. The prospective user shall be informed about the status of his/her registration request by the System or by e-mail. Should the request for registration be approved, then the prospective user receives a link to activate the account as an authenticated user and proceeds to the activation of his/her account.

- 7.4** Through his/her participation in the Tender, bidders acknowledge that they have been fully informed about the terms of this Invitation and the remaining information and that they accept same with no reservation whatsoever.


ARTICLE 8 PARTICIPATION LETTER OF GUARANTEE – GOOD PERFORMANCE LETTER OF GUARANTEE

- 8.1** For participating in the Tender, along with their Offer, the Bidders shall submit a Participation Letter of Guarantee against an amount of **11,500.00 EURO**. The amount of the Letter of Guarantee corresponds to **two percent (2%)** of the estimated budget of the scope of the Supply, VAT excluded.

This Letter of Guarantee shall be valid for a time period of three hundred and ninety (**390**) days months from the expiry of the deadline for the submission of the offers. The said Letter of Guarantee shall be included in Envelope A.

- 8.2** If the Offer is submitted by a suppliers association, the Participation Letters of Guarantee must be common in favour of all members. In this case, more than one Letters of Guarantee can be issued, which shall cumulatively cover the total amount of the Guarantee, provided that each of these Letters of Guarantee is issued in favor of all the members of the suppliers association and not in favor of separate individual members.

- 8.3** The Participation Letter of Guarantee is issued to the benefit of AM, at the sole expense of the Bidder. The letters of guarantee shall be issued by Credit institutions lawfully operating in the member-states of the European Union, or the European Financial Area (EFA) or in the

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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member-states that have signed the Government Procurement Agreement and have this specific right, in line with the applicable provisions. In addition, they can be issued by TMEDE or be provided by depositing a trust of an equal amount or bonds of equal value to the Trusts and Loans Fund. The letters of guarantee shall be compiled in accordance with Sample A1 in Greek attached herein.


In case the Letter of Guarantee cannot be issued in Greek because the issuing Bank does not operate in Greece, the Letter of Guarantee shall be issued in English, as per Sample A2 of this Invitation.

The said guarantee shall be collectable and payable in Greece, it shall be subject to the exclusive jurisdiction of the competent Greek Courts of Athens and shall be governed by the Greek Law.

In case the aforementioned Letter of Guarantee for Participation does not comply with the above, then the Tender Committee shall call upon the Bidder to submit a Letter of Guarantee in line with the Sample, within a deadline to be determined by the Committee.

Bidders not complying with the aforesaid invitation of the Committee shall be disqualified from the Tender.

- 8.4** It is stressed that AM shall check the validity of the Letter of Guarantee by transmitting a pertinent letter to the Credit Institutions, for this organization to verify in writing the validity of the subject LoG. In case the aforementioned checking shows that an invalid, false or forged Letter of Guarantee for Participation in the Tender has been submitted, then the Bidder shall be disqualified from the Tender, and a criminal complaint shall be filed to the District Attorney.
- 8.5** Offers not accompanied by Letters of Guarantee for Participation in the Tender, as specified above, shall not be accepted. Bidders not complying with the above shall be **disqualified** from the Tender.
- 8.6** The Participation Letter of Guarantee shall be returned interest-free to the nominated Contractor upon the Contract signing and upon the submittal by the nominated Contractor of the required Good Performance Letter of Guarantee. Moreover, the Participation Letter of Guarantee shall be returned to the remaining Bidders,

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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(a) if the deadline for filing an appeal elapses idle or further to the issuance of a resolution on an appeal filed against the awarding resolution, and

(b) if the deadline for filing interim measures elapses idle or further to the issuance of a resolution on them.

8.7 The Letter of Guarantee for Participation **becomes payable** if the nominated Contractor provides false data and information or, even though invited, does not show up to sign the Contract within the deadline set by AM or if he does not submit the required Good Performance Guarantees and/or documents or if he does not adhere to the stipulations of articles 21 and 22 of this Invitation.

8.8 Good Performance Letter of Guarantee

Upon the Contract signing, the Contractor shall submit a Good Performance Letter of Guarantee **rising to 5% on the offered amount of his Financial Offer**, in line with the stipulations of article 10.3 of the Conditions of Contract.


ARTICLE 9 PROVISION OF TENDER DOCUMENTS - CLARIFICATIONS

9.1 The Tender Documents are posted in E.S.ID.I.S web portal www.promitheus.gov.gr and shall be as follows:

- a) European Single Procurement Document
- b) The present Invitation to Tender
- c) The Financial Offer Form
- d) The Conditions of Contract
- e) The Document entitled “Technical Description – Specifications”
- f) The Document entitled “Information Data - Technical Description of the installed Building Automation and Control System (BACS) at the stations of the extensions”.

In addition, the Tender documents are posted in ATTIKO METRO (AM)’s web page www.ametro.gr.

9.2 Any **questions** and clarifications related to the documents of the Tender can be expressed by the bidders electronically in E.S.ID.I.S web portal www.promitheus.gov.gr by **May 19th 2017 at 11:00**.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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It is stressed that in order to submit requests for supplementary information – clarifications, the economic operators must be registered in the system, i.e. they must have the necessary credentials (Username and password) already given to them. The electronic file containing the list of the questions must bear a digital signature.


AM shall collect all questions through the website and will issue a **Clarifications Document** which shall be posted in E.S.ID.I.S web portal by **June 2nd 2017** at the latest **at 11:00**. Please note that answers will be provided only to questions that have been submitted electronically.

It is stressed that any information, views, etc. that might be provided or expressed by any member, executive or employee of AM shall not be binding.

ARTICLE 10 DEADLINE AND MANNER OF SUBMITTAL OF THE OFFER

- 10.1** At the penalty of disqualification, the offer, as far as the submittal manner and the content of the envelope are concerned, must follow the stipulations of this document.
- 10.2** The deadline for the submission of the offers expires on **Thursday, June 8th 2017 at 11.00 hours**. Overdue submission of the offers shall entail the disqualification of the Bidder, even if the delayed submission is due to force majeure.
- 10.3** **Electronic offers shall be unsealed four (4) working days** upon expiry of the deadline for the submission of the offers, i.e. on **June 15th 2017 at 11:00 hours**.
- 10.4** **At the penalty of disqualification** bidders shall submit their offers together with their accompanying documents in pdf format at the web portal www.promitheus.gov.gr of E.S.I.D.I.S by the deadline and time stipulated above, in Greek, and in an electronic file, in line with the provisions of Law 4155/13 (120A') of Ministerial Decision P1/2390/21-10-2013 (2677B') and the stipulations of this Invitation.

The time of the submission of the offers and any electronic communications performed through the System shall be confirmed automatically by the system through time stamping, as stipulated in article 6 of Ministerial Decision P1-2390/13.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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10.5

At the penalty of disqualification and within **three (3)** working days upon electronic submission to the Awarding Authority (**submission to AM’s Document Control Centre by 15:00**), bidders shall also submit in **printed form** any supporting documents and data that have not been issued/prepared by the same economic operator (bidder) and which do not bear his digital signature. By way of example, such documents are warrantees, certificates or attestations issued by public authorities or other bodies. It is clarified that Government Gazette Issues submitted in the electronic offer are not required to be submitted in printed form.

The aforementioned supporting documents and data provided in printed form shall be deposited in a sealed envelope to the Document Control Centre (DCC) of AM and shall be accompanied by a document drafted by the bidder listing the above in detail. This envelope shall bear the indication “**Individual Participation Supporting Documents in Printed Form – Technical Offer**” and shall necessarily bear the following label:

The sealed envelope must be accompanied by a **cover letter outside the envelope**.

<p style="text-align: center;">SEALED OFFER Title of the Bidder</p> <p style="text-align: center;">FOR THE TENDER: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE FIRE BUILDING AUTOMATION AND CONTROL SYSTEMS (BACS)IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFCS)- OASA” (REFERENCE CODE RFP-319/17)</p> <p style="text-align: center;">To: ATTIKO METRO A.E. 191-193 Messogion Av. 115 25 - Athens</p> <p style="text-align: center;">Attention: TENDER COMMITTEE</p> <p style="text-align: center;">####NOT TO BE OPENED BY DOCUMENT CONTROL OFFICE####</p>
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	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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10.6 Offers shall be valid and shall bind the bidders for **three hundred and sixty (360) days** upon the day that follows the deadline for the submission of the offers. The validity of the offer can be extended further to AM's pertinent request and on condition that the bidder provides its consent for the time period deemed necessary for the completion of the tendering process. Any offers including an expiry date earlier than the aforementioned one, shall be **rejected** as unacceptable.

10.7 At the penalty of disqualification, the submission of partial or alternative offers is not allowed.

ARTICLE 11 MANNER OF PREPARATION AND CONTENT OF THE OFFER

11.1 The **content** of the electronic file of the offer shall be set as follows:

- (a) One (Sub)envelope* bearing the indication “Back-Up Documentation for Participation – Technical Offer”; (it shall contain information required in line with articles 14 and 15 of this Invitation). **At the penalty of disqualification**, both information and back-up documentation of the subject Sub-envelope shall be submitted by bidders in pdf format,

And

- (b) One (Sub)envelope* bearing the indication “Financial Offer”; (it shall contain the information duly filled in, according to article 16 of this Invitation).


* (Sub)envelope: category of attached files in the system.

Upon the offer submission, by using the pertinent field of the system, Bidders shall indicate those data of their offer that are confidential.

11.2 The offers shall be submitted in Greek, which shall be the official language of the Contract.

ARTICLE 12 REASONS FOR DISQUALIFYING THE ECONOMIC OPERATOR


12.1 Each Bidder / Economic Operator **is disqualified** from the procedure related to the conclusion of the contract, if it is proven or if it is known to the awarding authority – in any other way – that there is a final

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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decision against the bidder / economic operator for each of the reasons stipulated in paragraphs 12.1.1. up to 12.1.6.

The economic operator shall be also disqualified from the tender procedure when the person convicted by a final judgment is a member of the administrative, management or supervisory body of that economic operator or has powers of representation, decision or control therein. In the case of Limited Liability Companies (Ltds) Societe Anonymes (SAs), General Partnership (GP) and Limited Partnership (LP) Companies, and Private Capital Companies, the obligation set out in the previous clause applies as a minimum to the Administrators. In cases of Societe Anonymes (SAs), the obligation set out in the previous clause applies as a minimum to the Managing Director and all the members of the Board of Directors. In all other cases of legal entities, the obligation set out in the previous clause applies to their legal representatives.

- 12.1.1 Participation in a criminal organization, as this is defined in article 2 of the Council Framework Decision 2008/841/JHA dated October 24th 2008, on the fight against organized crime.
- 12.1.2 Bribery, as this is 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 (EE C 195 dated 25.06.1997 page 1) and in paragraph 1, article 2 the Council Framework Decision 2003/568/JHA dated July 22nd 2003 on combating corruption in the private sector (EE L 192 dated 31.07.2003, page 54), and as stipulated in the applicable legislation or in the national law of the economic operator.
- 12.1.3 Fraud, in the sense of article 1 of the Convention on the protection of the European Communities' financial interests (EEC 316 dated 27.11.1995, page 48), which was ratified by law 2803/2000 (A' 48).
- 12.1.4 Terrorist offences or offences linked with terrorist activities, as respectively defined in articles 1 and 3 of the Council Framework Decision 2002/475/JHA dated June 13th 2002, on combating terrorism (EE L 164 dated 22.06.2002, page 3), or inciting or aiding or abetting an offence, as defined in article 4 thereof.
- 12.1.5 Money laundering or terrorist financing, as defined in article 1, Directive 2005/60/EC of the European Parliament and European Council dated October 26th 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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financing (EE L 309 dated 25.11.2005, page 15), which has been integrated into national legislation via Law 3691/2008 (A'166).

12.1.6 Child labour and trafficking in human beings, as defined in article 2, Directive 2011/36/EU of the European Parliament and European Council dated April 5th 2011, on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA of the European Council (EE L 101 dated 15.04.2011, page 4), which has been integrated into national legislation via Law 4198/2013 (A'215).

12.2 Each Bidder / Economic Operator **is disqualified** from any participation in the contract conclusion procedure:

12.2.1 If AM is aware that the economic operator has not fulfilled his obligations concerning the payment of taxes or social security contributions and that he has been the subject of a final binding judgment or administrative decision, in line with the legal provisions of the country in which he is established or in line with the legislation of the country of the awarding authority, and/or.


12.2.2 If AM can prove - using the appropriate means - that the economic operator has not fulfilled his obligations regarding the payment of taxes or social security contributions.

12.2.3 With regard to items 12.2.1 and 12.2.2 above, if the economic operator is a Greek citizen or if his seat is in Greece, then his obligations regarding the social security contributions shall cover both main and auxiliary social security.

12.2.4 With regard to items 12.2.1 and 12.2.2 above, the subject disqualification shall cease to apply when the economic operator fulfills his obligations either by paying all due taxes or social security contributions, including – on a per case basis – the accrued interests or fines, or by being subjected to a binding settlement for their payment.


12.3 In addition, each Bidder / Economic Operator **is disqualified** from any participation in the contract conclusion procedure if any of the following cases exist, namely:

12.3.1 If AM can prove using any appropriate means that the economic operator has not fulfilled his obligations as these ensue from the environmental, employment protection and working conditions in the

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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framework of public contracts, as per para. 2, article 18 of Law 4412/16.

- 12.3.2 If the economic operator is under bankruptcy, or is under a consolidation or a liquidation process, or is under coercive administration by a receiver or by the court, or has entered into an agreement with creditors or has postponed his business activities or if he is in any similar situation deriving from similar processes foreseen in national law provisions.
- 12.3.3 If AM has sufficient reasonable proof leading to the conclusion that the economic operator has concluded agreements with other economic operators with the aim to cause distortion of competition.
- 12.3.4 If there is a conflict of interests in the sense of article 24, Law 4412/16, that cannot be addressed through less intrusive means.
- 12.3.5 If in the framework of previous participation of the economic operator in the preparation of the contract conclusion procedure there had been distortion of competition, in line with the provisions of article 48, Law 4412/16, that cannot be addressed through less intrusive means.
- 12.3.6 If during the execution of a public contract, the economic operator has exhibited a grave or continuous deficiency in fulfilling an essential requirement in the framework of a previous public contract that he has undertaken, a fact that resulted in the early termination of the previous contract, payment of compensation and other penalties.
- 12.3.7 If the economic operator has been found guilty of serious false statements in providing the information required for ascertaining that there were no reasons for his disqualification or for fulfilling the selection criteria, if he has concealed this information or if he is not in a position to submit the back up documentation required by virtue of article 21 of this Invitation.
- 12.3.8 If the economic operator has attempted to affect in an unlawful manner the decision making process of the awarding authority, to obtain confidential information that may grant him an unfair advantage in the public contract conclusion provision or to provide unintentionally misleading information that may effectively affect the decisions related to the disqualification, the selection of the Contractor or the award of the tender.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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12.3.9 If AM can prove, using the appropriate means, that the economic operator has committed a grave professional misconduct – that could be ascertained – and that he had been punished through disciplinary proceedings in any way whatsoever.

12.3.10 If the economic operator is subject to a penalty for disqualification from public contracts, in line with the provisions of article 74, Law 4412/16.

12.3.11 If the economic operator does not fulfil the selection criteria stipulated in article 13 of this Invitation and is not capable of providing the justification documents for the award of the tender, as these are specified in article 21 of the Invitation.

12.4 For all cases mentioned above and upon submitting his Offer, the Bidder shall submit a European Single Procurement Document, as per article 14.1.2.


The Bidder to be appointed as the Lowest Bidder is obliged, prior to the Contract signing, to submit all pertinent certificates for which the European Single Procurement Document he has submitted, in line with article 21 of this Invitation.

AM is entitled, at any point throughout the procedure in question, to disqualify any bidder from the tender if it is proven that, due to his actions or omissions, he has fallen or falls under the cases described in this article in the framework of this procedure.

ARTICLE 13 SELECTION CRITERIA – MINIMUM REQUIREMENTS – BACK UP DOCUMENTATION

In order to participate in the tender, bidders should fulfil the requirements for participation, as specified in this article, as these are stated in the ESPD.

It is noted that supporting documentation proving that the relevant criteria are met shall be submitted by the “provisional contractor” in the envelope containing the documentation for the award of the tender, on the basis of article 21 herein.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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13.1 Registration in the Chamber

Bidders must be registered in one of the Professional or Commercial Registries of the member-state where the Bidder is seated.

Registration shall be proven through the submission of a valid **certificate** concerning the registration of the company in the relevant Commercial and Industrial Chamber or Professional or Commercial Registries of the country the Bidder is seated, under the terms foreseen by the legislation of the country of his/her seat.

13.2 Credit and Financial Competence – Minimum Preconditions

13.2.1 Minimum preconditions for Credit and Financial Competence

The Bidders are required to have a minimum average annual turnover during the last three (3) fiscal years or during the respective time period of operation, if this is less than the three-year period, equal or over EURO 600,000.00.

13.2.2 Documentation proving the Credit and Financial Competence


The documentation required to be submitted in order to prove the Credit and Financial Competence of the Bidder shall include the following:

- Legal statement certifying the overall turnover during the three (3) previous fiscal years, or during the respective time period of operation, if it is less than three (3) years,
- Balance Sheets and Profit and Loss Accounts Statements during the last three (3) fiscal years, or during the respective time period of operation, if it is less than three (3) years.

13.3 Data related to the Experience

In view of participating in this Tender procedure, the Bidders shall possess experience similar to the experience required on the basis of this procurement, during the 2007 – 2017 time period.

In view of proving their experience, with regard to the workmanlike and timely execution of the Supply, the Bidders shall submit the following:

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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- A list of completed procurements that they have delivered during the 2007 – 2017 time period, concerning the Design, Manufacturing, Supply, Testing and Commissioning of Building Automation and Control Systems (BACS) in Metro Stations.

In case the Supply is executed by a contracting consortium, the company's participation percentage in the Consortium shall be mentioned, as well as the specific scope of the participation.

- **Relevant certificates, which shall have been issued by the Project Owners. The aforementioned certificates must prove workmanlike and timely execution of the supply, as well as the commissioning satisfying, this way, the contract requirements of the projects' Owners.**

The aforesaid certificates shall make clear reference to the following:


- a. The scope of the works pertaining to the Supply, Design, Manufacturing and Commissioning of the building automation and control systems (BACS);
- b. Participation percentages on the entire supply;
- c. The time for the signing, acceptance of the building automation and control systems (BACS) and completion of the Contract;

In case some of the requested data are not included in the above certificates, they shall be provided by means of a Legal Statement made by the Bidder, which shall accompany the certificates.

However, the Legal Statement cannot replace the necessary certificates related to the execution of the Supplies. This Legal Statement is exclusively and solely submitted to supplement any data not included in the certificates.

In case the project is constructed by a contracting consortium, the Bidder's participation percentage, as well as the exact scope of works shall be mentioned.

The certificates must be submitted for each one of the contracting companies forming the Consortium.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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In case of an association, the requested experience can be covered cumulatively by the Companies/operators forming the Association.

Any supply related projects, for which neither certificates nor the relevant Legal Statement for any supplementary data are submitted, shall not be taken into account.

- 13.4** If the Bidder invokes third-party resources, then he shall be called upon to include in the envelope containing the back up documentation for the award the relevant back up documentation stipulated in paragraphs 13.1, 13.2 and 13.3 of this Document concerning third parties, in line with the provisions of article 19.

ARTICLE 14 “PARTICIPATION SUPPORTING DOCUMENTS – TECHNICAL OFFER” SUB-ENVELOPE


- 14.1** The Sub-Envelope bearing the indication “Participation Supporting Documentation - Technical Offer” shall necessarily include the following data:

- 14.1.1** A **Letter of Guarantee of Participation in the Tender**, as per the stipulations of article 8 of this Invitation.

It is stressed that the Bidders shall submit the Letter of Guarantee for Participation electronically in .pdf format; moreover they must submit the subject LoG in a printed format (original), in line with the provisions of article 10.5 herein.

Bidders failing to submit a Letter of Guarantee for Participation in the Tender shall be disqualified from the Tendering procedure without further examination of the content of their Sub-envelope.

- 14.1.2** The **European Single Procurement Document (ESPD)**, article 79, Law 4412/2016. As concerns the associations of the economic operators that submit a joint offer, the subject ESPD shall be submitted separately for each economic operator participating in the association. The ESPD form can be extracted, saved and submitted electronically through the web portal www.promitheus.gov.gr of ESIDIS from the website <https://ec.europa.eu/growth/tools-databases/espd/filter?lang=el>.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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INSTRUCTIONS ON HOW TO FILL IN THE EUROPEAN SINGLE PROCUREMENT DOCUMENT

(1) The awarding authority:

- (a) creates the ESPD for the tender in the website <http://ec.europa.eu/growth/toolsdatabases/espd/filter?lang=el>
- (b) once the ESPD is created, the file is exported
- (c) the exported file is in .xml format and is not readable. The file is posted in ESIDIS together with the remaining documents of the Invitation to Tender.

(2) The bidding economic operator must proceed to the following actions:

- (a) download the file from ESIDIS, save it on his computer and then, go to the web page <http://ec.europa.eu/growth/toolsdatabases/espd/filter?lang=el>. From this web page, click “Import ESPD” in order to upload the file for the specific ESPD of the tender, already downloaded from ESIDIS.
- (b) In this web page, fill in and select electronically the relevant fields already set by the awarding authority, as well as the date and preparation method fields.
- (c) Click “Print”. The file is shown in a printable format and you can now print it in pdf format. In a Microsoft Windows environment, the eESPD can be printed as a PDF file using Chrome browser (endowed with an integrated function for printing PDF files). Otherwise, you can use any other software for creating PDF files available for free on the internet. In a Mac OSX or Linux environment, the eESPD can be printed from all web browser pages.
- (d) Sign digitally the pdf file printed (even if it has already signed it digitally in the web page).
- (e) Submit the ESPD file in an .xml and pdf format in his offer envelope that includes the participation supporting documentation.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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(3) The Committee responsible for the Conduct of the Tender shall evaluate the ESPD either on the basis of the pdf. or the .xml file that it shall upload at the page where the bidder created it <https://ec.europa.eu/growth/toolsdatabases/espd/filter?lang=en>.

14.1.3 If the Bidder invokes **thirty party resources** or if he knows that he **will assign a part of the contract as a sub-contracting work**, he shall be called upon to submit the ESPD for third parties/sub-contractors, in line with the stipulations, especially as regards third parties, of article 19.


14.1.4 The **Technical Offer** of the bidders, in line with the requirements of article 15 herein.

14. 2 Remarks

14.2.1 During examination of the participation supporting documentation, AM may request in writing from the Bidders to clarify or complete the documents they submitted within a reasonable deadline, which cannot be less than seven (7) days upon communication of the relevant notice, in line with the provisions of article 310, L. 4412/16.

14.2.2 Any bidders having submitted deficient data for which the Tender Committee will request the provision of additions/clarifications who fail to submit it and any bidders not submitting data in a duly manner, in line with the provisions of this Contract, shall be **disqualified** from the Tender.

Any offer that shall not include the aforementioned data or that shall not adhere to the provisions of this Invitation shall not be taken into consideration and the relevant Bidders shall be **disqualified** from the Tender.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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ARTICLE 15 TECHNICAL OFFER

15.1 The Sub-Envelope bearing the indication “Back-Up Documentation for Participation – Technical Offer shall necessarily include the Technical Offer of the Bidders, which, at the penalty of disqualification, must meet the requirements stipulated in AM’s document entitled “Technical Description – Specifications”.

15.2 Content of the Technical Offer

The Technical Offer is compiled by filling in the relevant special electronic form of the system. Then, the system produces a relevant electronic pdf. file, which is digitally signed and submitted by the Bidder. All information included in the special electronic Form of the system and in the digitally signed electronic file must coincide. In any other case, the system produces a relevant message and the Bidder is called upon to re-submit the electronic pdf. file.

Moreover, the Bidder shall attach to a separate pdf electronic file the following data, which shall bear the digital signature either of the Bidder himself (if the Bidder is a natural entity), or his legal representative (in case of a Consortium or a Joint Venture). In any other case, the Technical Offer is considered invalid.

The Technical Offer Sub-Envelope shall include the following items:


a. Detailed Table of Contents which shall contain all data submitted in the Technical Offer.

b. Legal Statement of Compliance

Bidders shall accompany their Offer with a Legal Statement certifying that the equipment, the systems and the services to be provided fully satisfy the requirements of the requirements of AM, as these are stipulated in the document entitled “Technical Description – Specifications”.

c. Technical Description

In their offer, Bidders shall submit as a minimum a summary report, drawings or diagrams in line with the proposed system, its architecture and functioning together with technical information on the proposed equipment.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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15.3 Remarks concerning the Technical Offer

The evaluation of the Technical Offer does not mean acceptance of the terms contradicting any requirements of the Tender Documents or the basic rules for the workmanlike and safe construction/manufacturing. Therefore, during the Design preparation stage and the Supply implementation, the Contractor ought to adjust these terms, in line with AM Specifications, without increasing the offered amounts.

If, in his Technical Offer the Contractor has proposed improvements as compared to AM Specifications, he is obliged to incorporate them during the stage of the preparation of the Design and implementation of the Supply without any increase to the offered amounts.


During the evaluation of the Technical Offers, AM can call upon the bidders in writing to clarify or supplement the documents that they have submitted within a reasonable time-period, which cannot be less than seven days upon communication to them of the relevant notice, in line with the provisions of article 310, Law 4412/16, whose provisions fully apply to this tender.

ARTICLE 16 “FINANCIAL OFFER” SUB-ENVELOPE

16.1 At the penalty of disqualification, the Financial Offer shall be submitted in an electronic format in the Sub-envelope entitled “Financial Offer”.

The financial offer shall be compiled by filling in the respective specific electronic form of the system. Subsequently, the system produces the respective electronic file in pdf format, which is digitally signed and submitted by the candidate. The information contained in the specific electronic form of the system and in the produced electronic file, which is digitally signed, shall be identical. In any other case, the system produces a relevant message and the candidate is called upon to produce anew the pdf electronic file.

It is also noted that the candidate shall attach to a separate pdf electronic file the Financial Offer Form (Statement and Table of the Offer), filled in, which shall bear the digital signature either of the bidder himself (if the bidder is a natural entity) or of his legal representative in case of a consortium or a joint venture. In any other case, the financial offer is considered invalid.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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The “Financial Offer” Form shall include the Table of the Offer. The Lowest Bidder shall be the Bidder who offered the lowest price for this specific section

The Bidders must fill in the form with due attention as per the provisions of this article.

It is pointed out that any correction, deletion, reference and, in general, alteration of the text of the Financial Offer Form, or the expression of comments or conditions or terms of this text, shall be considered as reservations concerning the terms of the Tender and shall lead to the rejection of the Financial Offer of the Bidder who expresses them. In case there is a conflict between the price expressed in words and the price expressed in numbers in the Financial Offer Form, the price expressed in words prevails.

In addition, at the penalty of disqualification, the submitted Financial Offers should not exceed the respective amounts of AM’s budget.


The offered amounts shall not include VAT, which shall be borne by AM. The offered amounts shall be expressed in EURO.

- 16.2** The offers shall be valid and bind the bidders for **three hundred and sixty (360) days** from the day that follows the deadline for the submission of the offers. Any offers indicating an expiry date earlier than the aforementioned one, **shall be rejected** as unacceptable.

ARTICLE 17 TENDER PHASES - EVALUATION METHOD OF THE OFFERS

17.1 General

The Tender is carried out by a Committee appointed by AM’s BoD Resolution. This Committee shall be responsible for the conduct of the Tender from the stage of the unsealing of the offers until the stage of submitting the relevant Recommendation before AM’s BoD for the award of the Tender to the lowest bidder, or the annulment of the procedure; in general, it shall opine for any issue that may derive during the awarding procedure, except the examination of the objections to be filed to AM. More specifically, as concerns the examination and the opinion on the objections, AM’s BoD shall set up a separate Committee for Assessing the Objections, whose members

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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shall be different than those of the aforementioned Committee. This Committee shall be responsible for assessing all remaining issues that may derive during the awarding procedure.

The evaluation, scoring and classification of the offers shall be based on the criteria described below in detail.

17.2 Tender phases

The tender procedure is divided into the following two (2) phases:

17.2.1 1st Phase: Review of the Formal Qualifications and Evaluation of the Technical Offers of the Bidders

The electronic unsealing of the offers shall be effected at the time stipulated in article 10.3 of this document by AM's Tender Committee – duly certified into the system.


Upon unsealing (Sub)envelopes “Back-up Documentation for Participation – Technical Offer”, those participating in the Tender will have electronic access to the content of the offers that have been unsealed.

Subsequently, during a private meeting, the Committee shall review each Bidder's submitted documentation and shall decide whether the participation terms that have been set by the Invitation to Tender are fulfilled or not.

In the 1st phase of the Tender, disqualified shall be those Bidders not fulfilling the preconditions and requirements of the Invitation to Tender. The envelopes containing the Financial Offer shall remain sealed.

Throughout the review of Sub-envelopes “Back-up Documentation for Participation – Technical Offer”, the Committee reserves its right and discretion and according to its absolute judgement to request, electronically through the system, clarifications and supplementary information on the submitted data only.

Bidders who, electronically through the system, will submit incomplete data for which the Tender Committee shall request supplementary data / clarifications – within a reasonable time period - which shall not be provided or shall be provided incomplete shall be disqualified from the 2nd Phase of the Tender.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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Disqualified from the 1st Phase of the Tender shall be the bidders

- a) who do not fulfil the preconditions and requirements of Article 14.
- b) who are rejected on the basis of the technical evaluation of their technical offers, according to article 18.

Upon completion of the review of the Sub-envelopes containing the Back-Up Documentation for Participation, the Committee shall compile a Proceedings related to the evaluation of the 1st Phase, which will include those Bidders accepted to the subsequent phase and those justifiably rejected. The results of the 1st Phase of the Tender shall be approved through a Resolution to be made by AM's BoD and be communicated to the participants through the ESIDIS system.

Preliminary appeals can be filed against the aforesaid AM's BoD Resolution, as per paragraph 17.4 of this article.

If no appeals are filed, then the results of the 1st phase shall become final.


The Bidders fulfilling the preconditions of the 1st phase shall participate in the 2nd phase of the Tendering process, i.e. the procedure of the unsealing of Financial Offers.

17.2.2

2nd Phase: Unsealing of Financial Offers and Overall Evaluation

The electronic Sub-envelopes of the financial offers shall be electronically unsealed by the Committee - duly certified within the system – on the date and at the time to be notified to those whose offers were evaluated as acceptable, after the evaluation of the remaining information. Similarly, upon the electronic unsealing of the Sub-envelopes “Financial Offer”, those bidders whose financial offers were unsealed shall have access to the content of the unsealed offers, so that they can be informed about the financial offers that have been submitted.

Following the review of the Financial Offers, the Tender Committee shall prepare a Final Classification Table, presenting the offers in an ascending order, i.e. from the lowest to the highest one; this Table shall be included in a Proceedings. The results of the Tender shall be approved through the AM's BoD Resolution, which shall be communicated to the participants via the ESIDIS system.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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Preliminary appeals can be filed against the aforesaid AM's BoD Resolution, as per paragraph 17.4 of this article.

If no appeals are filed against the results of the 2nd phase, or after the examination of any appeals, then AM shall call upon the lowest bidder to submit the Back-Up Documentation for Award, in line with Article 19 herein.


17.3 Award of the Tender

Upon completion of the offers evaluation procedure, the bidder, to whom the project is to be awarded (“provisional contractor”), is called upon within a fifteen (15) – day period after the pertinent notification that will be transmitted to him electronically, to submit, through the system, the back-up documentation contained in article 21 in .pdf format and in an envelope labelled “Back-Up Documentation for the Award”. The back-up documentation signed by the bidder himself shall be digitally signed. Any statements shall be signed digitally and signature certification is not required.

The back-up documentation shall be submitted by the lowest bidder in a printed format too within a three (3) – working day period upon the electronic submission to the Tender Committee. The aforesaid documentation and information in the printed format shall be submitted by the lowest bidder to AM's Document Control Centre (DCC) in a sealed envelope labelled “Back-Up Documentation for the Award” that is to be accompanied by a Cover Letter.

The electronic unsealing of the envelope labelled “Back-Up Documentation for the Award” of the lowest bidder and to whom the project is to be awarded, shall be effected in **two (2) working days** upon submission of the back-up documentation in the printed format, further to the relevant notification of the participants who are entitled to becoming cognizant of the submitted documentation.

If the Back-Up Documentation for the Award is not submitted or if during the pertinent review it is ascertained that the information provided is false or if the back-up documentation submitted do not prove that there are no reasons for the bidder's disqualification – by virtue of article 12 or the provisions of article 13 – or if deficiencies exist, then all the above constitute reasons for disqualifying the lowest bidder and for declaring him forfeited; moreover, his Letter of Guarantee for Participation becomes payable. In this case, AM shall call upon the bidder that comes next in the classification order of the

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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final Classification Table of the Bidders to submit the relevant Back-Up Documentation for the Award and the procedure continues as stipulated above. As to the remaining issues, applicable shall be article 103 of Law 4412/16.

The procedure related to the review of the Back-Up Documentation for Award shall be completed through the compilation on the part of the Committee of the Proceedings and the transmittal of the envelope to AM's BoD for it to make a resolution about either the award of the contract or the forfeiture of the provisional contractor or the annulment of the procedure.

The resolution for the award, along with a copy of all proceedings pertaining to the review and evaluation of the offers shall be electronically communicated by AM to each Bidder – except the provisional Contractor.

Preliminary appeals can be filed against the aforesaid AM's BoD Resolution, as per paragraph 17.4 of this article.

Upon occurrence of the legal effects of the awarding resolution, AM shall invite the Contractor to sign the contract, in line with article 22 of this Invitation.


17.4 Preliminary Appeals

Disputes that may arise due to AM's actions or omissions are governed by the stipulations of Law 3886/2010 (FEK 173/30.09.2010, Volume A'), which is in effect until the stipulations of Book IV “LEGAL PROTECTION IN THE EXECUTION OF PUBLIC CONTRACTS” (articles 345-374) of Law 4412/2016 comes into force.

Article 18 EVALUATION OF TECHNICAL OFFERS

The Technical Offers shall be evaluated by the Tender Committee. The technical offers of the bidders shall not be subject to a comparative assessment. They shall be only examined in terms of their compliance with the Specifications set by AM (pass-fail system).

Non compliance of the Bidders with the Specifications shall result in their disqualifications from the further stages of the tender procedure.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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ARTICLE 19 INVOCATION OF THIRD PARTY RESOURCES

The Bidders can invoke and make use of the economic and financial (credibility) or technical and professional capacity of other economic operators, as per article 307 of Law 4412/16, regardless of the legal nature of the existing relationships between the candidates and these operators.

In this case, the invocation of third party resources must be available by the bidder for the execution of the Contract.


The Bidders can invoke and make use of the technical and professional capacity of other operators, only if the third party operators are to execute works or to provide services for which the specific capacities are required.

The Bidders shall incorporate in the sub-envelope “Participation Supporting Documents – Technical Offer” the ESPD of the economic operators, whose advantages they invoke.

The back-up documentation for the award of the tender shall include the documentation of the ESPD, as foreseen for the Bidders. In case the terms of these articles are not adhered to, i.e. non-submission of the relevant supporting documents of the ESPD, then the invocation regarding the economic and financial (credibility), or technical and professional capacity of the economic operators shall not be taken into account during the evaluation of the offers.

Moreover, the back-up documentation for the award of the tender shall also include a resolution of the BoD, or other competent statutory Body of the operator – as the resolution stipulated in article 21.2.1 for the Bidders - whereby approval shall be granted to provide the Bidder with the economic and financial (credibility), or technical and professional capacity (experience), so that this capacity can be available to the candidate in the execution of the project. The relevant reference shall be very detailed, itemizing the specific resources that shall be available for the contract, in a manner enabling AM to evaluate and estimate the significance of these resources and to ascertain the fulfilment of the commitment during the execution of the contract.

In case Bidders invoke economic and financial (credibility) resources in the aforementioned resolution, then the commitment that the third

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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party will be jointly and severally responsible along with the Bidder before AM shall also be included.

The above shall be submitted for any other operator, whose economic and financial (credibility), or technical and professional capacity shall be utilized, even if these operators constitute subsidiaries of the third party.

In case the bidder fails to meet his obligations, then the invocation shall not be taken into consideration.

Under the same terms, an association of economic operators can rely of the capacities of those participating in the association or on other economic operators.

The statements and documentation of the candidate and the operators relating to the invocation of resources shall constitute the content of the Supply Contract.

If for any reason whatsoever, the Bidder fails to make available the invoked resources, then the Participation Letter of Guarantee, stipulated in article 8 of the Invitation, shall become payable to AM.


In this case, AM's BoD may nominate as the Contractor, the Bidder whose offer follows in the classification drawn by the Tender Committee.

ARTICLE 20 ANNULMENT OF THE PROCEDURE

20.1 The Tender shall be completed upon approval of its results and its award by AM's BoD.

20.2 Further to the BoD Resolution and the opinion of the Tender Committee, AM can annul the procedure for the contract award in the following cases:

- a) If the procedure was fruitless (unproductive) either due to the non-submission of offers, or due to the rejection of all offers or due to the disqualification of all bidders, in line with the contract documents, or
- b) if no one of the bidders come to sign the contract.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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20.3 The awarding procedure may also be annulled by virtue of AM’s BoD resolution and further to the Tender Committee opinion, in the following cases, namely:

- a) for irregular conduct of the tender procedure, provided that the result of the Tender is affected by the irregularity;
- b) if the financial and technical parameters related to the awarding procedure have radically altered and the execution of the contractual scope no longer interests AM;
- c) if the contract cannot be executed due to force majeure;
- d) if the offer is deemed to be financially disadvantageous;
- e) if the validity of the offers expires and the Bidders do not provide the required extensions;

20.4 If errors or omissions are noted at any phase of the procedure, the Tender procedure may be partially cancelled and/or, its result may be reformed accordingly by AM’s BoD, or it may be decided by AM’s BoD itself to repeat the Tender from the point where an error or omission was noted.

20.5 As to the remaining items, valid shall be the provisions of article 317, Law 4412/16.


20.6 In case of cancellation or annulment of the Tender, the participants do not have any right of compensation for any reason whatsoever.

ARTICLE 21 BACK-UP DOCUMENTATION FOR THE AWARD

The Back-Up Documentation for the Award that the “provisional contractor” is/are called upon to submit to AM before the signing of the contract is the following:

21.1 Back-up Documentation for the Review of Article 10 “Reasons for Disqualifying the Economic Operator”

21.1.1 As regards the cases stipulated in paragraphs 12.1.1 to 12.1.6, the following shall be submitted: an extract of the penal record or, in lack thereof, other equivalent document issued from the competent judicial or administrative authority of the country of origin of the bidder or each member of the bidder (in case of Joint Venture), proving that the

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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required preconditions are met. In case the bidder is a legal entity, penal records should concern:


- his administrators (in case of General Partnership Companies, Limited Liability Companies or Limited Partnership Companies);
- the Chairman and the Managing Director (in case of a Société Anonyme);
- the natural entities responsible for its administration (in any other case);
- the natural entity signing the Financial Offer on behalf of the legal entity, if other than the above.

21.1.2 As far as Greece and items of articles 12.2.1 and 12.2.2 are concerned, a dept clearance certificate issued by the competent Tax Authorities must be submitted as well as a certificate of solvency issued by the Social Security Fund (IKA) or the Social Security Organization concerned.

With regard to foreign bidders, they must submit the corresponding certificates issued by the authority concerned of their country of origin accompanied by an official translation. In case the country concerned does not issue such a document or certificate or in case this document or certificate does not cover all the cases stipulated above, then the said document or certificate can be substituted by a statement under oath (affidavit) to be submitted by the interested party; moreover, in the member-states where there is no provision for the issuance of affidavits, these can be replaced by an official statement before the Judicial or Administrative Authority concerned, a notary public or a professional organization of the country of origin of the bidder.

21.1.3 Items under article 12.3.2, as far as Greece is concerned, shall be proven through the submission of the relevant certificates issued by the Courts of First Instance concerned. From these certificates it should result that the bidder is not bankrupt, under a consolidation or a liquidation process, or is under coercive administration by a receiver or by the court, or has entered into an agreement with creditors or has postponed his business activities or if he is in any similar situation deriving from similar processes foreseen in national law provisions.

For cases under the items of Article 12.3.2, foreign Bidders must submit other equivalent document issued by the Judicial or Administrative Authority of their country of origin, proving that the aforesaid preconditions are met. Where the country in question does

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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not issue such documents or certificates, or where these do not cover all the cases specified in the above, they may be replaced by a declaration on oath or, in Member States where there is no provision for statement under oath (affidavit), by a legal statement made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country whence that bidder comes.


- 21.1.4 As far as case 12.3.9 is concerned, the bidder shall submit a certificate issued by the competent Authority (Professional Record or the respective Chamber) verifying that no professional misconduct has been committed inducing the imposition of a disciplinary action. The Companies for which there is no disciplinary council shall submit an official statement certifying that no disciplinary council exists and that they have not committed any grave professional misconduct.

With regard to foreign bidders, they must submit the corresponding certificates issued by the authority concerned of the member-state accompanied by an official translation. In case the state concerned does not issue such a document or certificate or in case this document or certificate does not cover all the cases stipulated above, then the said document or certificate can be substituted by a legal statement before the Judicial or Administrative Authority, a notary public or a professional organization of the country of origin of the bidder.

- 21.1.5 For items 12.3.1, 12.3.3, 12.3.4, 12.3.5, 12.3.6, 12.3.7, 12.3.8, 12.3.10, as far as Greece is concerned, the bidder shall submit a statement under oath certifying that the economic operator is not subject to any of the aforementioned cases specified in article 12 herein or, in Member States where there is no provision for statement under oath, by a legal statement made by the person concerned before a competent judicial or administrative authority, a notary or a competent professional or trade body, in the country of origin or in the country whence that bidder comes.

21.2 **Legalizing documents**

Legalizing documents proving that the Bidder has been established and is operating legally, as well as the persons legally representing the Bidder and committing him through their signatures in the relevant tender documents.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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21.2.1 The **Resolution issued by the BoD** of the Company (or the statutory body concerned) approving the appointment of a representative for the signing of all relevant documents or statements related to the Tender, as well as for the submission and signing of the offer and any other required data until the contract signing date


In case of an association, the aforementioned Resolution should also include the following items for each member:

- The acceptance to jointly participate in the Tender procedure and in the execution of the Contract
- The extent and the type of participation each member in the consortium / association (including the allocation of fee among them)
- The statement that they are solidly and wholly responsible each one of them before AM with regard to the obligations ensuing from the Contract
- The appointment of one of the member-companies as the common representative of the consortium before AM throughout the duration of the Contract, which shall have the irrevocable order and full authorization of the remaining members to represent the consortium and bind the members forming the latter before AM and, in general, to act and state all subjects necessary for the execution of the Contract. This Company shall have the largest percentage for participation in the Consortium (leader) and the natural entity to be appointed as the common representative of the consortium before AM shall derive there-from.

21.3 Back-up documentation for the Review of article 13 “Selection Criteria”

The back-up documentation referred to in detail in article 13 herein, proving that the selection criteria presented in the relevant article are adhered to.

21.4 In case of awarding the contract – under the form of **sub-contracting work – to third parties**, the “provisional contractor” should submit all information concerning the Subcontractors that he proposes, as well as indicate the section of the contract to be awarded. Moreover, as far as Subcontractors are concerned, it is required to submit the supporting documents stipulated in article 21.1, as well as the

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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Resolution of the BoD or the decision of the competent statutory instrument of the agency concerned, as mentioned in article 21.2.1, whereby approval is granted for the award of the sub-contracting work.

21.5 If **Bidders invoke and utilize the financial and credit capacity or the technical and professional capacity of other operators**, then as per article 307, Law 4412/16, third parties should submit the back-up documentation of para. 21.1, the back-up documentation (concerning the invocation of third party resources) specified in article 13 and BoD’s resolution or the decision of the agency’s statutory instrument concerned, approving the granting of financial, credit capacity or technical and professional capacity (experience) by the operator for being available to the bidder throughout the execution of the Contract.


21.6 Clarifications on the submission of the back-up documentation detailed above

All documentation, certificates, documents, etc., to be submitted by the Bidders, shall be original or merely legible photocopies of public documents. As regards the certifications of photocopies, valid shall be the stipulations of article 1, Law 4250/14, about the abolishment of the requirement for certifying documents’ photocopies.

In the required tender documents, at the points where reference is made to the submission of a legal statement, such statement is meant to be, on the one hand as far as Greek companies are concerned, the “Legal Statement of Law 1599/86” and on the other hand as far as foreign businesses are concerned the “Statement on a document with an equivalent validity”. As such is meant an affidavit or, in case an affidavit is not foreseen, an official statement before a Judicial or Administrative Authority, Public Notary or the competent (Professional) Organization of the Bidder’s country of origin or domicile.

It is not required for the legal statements to bear a signature authentication; their date shall fall within the last thirty (30) calendar day-period prior to their submission.

All public documents, that are related to foreign Companies and are to be submitted by the Bidders in the framework of this tendering process, shall be legible photocopies of the original copies ratified either by the pertinent Consular Authorities of the country of the

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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bidder, or via the seal of the Apostille, in line with the Convention of Hague dated 05.06.61 (ratified by law 1497/84), so their originality be certified. The translation of the subject documents can be performed either by the Translation Department of the Greek Ministry of Foreign Affairs or by the relevant consular authorities, or by an attorney, by virtue of Article 454 of the Code of Civil Procedure and article 53 of the code of attorneys, or by a sworn translator of the country of origin – if such a service exists.

AM reserves its right to request any other document deemed necessary upon completion of the study of legalizing and other documents and data to be submitted prior to the signing of the Contract. Moreover, if there are any doubts, AM is entitled to address itself directly to the competent authorities to obtain any information on the personal status of the “provisional Contractor”. In case the information concerns a “provisional Contractor” established in a State other than that of the contracting authority, then the awarding authority may seek the cooperation of the competent authorities. Having regard for the national laws of the Member State where the Bidders are established, such requests shall relate to legal and/or natural persons, including, if appropriate, company directors and any person having powers of representation, decision or control.


In case of an association, the requirement for submission of the aforementioned documents, data, certificates and official statements shall be valid for each member separately.

ARTICLE 22 EXECUTION OF THE CONTRACT

Upon completion of the review of the back-up documentation for the award and the positive review by the Court of Auditors, the selected Contractor shall be called upon to sign the Contract within twenty (20) calendar days as of the date of the announcement of the results pertaining to the review of the Back-Up Documentation.

The contract shall be signed - on the part of the Contractor - by his authorized representative who shall initial and stamp each page of the Contract Documents. Contracts to be concluded with Joint Ventures/Consortia shall be signed by the Legal Common Representative on condition that he is legally authorized to this end.

At the Contract signing stage, the selected Contractor ought to submit the following:

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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22.1


In case the “provisional contractor” is a Joint Venture, then five (5) calendar days prior to the signing of the Contract he shall submit a Notary Act for the establishment of the Joint Venture; the following shall necessarily be included therein, namely:

1. The joint venture’s acceptance to jointly participate in the execution of the Contract.
2. The participation percentage of each member in the joint venture.
3. The appointment of the member-companies with the highest percentage in the Joint Venture as Leader, who shall have the irrevocable order and authorization of the remaining member-companies to represent the joint venture and commit its members before AM throughout the duration of the Contract, and, in general, to act and state what is necessary for the implementation of the Contract. The natural entity to be appointed as the common representative of the joint venture before AM shall derive from this member (Leader) of the Joint Venture.
4. The members shall be solidly and wholly responsible before AM with regard to the obligations ensuing from the Contract.

The Notary Act for the Establishment of the Joint Venture shall be accompanied by Statements of the Representative and his Alternate, whereby they accept their appointment. The appointment of the Representative and his Alternate, as well as the statements of acceptance must be unconditional and cover all issues concerning the execution of the Contract (e.g. payments, accounts, taking delivery of instructions, exchange of correspondence, taking delivery of Letters of Guarantee, etc.).

If the “provisional contractor” is a Company, he shall also appoint – through a notary document – his representative for the execution of the Contract. Statement of the Representative, whereby he accepts his appointment, shall accompany the Notary Act for the Appointment.

The appointment of the Representative, as well as the statement of acceptance must be unconditional and cover all issues concerning the execution of the Contract (e.g. payments, accounts, taking delivery of instructions, exchange of correspondence, taking delivery of Letters of Guarantee, etc.).

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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22.2 Five (5) calendar days prior to the signing of the Contract, the Contractor should submit a Certificate by the Insurance Company (-ies) about the insurance coverage of the Contract, in line with the stipulations of article 27 of the Conditions of Contract.


The original insurance policies shall be submitted by the Contractor, within a 15-calendar day deadline as of the Contract signing, along with the receipt for the payment of the first premium instalment. In case the Contractor does not comply with the above, the stipulations of article 27 of the Conditions of Contract are in effect.

22.3 Five (5) days **prior** to the signing of the Contract, the Contractor should provide a draft Good Performance Letter of Guarantee, as per sample A attached to Conditions of Contract and the provisions of article 10.3 of the CC. The Contractor, upon signing the Contract, shall submit the original Good Performance Letter of Guarantee.

22.4 Should the deadline for the signing of the contract elapses idle on the appointed Contractor’s liability, who, despite having been called, does not show up for the signing of the Contract or does not submit the required guarantees, or fails to comply with his obligations as stipulated in this document, then the Contractor is declared forfeited without any requirement for the prior communication to him of a special order and the Letter of Guarantee for Participating in the Tender becomes payable in favor of AM. In this case, AM’s Board of Directors can nominate as the Contractor the Bidder whose offer follows in the classification drawn by the Tender Committee. If no one of the bidders comes to sign the agreement, then the awarding procedure shall be annulled. AM reserves the right not to award the Tender and to annul it (in line with article 20 of this Invitation), without this constituting any kind of obligation for any compensation to any interested party.

ARTICLE 23 LANGUAGE FOR THE CONDUCT OF THE TENDER - LANGUAGE OF THE CONTRACT

The official language for the conduct of the Tender and the Contract to be signed is Greek. All back up documents, certificates and documents required to be submitted during the conduct of the Tender shall be in Greek. Should the original documents in question have been drawn originally in a language other than Greek, **they should be accompanied by an official translation in Greek and the Greek language shall prevail.**

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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The translation authenticated by the Greek consular authorities or the Translation Department of the Greek Ministry of Foreign Affairs or by an attorney according to the stipulations of the code of attorneys is accepted as an official translation. The translation includes the seals of the Public Authorities that issue or ratify the documents, as well as the Apostille.

The Contract shall be compiled in the Greek language. The overall written communication between AM and the Contractor shall be conducted in the Greek language.

Exceptionally, any information technical leaflets for materials or equipment can be submitted in English and shall be translated by the Bidder in Greek, if so requested by AM.

ARTICLE 24 APPLICABLE LEGISLATION


The Contract to be signed, and any claims by both parties deriving due to this contract or on the occasion of this contract from the date when it is assigned to the Contractor, shall be governed by the terms of the contractual documents, the Greek Legislation, Law 4412/16, and by the Civil Code. The Courts of Athens are the only competent authorities.

Prior to the signing of the Supply Contract, the relations with AM are regulated on the basis of Directive 2014/25/EU, Law 4412/16 and Law 3886/10 (until 30.05.17), the Greek Civil Code and the Tender Documents.

ARTICLE 25 PUBLICITY

The Invitation to Tender has been transmitted for publication in the Publications Office of the European Union on 08/05/2017. In addition, a summary of this Invitation shall be published in the Greek Press and shall be posted in Diavgeia and AM's web page.

The Invitation document was registered in KIMDIS and all documents of the subject Tender were registered in the web portal of E.S.I.D.I.S and in AM web page (www.ametro.gr).

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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ΥΠΟΔΕΙΓΜΑ Α1

ΕΓΓΥΗΤΙΚΗ ΕΠΙΣΤΟΛΗ ΣΥΜΜΕΤΟΧΗΣ

Εκδότης (Πλήρης επωνυμία Πιστωτικού Ιδρύματος)

...../

T.M.E.Δ.Ε.

Ημερομηνία έκδοσης:

Προς: (Πλήρης επωνυμία Αναθέτοντος Φορέα¹)

.....

.....

(Διεύθυνση Αναθέτοντος Φορέα²)

.....

.....

Εγγύηση μας υπ' αριθμ. ποσού

..... ευρώ³.

Έχουμε την τιμή να σας γνωρίσουμε ότι εγγυόμαστε με την παρούσα επιστολή ανέκκλητα και ανεπιφύλακτα παραιτούμενοι του δικαιώματος της διαιρέσεως και διζήσεως μέχρι του ποσού των ευρώ⁴ υπέρ του:

(i) [σε περίπτωση φυσικού προσώπου]: (ονοματεπώνυμο, πατρώνυμο) ΑΦΜ: (διεύθυνση) ή

(ii) [σε περίπτωση νομικού προσώπου]: (πλήρη επωνυμία) ΑΦΜ: (διεύθυνση) ή


(iii) [σε περίπτωση ένωσης ή κοινοπραξίας:] των φυσικών/νομικών προσώπων

¹ Όπως ορίζεται στα έγγραφα της σύμβασης.

² Όπως ορίζεται στα έγγραφα της σύμβασης.

³ Το ύψος της εγγυητικής επιστολής συμμετοχής καθορίζεται στα έγγραφα της σύμβασης σε συγκεκριμένο χρηματικό ποσό αναγράφεται ολογράφως και σε παρένθεση αριθμητικώς.

⁴ Όπως υποσημείωση 3.

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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α) (πλήρη επωνυμία), ΑΦΜ: (διεύθυνση)
.....

β) (πλήρη επωνυμία), ΑΦΜ: (διεύθυνση)
.....

γ) (πλήρη επωνυμία), ΑΦΜ: (διεύθυνση)
.....

(συμπληρώνεται με όλα τα μέλη της ένωσης / κοινοπραξίας)

ατομικά και για κάθε μία από αυτές και ως αλληλέγγυα και εις ολόκληρο υπόχρεων μεταξύ τους, εκ της ιδιότητάς τους ως μελών της ένωσης ή κοινοπραξίας, για τη συμμετοχή του/της/τους σύμφωνα με την (αριθμό) Διακήρυξη της ΑΤΤΙΚΟ ΜΕΤΡΟ Α.Ε. για την ανάδειξη αναδόχου για την ανάθεση της σύμβασης: “(τίτλος σύμβασης)
.....”

Η παρούσα εγγύηση καλύπτει μόνο τις από τη συμμετοχή στην ανωτέρω απορρέουσες υποχρεώσεις του/της (υπέρ ου η εγγύηση) καθ’ όλο τον χρόνο ισχύος της.

Το παραπάνω ποσό τηρείται στη διάθεσή σας και θα καταβληθεί ολικά ή μερικά χωρίς καμία από μέρους μας αντίρρηση, αμφισβήτηση ή ένσταση και χωρίς να ερευνηθεί το βάσιμο ή μη της απαίτησής σας μέσα σε **πέντε (5) ημέρες** από την απλή έγγραφη ειδοποίησή σας.


Η παρούσα ισχύει μέχρι και την

Σε περίπτωση κατάπτωσης της εγγύησης, το ποσό της κατάπτωσης υπόκειται στο εκάστοτε ισχύον πάγιο τέλος χαρτοσήμου.

Βεβαιώνουμε υπεύθυνα ότι το ποσό των εγγυητικών επιστολών που έχουν δοθεί, συνυπολογίζοντας και το ποσό της παρούσας, δεν υπερβαίνει το όριο των εγγυήσεων που έχουμε το δικαίωμα να εκδίδουμε.

Η Εγγυητική Επιστολή θα είναι εισπρακτέα και πληρωτέα στην Ελλάδα και οποιαδήποτε διαφορά επ’ αυτής θα υπόκεινται στην αποκλειστική δικαιοδοσία των αρμόδιων Ελληνικών Δικαστηρίων της Αθήνας κατά το ελληνικό δίκαιο.

(Εξουσιοδοτημένη Υπογραφή)

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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SAMPLE A2

PARTICIPATION LETTER OF GUARANTEE

Issued by (Full name of the Credit Institution)

...../ TMEDE

Date of issuance:.....

To: (Full name of the Awarding Body ¹)

.....

(Address of the Awarding Body²)

.....

Our Guarantee no. against the amount of euro³.

We hereby declare that we irrevocably and unreservedly guarantee waiving our rights to to make use of the benefit of division and discussion up to the amount of euro ⁴ in favour of:

(i) [in case of a physical entity]: (full name, father's name), Tax Payer's Number (address), or

(ii) [in case of a legal entity]: (full name), Tax Payer's Number (address), or

(iii) [in case of a Joint Venture/ Consortium]: of physical/ legal entities

a) (full name), Tax Payer's Number (address),

b) (full name), Tax Payer's Number (address),

c) (full name), Tax Payer's Number (address),

(fill in all members of the Joint Venture/ Consortium)


individually and for each one of the above and jointly and severally liable in their capacity as members of the Joint Venture/ Consortium for its/their participation, in

¹ As specified in the Contract documents

² As specified in the Contract documents

³ The amount of the Letter of Guarantee for participation in the tender is set in the contractual documents against a specific amount, it is written in full and in numbers in brackets.

⁴ See footnote 3

	<p>PROJECT: “PROCUREMENT OF EQUIPMENT FOR THE MODIFICATION OF THE BUILDING AUTOMATION AND CONTROL SYSTEMS IN THE METRO STATIONS ON LINES 2 AND 3 EXTENSIONS AND THEIR INTERFACE WITH THE AUTOMATIC FARE COLLECTION SYSTEM (AFC) – OASA”</p> <p>INVITATION TO TENDER</p>	<p>RFP-319/17</p> <p>A.Σ. 41381</p>
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accordance with ATTIKO METRO S.A. Invitation to Tender (number) for the appointment of a Contractor for the award of a Contract “(title of Contract).....”.

This guarantee covers only the obligations of the entity (-ies) *(in favour of whom this guarantee is issued)*, as these ensue from the participation to the above tender procedure throughout its validity period.

The aforementioned amount remains at your disposal and shall be paid in full or in instalments. Payment shall be made without disagreement, dispute or objection of any kind on our part, without examining the validity or non validity of your claim, within **five (5) days** upon receipt of your written notification.

The present guarantee shall remain valid until

If this guarantee becomes payable, the relevant amount shall be subject to the applicable stamp duty.

We hereby certify that the amount of the Letters of Guarantee already provided, including also the amount of the present guarantee, does not exceed the threshold of the Letters of Guarantee that we have the right to issue.

The Letter of Guarantee shall be collectable and payable in Greece. Any dispute to be raised concerning this Letter of Guarantee shall be subject to the exclusive jurisdiction of the competent Courts in Athens, Greece and the Greek legislation.

(Authorized Signature)