



ATTIKO METPO A.E.

TITLE OF THE TENDER:

“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI”

RFP-322/17 (A.Σ. 66925)


FUNDING:

The Project has been included into the Public Investment Program (Project No. 2017ΣΕ06550000) as a project to be integrated in the framework of the National Strategic Reference Framework (NSRF) 2014-2020 through the OP – Transport Infrastructure, Environment and Sustainable Development. In addition, it shall be financed from loan resources available by the European Investment Bank (EIB)

ESTIMATED BUDGET:

39,000,000.00 EURO (VAT excluded)

**INVITATION TO TENDER
BASED ON THE OPEN PROCEDURE
VIA THE NATIONAL ELECTRONIC PROCUREMENT
SYSTEM (ESIDIS)**

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**INVITATION TO TENDER BASED ON THE OPEN
PROCEDURE VIA THE NATIONAL
ELECTRONIC PUBLIC PROCUREMENT SYSTEM
(ESIDIS)**

**FOR THE SELECTION OF THE CONTRACTOR FOR THE
CONSTRUCTION OF THE PROJECT:**

**“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY
ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO
LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI”**

ATTIKO METRO S.A.

Announces

**A Public Electronic Tender based on the Open
Procedure regarding the Selection of a Contractor in
order to conclude a framework contract**


	<p align="center">“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI”</p> <p align="center">INVITATION TO TENDER</p>	<p align="center">RFP-322/17 A.Σ. 66925</p>
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CHAPTER A

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 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 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 selection of a Contractor for the conclusion of a contract based on a framework agreement for the Project “ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ “ALSOS VEIKOU - GOUDI”.

1.2 The Awarding Authority, Owner of the Project and Employer for the Contract to be concluded is AM.

The **Administrative Authority** is the Body of AM that supervises the construction of the Project and is vested with the responsibilities determined by Law 4412/2016.

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
Geographical area of the agency (Nuts)	EL 30


1.3 The Contract for the execution of the Project shall be concluded between AM and the Bidder who will be appointed as the Contractor further to the tender procedure.

1.4 The CPV Code for the Contract is as follows:

45112450-4 “Landscaping work”

45231110-9 “Pipelaying Construction Work”

Geographical Area of the Contract execution is the Attica Prefecture (Nuts):
EL 30

	<p style="text-align: center;">“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI”</p> <p style="text-align: center;">INVITATION TO TENDER</p>	<p style="text-align: center;">RFP-322/17 A.Σ. 66925</p>
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ARTICLE 2 PROVISIONS OF TENDER DOCUMENTS – PROVISION OF CLARIFICATIONS

2.1 The Documents concerning the subject Electronic Tender shall be posted on ESIDIS web portal www.promitheus.gov.gr and shall be as follows:

- a) European Single Procurement Document (ESPD)
- b) This Document entitled “Invitation to Tender”
- c) The Document entitled “Financial Offer Form”
- d) AM’s Design Price List
- e) The Document entitled “Conditions of Contract” (CC)
- f) The “Technical Description” (TD)
- g) The General Specifications
- h) The Design Specifications
- i) The Material and Workmanship Specifications
- j) The Design Drawings of AM.

2.2 In addition, the Tender Documents shall be posted on AM’s web page www.ametro.gr and any information regarding the Tender shall be provided by Mrs. K. Saiti, Tel. No. 210-6792351, 210-6792473, during working hours from 09.00 to 15:00h.


2.3 Interested Parties are given the option, prior to the submission of Offers, to submit questions and request clarifications electronically regarding the tender documents at the web page for this specific tender, via ESIDIS web portal www.promitheus.gov.gr by **02.07.2018, at 11:00**,

It is stressed that for submitting a request for the provision of supplementary information – clarifications, economic operators must be registered in the system; in other words, they must possess the required credentials for Login (username and password) granted to them. The electronic file containing the questions related text must bear a digital signature.

2.4 AM shall collect all questions that will be submitted through the web page and shall proceed to the issuance of a Clarifications Document, which shall be posted on ESIDIS web site by 17.07.2018, at **11:00h** at the latest. It is stressed that responses shall be provided only to those questions that have been submitted electronically.

It is stressed that any supplementary information regarding the Tender documents, as well as AM’s written clarifications on questions filed by the interested parties concerning the Tender Documents and procedure shall be all posted at the same time on AM’s web page www.ametro.gr.

2.5 The Clarifications Document may also include any improvements, supplements or clarifications of the terms of this Invitation, which may be required. **The clarifications of the aforementioned Document supplement**

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and are incorporated into the Tender documents and are considered as an integrated part of this Invitation.

- 2.6** It is stressed that any information, views, etc., which may be given or expressed by any member, executive or employee of AM shall not be binding for AM. The bidders should take into consideration only the content of the tender documents, the content of the Clarifications Document to be issued by AM and the related official correspondence.


ARTICLE 3 ELECTRONIC SUBMISSION OF THE OFFER’S FOLDER

- 3.1** Offers shall be submitted by the interested parties electronically, via ESIDIS www.promitheus.gov.gr portal in an electronic folder of the sub-system, by the final deadline and until the time determined in article 14 of this Invitation.

In order to participate in the subject procedure, the interested economic operators must possess a digital signature to be granted to them by the authority certified to provide digital signatures and register into the electronic system (ESIDIS – Web Portal www.promitheus.gov.gr) following the registration procedure described in article 5, paragraphs 1.2 – 1.4 stipulated in the Joint Ministerial Decision No. 117384/31.10.2017(3821 B) “Settling technical issues regarding the award of public contracts for works, designs, and provision of technical and other similar scientific services, using the individual tools and procedures of ESIDIS”.

Economic operators’ associations shall submit Common Offers, which shall be necessarily signed digitally either by all economic operators forming the association or by a representative of theirs, lawfully authorized to this end. At the penalty of the offer’s rejection, the offer shall necessarily specify the extent and the type of each member’s participation (including their share of fee) in the association, as well as the association’s representative / coordinator (paragraph 22.3.2 herein).

- 3.2** The electronic folder of the Offer shall include:
- a. One sub-folder named “Back-up Documentation for Participation” (Category: Technical”), and
 - b. One sub-folder named “Financial Offer” (Category: “Commercial”.
- 3.3** In the relevant field of the sub-system, when preparing his offer, Bidders shall indicate any confidential information, as per the stipulations of article 2.5.7 of Law 4412/2016.
- In this case, in the pertinent sub-folder (category), the Bidder shall submit a justification in the form of a digitally signed .pdf file and shall explicitly refer to all relevant law provisions or administrative acts imposing the confidentiality of the specific information, attaching same (justification) to his electronic offer. Information regarding unit prices, offered quantities and financial offer are not characterized as confidential.


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3.4 In case information is submitted in ZIP files, the Bidder must submit the part of information that he wishes to indicate as confidential, in line with the above, in separate .pdf electronic files of or in a separate ZIP file.

3.5 Users – economic operators shall submit the above (sub)folders via the sub-system, as described below:

- a. The data and back-up documentation included in the (sub)folder with the indication “Participation back-up documentation” are those indicated in article 22.2 of this Invitation and shall be electronically submitted by the economic operator in .pdf files; should they be prepared / produced by this economic operator, they shall bear an approved prior digital signature or a prior digital signature documented by approved certificates, in line with paragraph 3 of article 8 of the Joint Ministerial Decision 117384;
- b. Within three (3) working days upon the electronic submission of the aforesaid information and back up documentation – at the penalty of disqualification - Bidders must submit to AM in a printed format and in a sealed envelope the electronic offer related information, which must be delivered in originals, in line with Law 4250/2014.

The aforementioned information and back up documentation in printed format shall be deposited to the Document Control Center (DCC) of AM until **15:00** in a sealed envelope bearing the following indication: “Back-up Documentation – Print Outs” and shall be accompanied by a document drafted by the bidder listing them in detail. This envelope shall necessarily bear the following label:

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BACK-UP DOCUMENTATION FOR PARTICIPATION

(The company name – mailing address – telephone & fax numbers of the bidder and, in case of a consortium or joint venture, the particulars of all its members)

FOR THE TENDER:

“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ “ALSOS VEIKOU - GOUDI”

(Reference Code RFP-322/17)


**To: ATTIKO METRO A.E.
191-193 Messogion Avenue
115 25 Athens**

Attention: Tender Committee

NOT TO BE OPENED BY DOCUMENT CONTROL OFFICE

The sealed envelope must be accompanied by a cover letter – on the outside – in order to receive a protocol number upon its delivery to the DCC.

- c. Bidders shall compile their financial offer by filling in the respective special electronic form of the sub-system and by attaching – in the electronic field named "Electronic Offer Attachments" (Add Attachment Category Commercial) and in the respective sub-folder – all information of their Offer in a .pdf format.
- d. Subsequently, through the relevant sub-system, bidders shall produce the electronic files ("Reports") of the Participation Back up documentation and Financial Offer in .pdf files. These files shall be signed by the bidders either using a prior approved digital signature or a prior digital signature documented by approved certificates, in line with paragraph 3 of article 8 of the Joint Ministerial Decision 117384, and shall be attached to the respective (sub)-folders of the offer. Once the offer is submitted to the system, the sub-system makes automated checks for the verification of the electronic offer in relation to the produced electronic files (Participation Back up documentation and Financial Offer) and on condition that these checks are successful, the Offer is submitted to the sub-system. Otherwise, the offer is not submitted and the sub-system will generate an error message on the user interface of the Bidders for the Bidders to make the necessary corrections.
- e. If the back up documentation for participation and the financial terms are not depicted in their entirety in the special electronic forms of the sub-

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system, bidders shall attach – digitally signed – the relevant electronic files, in line with the terms of this Invitation.

- f. The sub-system generates an electronic confirmation that the offer has been submitted; this confirmation is sent to the economic operator via an e-mail.


3.6 Withdrawal of the Offer

Bidders are entitled to request withdrawal of a submitted offer prior to the final deadline for the submission of offers by addressing to the Awarding Authority a written request in a .pdf file, having a prior approved digital signature or a prior digital signature documented by approved certificates, in line with paragraph 2 of article 12 of the Joint Ministerial Decision 117384, by action “On Line Discussions” of the sub-system. Further to the pertinent resolution of AM, which accepts the relevant request of the bidder, a certified user of AM proceeds to the rejection of the relevant electronic offer in the sub-system prior to the final deadline for the submission of offers. Subsequently, the economic operator is entitled to re-submit an offer, via the sub-system, until the final deadline for the submission of offers.

ARTICLE 4 ELECTRONIC UNSEALING AND EVALUATION OF OFFERS PROCEDURE - INVITATION TO SUBMIT BACK UP DOCUMENTATION FOR THE AWARD – AWARDING PROCEDURE - CLARIFICATIONS ON THE SUBMITTED DOCUMENTS - PRELIMINARY APPEALS

4.1 Electronic Unsealing and evaluation of offers/Approval of Proceedings


- a) Through its pertinent Resolution, AM’s BoD shall set the Tender Committee, which will be responsible to review and opine on all the stages of the Tender, from the unsealing of the offers to the issuance on an opinion on the resolution for the award or cancellation of the tender, and, in general, to assess and opine on any issue to arise during the awarding procedure until contract signing.
- b) After the final deadline for the submission of offers, as determined in article 14 herein, and prior to the electronic unsealing, the relevant participants list, as produced by the Sub-system, shall be communicated to the Bidders.
- c) Subsequently, on the date and at the time stipulated in article 14 herein, the members of the Tender Committee proceed to the electronic unsealing of the sub-folders “Participation Back up Documentation” and “Financial Offer”.
- d) Further to the electronic unsealing of the offer folders, the Tender Committee posts on the website “Attachments of Electronic Tender” the relevant list of the Bidders classified as per the lowest bid, so that the Bidders can be relatively informed.

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- e) Further on, as per the lowest bids’ order of classification, the Tender Committee shall check the individual Financial Offer digital files.
- f) Once corrected, if necessary, all financial offers are recorded in a table, per the lowest bids’ order of classification; this table shall be signed by the members of the Tender Committee and constitutes part of the Committee’s proceedings.
- g) Further on, on the same day, the Tender Committee shall check the back-up documentation for participation, as per article 22.2 herein, per the lowest bids’ order of classification, starting from the lowest bidder. If, due to the great number of offers, the checking process cannot be completed on the same day, then the subject procedure shall continue in the next working days.
- h) The procedure described above shall be recorded in the Tender Committee Proceedings or in its annex, signed by the Chairman and the members of the Committee. The Tender Committee shall complete the compilation of the relevant Proceedings containing the results of the procedure, whereby it recommends the award of the contract to the lowest bidder (or annulment thereof) and present it before AM’s BoD for approval.
- i) AM shall communicate the resolution pertaining to the approval of the Proceedings to all Bidders and shall grant to them access rights to the submitted participation back-up documentation or to the financial offers submitted by the remaining bidders. A preliminary appeal can be filed against this resolution, as per the stipulations of paragraph 4.4 herein.
- j) It is stressed that in case offers bear exactly the same price, then AM shall select the (provisional) contractor by drawing a lot among the economic operators who submitted offers bearing exactly the same price. This process is conducted before the Tender Committee and in the presence of the economic operators who submitted the offers bearing exactly the same price, on a date and at a time to be notified to the bidders, by action “On Line Discussions” of the sub-system.

4.2 Invitation to Submit Back up Documentation for the Award - Awarding Procedure

- a) Upon completion of the offers evaluation procedure, as per the stipulations of article 4.1, AM shall invite the provisional Contractor by action “On Line Discussions” to submit within a fifteen (15) – day period, the back-up documentation and the legalization documents contained in article 21 herein.
- b) The back up documentation of the provisional Contractor shall be electronically submitted by the economic operator by action “On Line Discussions”.

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- c) If the aforesaid documentation is not submitted or if omissions are ascertained in the documentation submitted, then a deadline shall be provided to the provisional contractor either to submit or to supplement same within five (5) days as of the pertinent communication to him by the sub-system’s action “On Line Discussions. AM may extend the aforementioned deadline, should this be adequately justified, for another 15- calendar day period, as a maximum.
- d) Within three (3) working days as of the electronic submission of the aforesaid documentation, the economic operator shall necessarily submit to AM, in a printed format and in a sealed envelope, the documentation that has to be submitted in originals, as per the provisions of article 11, paragraph 2 of Law 2690/1999 “Code of Administration Procedure”, as amended through the provisions of article 1, paragraph 2. Law 4250/2014.
- e) If during the pertinent review it is ascertained that the information provided is false or inaccurate, or if the required originals or copies of the aforesaid back-up documentation are not submitted within the prescribed time period, or if the back-up documentation submitted lawfully and in due time do not prove that there are no reasons for the bidder’s disqualification – by virtue of article 19 - or that one or more of the requirements are fulfilled in line with article 20 herein, then the offer of the provisional contractor is rejected and the tender is awarded to the bidder whose most advantageous offer in terms of finance comes next, based on the price, adhering to the aforesaid procedure.

In case AM is duly and timely informed on any alterations on the preconditions that the provisional contractor had stated that he fulfilled – through the European Single Procurement Document (ESPD) – and which (alterations) came as a result or on which the provisional contractor was informed after the declaration and until the date of the notification/invitation to him to submit the back up documentation for the award (belated alterations), then the offer of the provisional contractor shall not be rejected.

If none of the bidders submitted a true or accurate declaration or none of the bidders submits one or more of the required back up documentation or none of the bidders proves that he fulfils the qualitative selection criteria stipulated in articles 19 and 20 herein, then the awarding procedure shall be cancelled.

- f) The procedure related to the review of the back up documentation for the award shall be completed upon the compilation of Proceedings by the Tender Committee whereby it recommends either the award or the cancellation of the contract and submits it to AM’s BoD for approval.

AM either awards or cancels the contract, in line with the provisions of articles 316 and 317 Law 4412/2016.

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g) The resolution for the award, along with a copy of all proceedings pertaining to the review and evaluation of the offers shall be communicated by AM to each Bidder – except the provisional Contractor – via action “On Line Discussion”. AM shall also post in the area “Attachments of the Electronic Tender” the back-up documentation of the provisional contractor.

h) Upon idle expiry of the deadline for introducing legal remedy and means at the stage of preliminary and judicial protection, as provided for in paragraph 4.4. herein and in the applicable provisions, after the issuance of suspension decisions on them and upon completion of the preliminary review of the contract by the Court of Auditors – should it be required - in line with articles 35 and 36 of Law 4129/2013, and should it be required, the provisional contractor shall submit the updated back up documentation stipulated in article 21 herein, further to AM’s relevant request, by action “On Line Discussions” of the sub-system. The documentation shall be reviewed by the Tender Committee and, if ascertained that the conditions for participation as per article 19 are still in effect and that the qualitative selection criteria, as per article 20 are still adhered to, and that there are no reasons for disqualification, then the awarding resolution shall be communicated to the provisional contractor, by action “On Line Discussions” of the sub-system.

4.3 Clarifications on the submitted documents


Within a reasonable deadline, which cannot be less than seven 7 days, as of the notification date of the related invitation, AM or the Tender Committee can invite the bidders to provide clarifications or supplementations on the content of the participation back up documentation and on the financial offer that they have submitted, by action “On Line Discussions” of the sub-system, in line with article 310 of Law 4412/16.

Any clarification or supplementing information submitted by the bidders, without AM having requested so, shall not be taken into account.

4.4 Preliminary Appeals

Every interested party to whom the award of this contract was or had been of his interest and who has or had suffered any damage or is likely to suffer any damage due to legal acts or omissions of the part of AM, in violation of the European Union legislation or the national legislation, shall be entitled to file a preliminary appeal before the AEPP (Authority for the Examination of Preliminary Appeals) against AM’s legal acts or omissions, specifically determining all legal and actual complaints that justify the interested party’s application.

If an appeal is filed against any acts on the part of AM, then the deadline for filing the preliminary appeal shall be as follows:

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- (a) within a ten (10)-day period, as of the communication of the contested act to the interested economic operator, if the subject act was communicated to him either by electronic means or by fax, or
- (b) within a fifteen (15)-day period, as of the communication of the contested act to the aforesaid economic operator, if the subject act was communicated to him by other communication means, otherwise
- (c) within a ten (10)-day period as of date when the economic operator takes full, actual or presumed cognizance of the act that harms his interests.

In case of omission, then the deadline for filing the preliminary appeal shall be fifteen (15) days as of the date that follows the day the contested omission was effected.

Based on the provisions of p.d. 39/2017, the preliminary appeal shall be electronically filed to AM by action “On Line Discussions” of the sub-system, using the standardized form, by selecting the option “Preliminary Appeal” and by attaching the respective document, according to paragraph 3, article 8 of J.M.D 117384/26.10.2017.

For reasons of admissibility of the preliminary appeal's filing, a fee shall be paid in favor of the Greek State by the party who files the subject appeal, as per the specific stipulations of article 363 Law 4412/2016; this fee shall be returned to the subject party if his appeal is accepted either in its entirety or partially or in case AM withdraws its contested act or proceeds to the appropriate action before AEPP issues a decision pertaining to the aforementioned appeal.


The deadline for filing the preliminary appeal and its filing do obstruct the conclusion of the contract at the penalty of cancellation, which is ascertained through the AEPP's decision further to the filing of an appeal, in line with article 368, Law 4412/2016.

As to the remaining issues, the filing of the preliminary appeal does not obstruct the progress of the tendering procedure, unless interim protective measures are required, by virtue of article 366, Law 4412/2016.

By action “On Line Discussions”, AM:

- (a) communicates the preliminary appeal to every interested party, as per the provisions of item (a), paragraph 1, article 365 of Law 4412/2016 and item (a), paragraph 1, article 9 of p.d. 39/2017;
- (b) notifies, provides access to all information about the tender and transmits to AEPP all items stipulated in item (b), paragraph 1, article 365 of Law 4412/2016, in line with paragraph 1, article 9 of p.d. 39/2017.

AEPP gives a ruling on the soundness of the contested actual and legal allegations contained in the appeal, as well as of AM's allegations and, in case of intervention, of the allegations of the party who has intervened, and

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makes a decision either accepting (either in total or in part) or rejecting the said appeal; this decision is issued within an exclusive deadline of twenty (20) days, as of the date when the subject appeal is examined.

Filing of preliminary appeal constitutes the prerequisite for filing the means of redress pertaining to the application for suspension and to the application for cancellation – per article 372 Law 4412/2016 – against the legal acts or omissions of the part of AM.


The party who has a legitimate interest in this matter, may request the suspension of the execution of AEPP’s decision and its cancellation before the competent court. AM is also entitled to file the same means of redress if AEPP accepts the preliminary appeal. By the means of redress pertaining to the application for suspension and to the application for cancellation, it is assumed that, along with the decision of AEPP, the legitimacy of all acts or omissions on the part of AM concerning the aforesaid decision is also contested, if the aforesaid decision, acts and omissions is issued or are executed respectively until the discussion of the application for suspension or until the first discussion of the application for cancellation.

Filing the application for suspension does not depend on the previous filing of the application for cancellation. The application for suspension is filed before the competent court within a delaine of ten (10) days following the issuance of the decision on the preliminary appeal and is discussed within thirty (30) days at the latest as of its filing. The precondition for filing the application for suspension is the payment of the fee provided for by the stipulations of article 372, paragraph 4, Law 4412/2016.

The application for suspension does obstruct the signing of the contract, unless the competent court decides otherwise, through the provisional order.

ARTICLE 5 ANNULMENT OF THE TENDERING PROCESS

- 5.1** The tender shall be completed upon approval of its results and its award by AM’s BoD.
- 5.2** Through its BoD resolution and further to the Tender Committee’s relevant opinion, AM can annul the contract awarding process in the following cases:
- a) if the procedure proved to be fruitless, 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 none of the Bidders arrives to sign the contract.
- 5.3** The contract awarding process can also be annulled through AM BoD resolution and further to the Tender Committee’s relevant opinion in the following cases:

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- 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 process have essentially changed and the execution of the contractual scope no longer interests AM;
- c) if the contract cannot be executed due to force majeure;
- d) the offer is considered disadvantageous – in terms of finance;
- e) if the validity of the offers expires and if the bidders do not accept to provide the required extensions;

5.4 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.

5.5 As to the remaining issues, applicable shall be the provisions of article 317 of Law 4412/16.


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

ARTICLE 6 CONCLUSION AND SIGNING OF THE FRAMEWORK CONTRACT - SIGNING OF THE INDIVIDUAL CONTRACTS

6.1 Further to the completion of the procedure, in line with article 4.2 herein, the resolution for the award shall be notified to the provisional contractor by action “On Line Discussions” of the sub-system. By virtue of the same resolution, the selected Contractor will be invited to arrive at a specific place and time, within a deadline that cannot exceed twenty (20) days, as of the notification of a special electronic invitation, by action “On Line Discussions” of the sub-system to sign the Contract – Framework Agreement. The subject notification shall entail all lawful results of the awarding resolution.

Should the deadline for the signing of the Contract elapses idle on the appointed Contractor's fault, 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 he is declared forfeited, while the prior notification to him of a special invitation is not required. In this case, AM's Board of Directors may nominate as the Contractor the bidder whose offer follows in the classification drawn by the Tender Committee. If none of the Bidders come to sign the subject contract, the awarding procedure is annulled. AM reserves the right not to award the Tender and cancel it (in line with article 5 herein), without this constituting any kind of obligation for any compensation to any interested party.

The contract is signed – on the part of the Contractor – by the Bidder's representative, already authorized as of the award stage – if lawfully authorized to this end -, who initials and stamps all sheets of the contract documents. The Contract about joint ventures or consortia shall be signed by

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the Legal Common Representative appointed at the time the Offer was submitted, should this person is legally authorized to this end.

When signing the Contract – Framework Agreement, the selected Contractor has to deposit:

- A Good Performance Letter of Guarantee, in line with article 15.2.1 herein;
- The original Insurance Policies, in line with article 23 of the Conditions of Contract, along with the proof of payment of the first installment of the premium;
- On the basis of his competent bodies resolution, the Contract must also appoint his representative for the execution of the Contract. The Contractor’s representative must reside or stay in Athens. The decision on the appointment shall be also accompanied by the representative’s statement of acceptance.


The representative’s appointment and statement of acceptance shall be unconditional and shall extend to all issues pertaining to the execution of the contract (e.g. payments, accounts, taking delivery of instructions, exchange of correspondence, taking delivery of Letters of Guarantee, etc.).

Before signing the Contract, in case of a Joint Venture or Consortium, the Contractor shall also submit a Notary Act for the establishment of the Joint Venture/Consortium; the following shall be **necessarily** included therein:

- (a) Acceptance for the joint participation in the execution of the Contract, the percentage by which each member-company participates in the Joint Venture/Consortium (same as in the submission of the offer);
- (b) Statement indicating that the contracting companies participating in the Joint Venture/Consortium are jointly and indivisibly responsible before AM for any issue related to the execution of the Project;
- (c) Appointment of the Joint Venture/Consortium common representative (physical entity) before AM and of his alternate.

Statements of the Representative and his Alternate, whereby they accept their appointment, shall accompany the Notary Act for the Establishment of the Joint Venture/Consortium. 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.

In case of sub-contracting work, during the contract signing, the selected Contractor must present to AM the full name, the contact details and the legal representatives of his sub-contractors, should this information is known at that specific time.

	<p style="text-align: center;">“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI”</p> <p style="text-align: center;">INVITATION TO TENDER</p>	<p style="text-align: center;">RFP-322/17 Α.Σ. 66925</p>
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Five (5) days prior to the signing of the Contract and in view of avoiding any delays, the Contractor should provide draft of the required back up documentation to be reviewed by AM.

6.2 As regards the award of individual contracts falling under the scope of this agreement, the Contractor shall be called upon, further to the pertinent written invitation by the Managing Department, **to proceed within a deadline of ten days as of the date that the pertinent invitation was delivered to him, to sign the agreement on the individual contract** in view of executing the designs and works to be determined by AM under the terms of the framework agreement.


Upon signing each individual contract, the Contractor shall deposit an additional Good Performance Letter of Guarantee for the individual contract, in line with article 15.2.2 herein. If the Contractor fails to show up within the deadline set, then it shall be considered that he refuses to conclude the individual contract, he shall be declared forfeited and the Good Performance Guarantee stipulated in paragraph 15.2.1 shall become payable in favor of AM.

In case of sub-contracting work, during the signing of each individual contract, the Contractor must submit the Sub-contracting Agreement, which shall be approved by the Managing Department, in line with article 165 Law 4412/16.

ARTICLE 7 CONTRACTUAL DOCUMENTS AT THE STAGE OF EXECUTION – ORDER OF PREVALENCE

The Contract documents, on the basis of which the Project will be executed, are as described below. In case of discrepancies among the terms they contain, the order of prevalence is set as follows:

1. The Construction Agreement and the Construction Agreements of the individual contracts 2.This Invitation to Tender with its Attachments and the Clarifications Document that may be issued
3. The Financial Offer of the Contractor
4. AM’s Design Price List
5. The Conditions of Contract (CC)
6. The Technical Description
7. The General Specifications
8. The Design Specifications
9. The Material and Workmanship Specifications
10. The Design Drawings of AM
11. The Designs of the Contractor, as these will be approved by AM
12. The Time Schedules for the Construction of the Individual Contracts, as these will be approved by AM.

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ARTICLE 8 LANGUAGE OF THE TENDER PROCEDURE

- 8.1** The contract documents shall be necessarily drafted in the Greek language and, optionally, in other languages too, either in their entirety or in part. In case of discrepancies among the parts of the documents of the contract that have been compiled in more languages, then the Greek version shall prevail. Any preliminary appeals shall be filed in the Greek language.
- 8.2** The offers and the information contained therein, as well as the proving documentation shall be either compiled in Greek or accompanied by their official translation into Greek. As regards the foreign public documents and back up documentation, applicable shall be the Convention of Hague dated 05.10.1961, ratified by Law 1497/1984 (A’ 188).
- 8.3** The Convention of Hague dated 05.10.1961, ratified by Law 1497/1984 (A’188), shall apply to all foreign public documents and back documentation. Especially as regards foreign private documents, they can be accompanied by their translation in Greek authenticated either by the person in charge, in line with the provisions of the national legislation, or by a person in charge of the country in which the subject documents have been compiled. In addition, accepted shall necessarily be photocopies of documents issued by foreign authorities and ratified by an attorney, as per the provisions of paragraph 2, case (b), article 11, of Law 2690/1999 “Code of Administrative Procedure”, as substituted through article 1, paragraph 2, Law 4250/2014.
- 8.4** Information and technical leaflets and other print outs – corporate or not – with special technical content can be submitted in another language and may not necessarily be translated into Greek.
- 8.5** Verbal communication with AM and the communication between AM and the Contractor shall be necessarily in Greek. The Contractor is obliged to facilitate the communication of his foreign employees with AM by making arrangements for the presence of interpreters.


ARTICLE 9 APPLICABLE LEGISLATION

With regard to the Contract’s award and execution, the following provisions are mainly in force, as these are valid at the time this Invitation is published:


- a) Law 4412/16 and more precisely, the provisions of Book II (articles 222 to 338); as regards the execution of the Contract, articles 134 to 181 of Law 4412/16
- b) the terms of the Contract and
- c) the Civil Code shall additionally apply.

ARTICLE 10 PRESUMPTION ENSUING FROM THE PARTICIPATION IN THE TENDER PROCEDURE

The participation in the tender procedure, i.e. the submission of offers, constitutes proof that the bidder has studied and has taken full cognizance of the terms and the documents of the Tender and that he has checked and is

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fully aware of all information about the local and special conditions that may affect the works for the construction of the project and that he has taken all this information into account in the formulation of his offer.

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CHAPTER B’

ARTICLE 11 SCOPE - OVERALL PRE-ESTIMATED FEE –INDIVIDUAL CONTRACTS – DEADLINES

11.1 This Invitation concerns the award of the framework contract entitled:

“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ “ALSOS VEIKOU - GOUDI”,

along with the conclusion of the individual contracts with the selected Contractor for the preparation of the required designs and the execution of works.

The scope of the Contract is the preparation of the required designs, the execution of the archaeological works, the performance of the works for the relocations of public utility organization networks, traffic diversions and any other works required in the areas of the Project of Athens Metro Line 4, as specified in the Tender Documents.

11.2 The overall budget of the Project amounts to **thirty nine million EURO (39,000,000.00) (VAT not included)** and is broken down as follows:


Category A: PUO Network Relocations, Traffic Diversions and other Works

Description	Unit	Quantity	Budget
Category A: PUO Network Relocations, Traffic Diversions and other Works	pieces	1.00	20,000,000.00€
Contingencies (9%)			1,800,000.00€
Works on a Cost Plus Basis			1,150,000.00€
Revision			50,000.00€
Total of Category A			23,000,000.00€

Category B: Archaeological Works

Description	Unit	Quantity	Budget
Category B: Archaeological Works	pieces	1.00	15,000,000.00€
Total of Category B			15,000,000.00€

Category C: Designs

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Description	Unit	Quantity	Budget
Category C: Designs	pieces	1.00	1,000,000.00€
Total of Category C			1,000,000.00€

Overall Budget of the Project (Categories A & B & C)

Overall Budget of the Project (Categories A & B & C)			39,000,000.00€
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The Project has been included into the Public Investment Program 2017 (Project No. 2017ΣΕ06550000) as a Project to be integrated into the National Strategic Reference Framework (NSRF) 2014-2020 from OP – Transport Infrastructure, Environment and Sustainable Development. In addition, it shall also be funded by credit loans from the European Investment Bank (EIB).

It is stressed that AM will not communicate the resolution approving the result of the Tender to the appointed contractor, before the integration of the Project into the NSRF 2014-2020 OP.


The contract is subject to legal retention, as provided for by article 26 of the Conditions of Contract.

11.3 The duration of the framework contract is set to **thirty (30) months**.

11.4 The commencement of the Framework Contract Deadline shall be the day after signing the construction agreement. Individual contracts can be assigned to the Contractor within the validity period of the framework contract.

The deadlines for the execution of the **individual contracts** shall be set by virtue of the relevant construction agreements and shall start the date that comes next to the signing date of the said construction agreements. The deadlines set shall be reasonable, in other words, they shall depend on the required works of each contract. The Contractor is obliged to execute the works of each individual contract.

11.5 Upon signing the framework agreement, the scope of the Project shall be divided into individual contracts, depending on the prevailing conditions (finalization of designs, availability of the areas and other items required) whose overall price and time schedule for their execution are not known in advance; they shall be determined by virtue of the relevant private agreement. The result will be that numerous individual contracts will be executed at the same time depending on the progress of each one of them and, thus, the Contractor is required to have assessed the availability of his resources.

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11.6 The conclusion of the individual contracts during the framework-agreement shall be made only if AM deems it advisable. In case no individual contract is signed, the Contractor shall not be entitled to any compensation.

ARTICLE 12 PROCEDURE FOR THE SELECTION OF THE CONTRACTOR OF THE FRAMEWORK CONTRACT – CRITERION FOR THE AWARD OF THE CONTRACT

12.1 The Contractor of the framework contract shall be selected on the basis of the open procedure.

12.2 The criterion for the Contract award shall be the most advantageous offer, in financial terms, on the basis of the price offered.

ARTICLE 13 OFFERS – OFFER VALIDITY PERIOD

13.1 The offers shall be compiled in accordance with the requirements of this Invitation.

13.2 No alternative offers shall be accepted, nor any offers for part of the framework contract scope.


The offers shall be in effect for a period of **nine (9) months** after the expiry of the deadline for the submission of the Offers stated in the following Article.

ARTICLE 14 EXPIRY OF THE DEADLINE FOR ELECTRONIC SUBMISSION OF OFFERS

14.1 **The deadline for the electronic submission of the Offers** expires on **Monday 23.07.2017, at 11:00h**. Any Offer not submitted within the prescribed deadline shall result in the disqualification of the Bidder.

14.2 **The electronic unsealing** of the Offers shall be effected on **27.07.2018, at 11:00h**.

If due to incidents of force majeure or if for technical reasons, the unsealing of the offers is not conducted on the date set or if until that date no offer has been submitted, then the unsealing procedure and the final deadline shall be shifted to any date, upon AM’s resolution. This resolution shall be notified to the bidders by action “On Line Discussions” at least five (5) working days prior to the new date and shall be posted on the Official Journal of the European Union, KIMDIS and on AM’s web page, as well as on “Tenders Electronic” ESIDIS portal www.promitheus.gov.gr. If the unsealing of the offers is not feasible on that date too or if no offers are submitted until that date, then a new date can be set, adhering to the provisions stipulated in the two previous clauses herein.

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ARTICLE 15 GOOD PERFORMANCE LETTER OF GUARANTEE

15.1 General Terms

The letters of guarantee shall be issued by Credit or Funding institutions or Insurance Companies, per the sense of cases (b) and (c), paragraph 1, article 14 of Law 4364/2016, lawfully operating in the member-states of the European Union, or the European Financial Area (EFA) or in the 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 in the Greek language shall be compiled in accordance with Sample A.1 attached hereto. In case the Letter of Guarantee cannot be issued in Greek because the issuing Bank does not operate in Greece, the Letters of Guarantee shall be issued in English, and be accompanied by an official translation in Greek.


The letters of guarantee shall be explicit, irrevocable, unconditional and payable on AM's first demand. The letters of 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.

It is stressed that AM shall check the validity of the Good Performance Letters 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 has been submitted, then the Bidder shall be forfeited.

15.2 Good Performance Letter of Guarantee of the Framework Contract and of the Individual contracts

15.2.1 For the good performance of the terms of the framework agreement, the selected Contractor - upon the framework agreement signing – ought to deposit a Good Performance Letter of Guarantee, **amounting to 0.5% on the overall Financial Offer of the Contractor, VAT excluded**, as per Sample A.1 of this document, which must fulfill the terms of the Conditions of the Contract.

15.2.2 For the good performance of the terms of each individual contract, the selected Contractor - upon the signing of this contract – ought to deposit an additional Good Performance Letter of Guarantee **amounting to 5% of the amount of the individual contract**, including any contingencies, **VAT excluded**, as per Sample A.1 of this document. If this Letter of Guarantee is not deposited, it shall be assumed that the Contractor refused to conclude the individual contract and any Good Performance Letter of Guarantee deposited until that date shall become payable and the Managing Department concerned shall initiate the procedure for the forfeiture of the Contractor.

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In case the individual contracts are amended, as per article 337 of Law 4412/16, which results in the increase of the contract price, then the Contractor shall be obliged to deposit – prior to the amendment – a supplementary guarantee whose amount will rise to 5% on the amount of increase – VAT excluded.

- 15.2.3 The Good Performance Letter of Guarantee must guarantee, in its entirety and without any distinction, the due, complete, workmanlike and timely implementation of the contract scope, in strict adherence to the requirements, specifications, terms and conditions of the contract. The aforesaid LoG shall cover all requirements on the part of AM against the Contractor either for any violation of the contract terms or for undue execution of the contract or for any claim on the part of AM due to the imposition of a penal clause against the Contractor, or for the payment of compensation. However, this LoG does not release the Contractor from his obligation to compensate AM, in case AM suffers any damage over the amount of guarantee.


At any given time, AM is entitled to claim through its written notice addressed to the Credit Institution or to the Deposits and Loans Fundk payment of the amount of the Good Performance Letter of Guarantee – either in full or in part – in order to satisfy its claims against the Contractor, which derive from this contract and which are due to non-adherence of his contractual obligations.

- 15.2.4 The Good Performance Letters of Guarantee shall be released as follows:
- The Good Performance Letter of Guarantee of the framework-agreement, amounting to 5% on the Overall Financial Offer of the Contractor, VAT excluded, shall be released at equal amounts and proportionally on an annual basis, in relation to the overall duration of the framework-agreement;
 - The Good Performance Letters of Guarantee of the individual contracts equal to 5% of the amount of the individual contracts, including any contingencies, VAT excluded, as supplemented further to the signing of the supplementary contracts, shall decrease at twenty per cent (20%) right after the approval of the Provisional Acceptance Protocols. The overall guarantee amounts shall be returned after the approval of the Final Acceptance Protocols of the individual contracts and the approval of the final accounts, as per the provisions of Law 4412/16, and on condition that the terms of this Invitation have been fulfilled.

All letters of guarantee shall be issued and kept in favour of AM, at the exclusive expense of the Contractor.

ARTICLE 16 ADVANCE [PAYMENT - CONTRACTOR’S FEE – METHOD OF PAYMENT

- 16.1 An interest-bearing advance payment equal to five percent (5%) on each Individual Contract – revision and VAT excluded – shall be granted to the


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Contractor. The manner the advance payment is to be granted and the way it will be amortized is determined in the Conditions of Contract.

- 16.2** The fee and payment manner of the works related to diversions of networks, traffic diversions and other works, shall be in line with article 26.1.1 of the Conditions of Contract.
- 16.3** The fee and payment manner of the archaeological works shall be in line with article 26.1.2 of the Conditions of Contract.
- 16.4** The fee and the payment manner, as far as designs are concerned, shall be in line with article 26.1.3 of the Conditions of Contract.
- 16.5** The elements that make up the Contractor’s fee, the retention and the remaining financial surcharge, the method of payment and all relevant details and terms are described in the Conditions of the Contract.

ARTICLE 17 PUBLICITY – PUBLICATION EXPENSES

- 17.1 Publication in the Official Journal of the European Union**
The Contract Notice, i.e. the relevant standard form “Contract Notice” **was transmitted**, via simap.europa.eu, for publication to the Publication Service of the European Union on 12/06/2018.
- 17.2 Publication in Greece**
The Contract Notice mentioned in the aforementioned paragraph and the Invitation to Tender is published in KIMDIS.
The summary of this Invitation is published in the Greek Press, is posted on DIAVGEIA diavgeia.gov.gr, and on AM’s web page (www.ametro.gr).
In addition, the complete document of the Invitation to Express Interest and all tender documents shall be posted on ESIDIS Portal and on AM’s web page (www.ametro.gr).
- 17.3** Notification of the contract that has been signed shall be published in the Official Journal of the European Union, in line with article 294 of Law 4412/2016.
- 17.4** The fees pertaining to the publications shall be borne by the Contractor and shall be collected through the first payment account of the contract. The subject fees must not exceed the amount of € 3,000.00.

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CHAPTER C’

ARTICLE 18 ELIGIBLE TO PARTICIPATE IN THE TENDER

18.1 Eligible to participate in the tender are natural or legal entities or their associations, whose business activities involve **Hydraulic Works** that are established:

- a) in a member – state of the European Union,
- b) in a member – state of the European Financial Area (EFA),
- c) in third countries that 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 related to the EU of the aforesaid PPA,
- d) in third countries that do not fall under the above items and have concluded a bilateral or multilateral agreement with the European Union.

18.2 Each economic operator 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.

18.3 Associations of economic operators shall participate under the terms of paragraphs 1(e) and 3(b) of article 76, Law 4412/16.

18.4 The subject associations shall not be obliged to be vested with a specific legal form, for it to submit an offer or an application for participation, as per paragraph 2, article 254 of Law 4412/2016.


18.5 If the association is appointed as the Contractor, its legal status must ensure only one tax ID number (e.g. association established by virtue of a notary act), in line with paragraph 4, article 254 of Law 4412/2016.

In any case, the legalizing documents about the establishment of the association must prove that its members are jointly and severally responsible before AM for the execution of the Contract.

ARTICLE 19 REASONS FOR DISQUALIFICATION OF THE ECONOMIC OPERATOR

19.1 Each economic operator is disqualified from the procedure related to the conclusion of the contract, if one of the reasons described below concerns him (in case the bidder is an individual natural or legal entity) or one of his members ((in case the bidder is an association of economic operators):


19.1.1 If there is an irrevocable condemnatory decision for one of the following reasons:

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- a) 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 (EE L 300 dated 11.11.2008, page 42).
- b) 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.
- c) 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).
- d) 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.
- e) 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 financing (EE L 309 dated 25.11.2005, page 15), which has been integrated into national legislation via Law 3691/2008 (A’166).
- f) 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).

Economic operators shall be also disqualified if the entity to the detriment of whom an irrevocable condemnatory decision was issued is as member of the administrative, managerial or supervisory body of the subject economic operator or if this entity is vested with the power for representation, decision making or supervising the aforesaid body.

In case of General Partnership Companies, Limited Liability Companies or Limited Partnership Companies, the obligation referred to in aforesaid clause concerns at least the administrators.

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In case of Sociétés Anonymes, the obligation referred to in aforesaid clause concerns at least the Managing Director and all members of the Board of Directors.

In case of associations, the obligation referred to in aforesaid clause concerns at least the members of the Board of Directors.


- 19.1.2 a) If the economic operator has failed to observe his obligations regarding the payment of taxes or social security contributions and this has been proven on the basis of a final binding judicial or administrative decision, as per the provisions of the country he is established or as per the national legislation and/or if AM can prove through the appropriate means that the bidder has failed to observe his obligations regarding the payment of taxes or social security contributions.

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.

The economic operator shall not be disqualified if he has fulfilled 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.

- b) If AM is aware of the fact or if AM can prove using the appropriate means that to the detriment of the economic operator and within a time period of two (2) years before the expiry of the deadline for the submission of the offer: aa) three (3) acts on fines have been imposed to him from the competent inspection bodies of the Labour Inspection Authority for violations of the labour legislation, characterized, in line with Ministerial Decision 2063/Δ1632/2011 (B’ 266), as applicable each time, as “significant” or “extremely significant” violations, as these (violations) have ensued cumulatively further to three (3) inspections conducted or bb) two (2) acts on fines have been imposed to him from the competent inspection bodies of the Labour Inspection Authority for undeclared work, as these (violations) have ensued further to two (2) inspections conducted. It is necessary that the penalties described under items aa and bb must have a final and binding effect.


Due to the fact that – for the time being – the aforesaid reason for disqualification cannot technically be incorporated into the ESPD, AM deems that the ESPD also serves as a legal declaration on the part of the bidding economic operators that the aforesaid reason for disqualification – stipulated in article 19.1.2(b) - does not apply to them. Therefore, the submission of the ESPD constitutes an acceptance on the part of the economic operators of the subject concept and also a commitment to prove the above, should it be required.

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19.1.3

Each economic operator shall be disqualified from any participation in the contract conclusion procedure if any of the following cases exist, namely:

- a) If the Bidder has not fulfilled his obligations, as per para. 2, article 18 of Law 4412/16.
- b) 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. AM may not disqualify an economic operator under any case of the aforesaid clause on condition that AM proves that the subject economic operator is capable for executing the contract, taking into consideration the applicable provisions and measures concerning the continuation of his business activities (paragraph 5, article 73, Law 4412/16).
- c) There is 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.
- d) If there is a conflict of interests in the sense of article 24, Law 4412/16, that cannot be addressed through less intrusive means.
- e) 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.
- f) 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.
- g) 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 herein.
- h) If the economic operator has attempted to affect in an unlawful manner the decision making process of AM, 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.

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- i) If the economic operator has committed a grave professional misconduct that could question the operator’s integrity.

19.1.4 Disqualified from the contract conclusion procedure shall be an economic operator who subject to the preconditions for implementation of paragraph 4 article 8 Law 3310/2005 (national reason for disqualification).

19.2 AM is entitled, at any point throughout the procedure in question, to disqualify any economic operator from the tender if it is proven that, due to his actions or omissions, he has fallen or falls - either prior or during the subject procedure - under the cases described in the previous paragraphs.

If the disqualification period has not been set by virtue of an irrevocable decision, for the cases stipulated in paragraph 19.1.1, this period is five (5) years as of the date of the conviction through an irrevocable decision and for the cases stipulated in paragraph 19.1.3, the subject period is three (3) years as of the date of the relevant incident.


19.3 At any time during the tendering process, AM can request the Bidders to submit all or some of the back up documentation, as required, for the correct conduct of the subject process.

19.4 Any economic operator falling under the cases referred to in paragraphs 19.1.1, 19.1.2b and 19.1.3 can submit information in order to prove that the measures he has introduced suffice for him to demonstrate his reliability, despite the fact that he is subject to disqualification. If this information is deemed to be sufficient, then the subject economic operator shall not be disqualified from the contract conclusion procedure. The measures to be introduced by the economic operators shall be evaluated in combination with the graveness and the special occasions of the penal offence or breach. If the measures are deemed to be insufficient, the rationale for this decision shall be notified to the economic operator. Any economic operator who is disqualified from the contract conclusion procedure or concession award procedure by virtue of an irrevocable decision cannot make use of the aforesaid option during the disqualification period specified in the aforesaid decision in the member-state in which this decision applies.

19.5 The decision for ascertaining the sufficiency or not of the recovery measures, in line with the above paragraph, shall be issued in line with the stipulations of paragraphs 8, 9 and 10 of article 73, Law 4412/2016.

19.6 If an economic operator is subject to a penalty for disqualification from public contracts, imposed to him by the joint ministerial decision stipulated in article 74, Law 4412/16, as in effect, shall be *ipso jure* disqualified from this contract conclusion procedure.

ARTICLE 20 SELECTION CRITERIA RELATED TO THE PROFESSIONAL, FINANCIAL AND TECHNICAL COMPETENCE

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20.1 Competence for exercising professional activities

20.1.1 As regards the competence for exercising professional activities, the economic operators must be registered in the relevant Professional or Commercial Registry kept in the country where they are established.

More specifically,


- the Bidders established in Greece, must be registered in the Register of Contracting Companies (M.E.EP.) in work category **Hydraulic**.
- The Bidders established in a member-state of the European Union must be registered in the Registries referred to in Annex XI of Appendix A, Law 4412/2016;
- The Bidders established in a member – state of the European Financial Area (EFA) or in third countries, as per paragraphs 18.1 (c) and 18.1.(d) of this Document, must be registered in the respective Professional or Commercial Registry kept in the country where they are established.

20.2 Credit and financial competence

20.2.1 Each economic operator who participates in the Tender either as an individual entity or as a member of an association must possess, as a minimum:

- i. Equities, whose minimum value amounts to EURO4,500,000.00. The amounts of the share capital whose payment and certification procedure has not been completed by the supervising authorities are not included in the aforesaid equities.
- ii. Real Estate property with a minimum value of EURO 270,000.00. The real estate property shall include the property of personal use and investment property; real estate property means land, land plots, buildings, mines, quarries and fields.
- iii. Mechanical equipment, with a minimum value of EURO 270,000.00. The terms “Mechanical equipment” incorporate Machinery and Means of Transport, related to the construction of technical works, including hardware, but not the rest office equipment.
- iv. Fixed assets, whose value amounts to EURO 900,000.00 as a minimum. Fixed assets mean the sum up of the Properties plus the Mechanical Equipment, as mentioned above.
- v. Sustainability Index:
Total Equities / Total of Liabilities > 0.4

Total Equities means the value stated in “Liabilities and Share Holders' Equity” of the company’s financial statement as “Total of Equities” after

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the deduction of the Principal and the “Amounts intended for Share Capital Increase”.

Total Liabilities means the sum up of the current and long-term liabilities of the Company, with the exception of the long-term liabilities not relating to bank borrowing, as these are defined in the chartered accountant certificate, minus the invoiced receivables certified by the chartered accountant.

vi. Sustainability Index:

Current Assets /Current Liabilities > 0.6, where

Current Assets, as indicated in the section “Assets”, and

Current Liabilities, as indicated in the section “Liabilities”.

The aforesaid requirements must be in line with the detailed provisions of Articles 99 and 100 Law 3669/2008, as amended and in force.

20.2.2 **In addition**, each Bidder must possess sufficient financial resources to cope with the cash flow of the obligations of the framework agreement and to prove the current robustness/reliability of his financial status and his eventual long-term profitability. Each Bidder must possess - as a minimum - credit and financial competence for a minimum amount of **€ 8,000,000.00**, out of which the amount of at least **€ 4,000,000.00** must be available for loans and at least **€ 4,000,000.00** for Letters of Guarantee, out of which an amount at least **€ 4,000,000.00** must be available for each of the above two cases for this Project.


In case of an Association, the credit and financial competence requirements stipulated in paragraph 20.2.2 can be covered **cumulatively** by all its members.

20.3 Technical and professional competence

20.3.1 Each Economic Operator, participating in the Tender either as an individual entity or as a member of an association, must be manned (for the work category into which the Project is subject) – as a minimum - with 6 engineers each one possessing at least 14 years of experience, with 4 engineers each one possessing at least 11 years of experience and 1 engineer possessing at least 8 years of experience.

The aforesaid requirements must be in line with the detailed provisions of Article 100 Law 3669/2008, as amended and in force.

20.3.2 Moreover, each Economic Operator must cumulatively possess experience acquired during the last three years on the basic work category of this Project (hydraulic works) equal to twenty five per cent (25%) of the turnover depending on the Company’s requested staffing, as this turnover is specified

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under case d’, paragraph 2, article 99 of Law 3669/2008, as amended and in force. This provision is not in force for class 7 as concerns the economic operators for whom the option to undertake a project falling under the category Hydraulics, regardless of its budget, is proved by their registration in the MEEP.

The aforesaid requirements must be in line with the detailed provisions of Article 100 Law 3669/2008, as amended and in force.

20.4 Relying on the capacity of other operators (Borrowed experience)

The Bidders can invoke and make use of the economic and financial standing 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, if the subject Candidate is appointed as the Contractor during Stage B’ of the Tender.

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.

In case the bidder invokes economic and financial – credit resources of third parties, then the subject third party shall be liable jointly and severally with the Contractor before AM for the recourses he will make available to the bidder.


The Bidders shall incorporate in the Sub-folder “Back Up Documentation” the ESPD of the operators, whose advantages they invoke.

Moreover, along with the “Back-up Documentation for the Award” the Bidders shall submit the items required by article 21.8 herein for proving that they rely on the experience of a third party.

The above shall be applicable 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.

Under the same terms, a joint venture/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 Bidder and of the third parties, whose resources are invoked by the Bidder, shall constitute the content of the Contract for the Project at hand.

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ARTICLE 21: AWARDING BACK-UP DOCUMENTS - QUALITATIVE SELECTION DOCUMENTS

21.1 Supporting documents (proof of evidence)

This article includes the awarding back up documents – proof of evidence, which the provisional contractor shall be called upon to submit in order to prove that he fulfills the preconditions of articles 19 and 20 herein.

At any time during the tendering process, bidders may be required to submit a number or all back up documents, if this is required for the correct conduct of the procedure.

If the special provisions governing the issuance of the supporting documents do not foresee a specific validity period, these documents are regarded as valid as long as they have been issued within four (4) months before the date on which the supporting documents were submitted.

The affidavits that may be submitted in lieu of supporting documents must also have been issued within two (2) months before the date on which the supporting documents were submitted.


21.2 Supporting documents proving that the disqualification grounds (article 19) do not apply

In order to demonstrate that the reasons for disqualification (**article 19**) do not apply, the provisional contractor shall submit the following supporting documents, further to AM’s electronic invitation:

- a) for **paragraph 19.1.1 herein**: an extract of the penalty record or, in case it is unavailable, other equivalent document issued by the responsible judicial or administrative authority of the member-state, or the country of origin, or the country of installation of the economic operator, proving that the said preconditions are met. The persons mentioned in the last four cases of paragraph 19.1.1.
- b) for **paragraph 19.1.2a herein**: a certificate issued by the responsible Authority of the relevant member-state or country, certifying that the economic operator has fulfilled his obligations as regards the payment of taxes (Tax Clearance Certificate) and the payment of Social Security Contributions (Social Security Clearance Certificate), according to legislation in the country of installation or the Greek legislation as the case may be.

The economic operators having their seat or constructing projects in Greece must submit the following supporting documents:

- Tax Clearance Certificate issued by the Ministry of Finance (competent Tax Authority) concerning the economic operator and the


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Associations where this operator participates, as well as the on-going public projects. Foreign bidders must submit a Legal statement that they are not obliged to pay taxes in Greece. Otherwise, they are obliged to submit the said Clearance Certificate issued by the competent Tax Authority.

- Social Security Clearance Certificate issued by the responsible Social Security Organization. This Certificate shall cover the obligations for contributions by the economic operator a) as a physical or legal entity for its personnel under a dependent employment relationship, b) for the project the operator is executing along or as a member of a Joint Venture and c) for its personnel who are obliged to be insured by TMEDE. The economic operators installed in Greece submit a Social Security Contributions Clearance Certificate (main and supplementary insurance) for their personnel under a dependent employment relationship (TMEDE for the insured –members of the Technical Chamber of Greece (TEE), IKA and other personnel). Foreign bidders (natural and legal entities) who do not submit the above supporting documents must submit a Legal Statement that they do not employ personnel that has to be ensured in domestic Social Security Organizations. If they employ such personnel, they must submit the pertinent Social Security Contribution Clearance Certificate.

For **paragraph 19.1.2(b) herein**: a Certificate issued by the responsible authority of the relevant member-state or country. As regards economic operators who are established or are executing works in Greece, a certificate shall be issued by the Directorate for Planning and Coordination of the Labor Relations Inspection Authority from where the acts on fines imposed to the detriment of the economic operator within a time period of two (2) years prior to the expiry of the deadline for the submission of the offer must ensue. If this certificate cannot be issued, then, in line with paragraph 2, article 80 Law 4412/2016, this can be replaced by an affidavit.

- c) For **paragraph 19.1.3(b)**: a certificate issued by the responsible Authority of the relevant member-state or country. As regards the economic operators either installed or constructing projects in Greece, the certificate that they are not under bankruptcy, suspension of works, bankruptcy settlement, cohesive administration, compulsory administration is issued by the responsible Court of First Instance at the seat of the economic operator. The certificate that the legal entity is not under liquidation by virtue of a court decision is issued by the respective Court of First Instance in the country of the economic operator's establishment, while the certificate that it is not under liquidation by virtue of a resolution made by its partners is issued by the General Electronic Commercial Registry (GE.MI.), in accordance with the applicable stipulations. The physical entities do not submit a certificate that they are not under liquidation. In particular, non-suspension of business activities of the economic operator – for those established in Greece - can be

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proved through the electronic platform of the Independent Authority for Public Revenue (IAPR).

- d) If a member–state or country does not issue the certificates mentioned in cases (a), (b) and (c), or if these certificates do not cover all cases under points 1, 2 and 3(b) of paragraph 19.1, then the said document or certificate can be substituted by a statement under oath (affidavit) or, for member-states / countries where affidavits are not issued, by an official statement of the interested party before a responsible Judicial or Administrative Authority, a notary public or a responsible professional or commercial entity of the economic operator’s country of origin / installation.

In this case, the responsible Public Authorities provide an official statement whereby it is stated that the certificates presented in this paragraph are not issued, or that these certificates do not cover all cases mentioned under points 1, 2 and 3(b) of paragraph 19.1 herein.

Should it be ascertained by any means that the said certificates are actually issued in this country, then the Bidder’s Offer is rejected.

- e) For all other cases presented in **paragraph 19.1.3**, an updated Official Statement is filed before the responsible Judicial or Administrative Authority, a notary public or a responsible professional or commercial organization of the member-state or of the Bidder’s country of origin/installation, stating that the grounds for disqualification do not apply to the subject Bidder.


Especially for **case i in paragraph 19.1.3**, as regards the contracting companies registered in MEEP, certificates are submitted which are issued by the responsible Chambers and Agencies (TEE, GEOTEE, EETEM), proving that the persons who have a certificate from MEK and are members of the contracting firm have not committed a grievous professional offence.

f) Supporting documents in paragraph 19.1.4

In order to prove that there is no reason for disqualification, as mentioned in paragraph 19.1.4, the following documents are submitted, provided that the Provisional Contractor is a Societe Anonyme:

Certificates pertaining to the nominalization of the shares.
[Companies listed in the Stock Exchange of their country of installation are exempted from this obligation and *in lieu* they submit a Legal Statement by their legal Representative].

- Certificate issued by the responsible Authority of the country of their seat, whereby it results that the shares are nominal.

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- Detailed list with the details of the company’s shareholders and the number of shares of each shareholder, as these details are recorded in the company’s Book of Shareholders, maximum thirty working days prior to the offer submittal date.

In particular:


a) Companies registered in MEEP submit only the detailed list with the details of the company’s shareholders and the number of shares of each shareholder, as these details are recorded in the company’s Book of Shareholders, maximum thirty calendar days prior to the offer submittal date, since the requirement for submittal of the certificate whereby it results that the shares are nominal is covered in line with the stipulations of article 21.7 herein.

b) The foreign companies, if they possess nominal shares as per the Law in the country of their seat, submit the following:

- aa) Certificate issued by the responsible Authority of the country of their seat, whereby it results that the shares are nominal.
- bb) Detailed list with the number of shares of each shareholder, as these details are recorded in the company’s Book of Shareholders, maximum thirty working days prior to the offer submittal date.
- cc) Any other document proving the nominalization down to the natural entity level of the shares that has been effected within thirty (30) working days the latest prior to the offer submittal date.

c) The foreign companies, if they do not possess nominal shares as per the Law in the country of their seat, submit the following:

- aa) A certificate issued by a responsible authority that they are not obliged to nominalize the shares otherwise if such a provision does not exist, they submit a legal statement by the Bidder.
- bb) An updated and valid list of shareholders holding at least one per cent (1%) of the shares or the voting rights of the company.
- cc) In case such a list is not kept, they submit the list of shareholders (possessing one 1%) in accordance with the last General Assembly, should these shareholders are known to the Company.
- dd) If the list stated above is not submitted, the Company ought to justify the reasons why these shareholders are not known. AM does not express a judgement on the above justification. However, AM may be able to demonstrate the ability to submit the said list of shareholders and solely, in that case, the company is disqualified.

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- g) To cover case 19.6 herein, an Official Statement before the responsible Judicial or Administrative Authority, a notary public or a responsible professional or commercial organization of the member-state or of the Bidder’s country of origin/installation, stating that a disqualification decision has not been issued against the bidder, according to article 74, Law 4412/2016.


In addition, before contract signing the Bidder submits the Official Statement described in the Joint Ministerial Decision by the Ministers of Development and of the State no. 20977/23.08.07 (B’ 1673) “Supporting documents concerning the registries mentioned in Law 3310/2005, as amended by Law 3414/2005”.

21.3 Back up documentation proving the Competence to exercise the professional activity stipulated in article 20.1

- (a) Regarding the competence to exercise the professional activity, the bidders installed in Greece submit a certificate that they are registered in MEEP, **class 6 and over that, for Hydraulic Works.**
- (b) The bidders established in other member-states of the EU, submit the statements and certificates listed in Annex XI of Appendix A, Law 4412/2016, proving the competence of the economic operator to execute Hydraulic works.
- (c) The Bidders established in a member – state of the European Financial Area (EFA) or in third countries, as per paragraphs 18.1 (c) and 18.1 (d) of this Document, and respective Professional Registries are kept in these countries, they shall submit a certificate issued by the respective professional or commercial registry.
- (d) The Bidders established in a member – state of the European Financial Area (EFA) or in third countries, as per paragraphs 18.1 (c) and 18.1 (d) of this Document, and respective Professional Registries are not kept in these countries, they shall submit an affidavit or, in member-states or in countries where affidavit is not foreseen, they shall submit an official statement before an official judicial or administrative authority, notary public or the responsible professional or commercial Institution in the economic operator’s country of origin or establishment, that such registry is not kept and that he exercises the activity mentioned in article 18 herein.

21.4 Back up documentation proving the Credit and Financial Competence stipulated in article 20.2

- 21.4.1 The Credit and Financial Competence of each economic operator – article 20.2.1 herein - can be demonstrated as follows:

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(a) The economic operators established in Greece submit a certificate that they are registered in MEEP, which constitutes the proof of the information it contains

(b) Foreign economic operators that are registered in the official registries or possess a certificate issued by a certification organization that they comply with the European Certification Standards, in the sense of Annex VII of Appendix A’, L. 4412/2016, can submit to the Awarding Authorities a certificate issued by the responsible Authority or the certificate issued by the competent certification Organization, as per the stipulations of article 83, L, 4412/2016 and article 21.7 of this Invitation, which demonstrates the economic operators capacity and competence to undertake a project with a budget equal or higher than the budget of the tendered project.


It is stressed that those contracting companies that are registered in MEEP and are entitled to undertake a project whose budget is equal to or greater than the budget of the tendered project (concerning either an individual participation or a participation in an economic operators’ association as a member) are not required to prove their economic and financial standing stipulated in article 20.2.1, since this is covered by their registration in the MEEP. The same applies to the foreign economic operators who are registered in the respective professional registries of the country of their establishment, who have both the option and the competence to undertake a project whose budget is equal to or greater than the budget of the tendered one.

(c) More specifically, the following economic operators:

- Foreign economic operators, in whose country of origin no official lists of recognised contractors are kept or do not possess a certificate issued by a Certification Organization, as per the above,
- Foreign economic operators that are registered in official lists (deriving from states of the EU or the EFTA or the GPA of the WTO) or are certified by Certification Organizations, but the registration certificate does not prove their possibility and competence to undertake projects with a budget equal or over the tendered project,
- Economic operators established in Greece and not registered in MEEP but the registration certificate does not prove their possibility and competence to undertake projects with a budget equal or over the the budget of the tendered project,

must submit the following back up documentation to prove that they fulfil the preconditions of article 20.2.1, namely:

1. The most recent financial statements of the Economic Operator, approved by the competent body of the Administration (General Assembly, Board of Directors or other) – in line with the legislation in force in the country of origin of

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the Candidate – certified by the Chartered Accountant. The aforesaid financial statements must be compiled in accordance with the accounting standards stipulated in the legislation in the country of origin.

2. A certificate issued by the aforesaid Chartered Accountant about the amount of the Equities (Net position) – in line with the financial statements stipulated in paragraph 1 – along with the relevant adjustments, based on the remarks that the Chartered Accountant has written in his pertinent report.
3. A certificate issued by the aforesaid Chartered Accountant about the overall acquisition value of the real estate property, included in the financial statements stipulated in paragraph 1.
4. A certificate issued by the aforesaid Chartered Accountant about the non-amortized value of the mechanical equipment related to the construction of technical works, which is included in the financial statements stipulated in paragraph 1. The mechanical equipment also includes the transportation means of the Candidate. The fixed assets’ value of the Candidate is calculated as the sum up of the real estate property plus the mechanical equipment value, as mentioned above.
5. A certificate issued by the aforesaid Chartered Accountant about the “Total Equities” and “Total Liabilities”, included in the financial statements stipulated in paragraph 1.


21.4.2 Back up Documentation for proving the preconditions stipulated in article 20.2.2

The Credit and Financial Competence of the Bidders – article 20.2.2 herein - can be demonstrated through the submission of the following back-up documentation, namely:

Certificates issued by Banks or similar Credit Institutions, lawfully operating in the member-states of the EU or the EFA or in the member-states that have ratified the Government Procurement Agreement (GPA), proving the Bidder’s credit and financial competence for an amount of at least **€ 8,000,000.00**, out of which the amount of at least **€ 4,000,000.00** must be available for loans and at least **€ 4,000,000.00** for Letters of Guarantee, out of which an amount at least **€ 4,000,000.00**, must be available for each out of the above cases for this project, as per Sample B.1 of this Invitation.

In case the aforementioned certificates cannot be issued in the Greek language because the issuing Bank does not operate in Greece, this shall be issued in the English language in accordance with Sample B2 of this Invitation and shall be accompanied by an official translation into Greek.

The above certificates shall be submitted in originals.

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In case of an Association, the credit and financial competence requirements can be covered cumulatively by all its members.

Along with the above supporting documents, the Bidders shall submit Table 1 duly filled in and digitally signed, a sample of this table is attached to this Invitation. The Bidders who shall not submit the aforementioned certificates or shall not satisfy the above limits shall be disqualified from the Tender.


21.5 Back up Documentation to demonstrate the Technical and Professional Competence, in line with article 20.3

The Technical and Professional Competence of each economic operator, in line with article 20.3, shall be demonstrated as follows:

- (a) The economic operators established in Greece must submit their certificate for registration in MEEP, which constitutes a proof of the information it contains.
- (b) Foreign economic operators that are registered in the official registries or possess a certificate issued by a certification organization that they comply with the European Certification Standards, in the sense of Annex VII of Appendix A, L. 4412/2016, can submit to the Awarding authorities a certificate issued by the responsible Authority or the certificate issued by the competent certification Organization, as per the stipulations of article 83, L. 4412/2016 and article 21.7 of this Invitation, which demonstrates the economic operators capacity and competence to undertake a project with a budget equal or higher than the budget of the tendered project .

It is stressed that those contracting companies that are registered in MEEP and are entitled to undertake a project whose budget is equal to or greater than the budget of the tendered project (concerning either an individual participation or a participation in an economic operators’ association as a member) are not required to prove their technical and professional competence stipulated in article 20.3, since this is covered by their registration in the MEEP. The same applies to the foreign economic operators who are registered in the respective professional registries of the country of their establishment, who have both the option and the competence to undertake a project whose budget is equal to or greater than the budget of the tendered one.

- (c) More specifically, the following economic operators:
 - Foreign economic operators, in whose country of origin no official lists of recognised contractors are kept or do not possess a certificate issued by a Certification Organization, as per the above,
 - Foreign economic operators that are registered in official lists (as for example, from member-states of the EU or the EFA or in the

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member-states that have ratified the Government Procurement Agreement (GPA)) or are certified by Certification Organizations, but the registration certificate does not prove their possibility and competence to undertake projects with a budget equal or over the tendered project,

- Economic operators established in Greece and registered in MEEP but the registration certificate does not prove their possibility and competence to undertake projects with a budget equal or over the tendered project,

must submit the following back up documentation, in order to prove they fulfil the preconditions of article 20.3.

- i. Degrees and professional skills of the executives of the Company and mainly of the persons in charge of the execution of the projects, their CVs and the position they hold in the organization chart of the company, in order to prove that they fulfil the requirements of article 20.3.1.
- ii. Back up Documentation in order to prove that they fulfil the requirements of article 20.3.2.


It is hereby clarified that in case of an Association, the aforesaid back up documentation shall be submitted for each member - company of the Association.

21.6 Back up Documentation to examine the legalization of the provisional contractor

In case the bidder is a legal entity, then the bidder shall submit all legalizing documents demonstrating the legal representative’s signature authorization.

If the bidder is a Societe Anonyme:

- a) Photocopy of the most recent codified statutes, ratified by a public authority, as filed before the responsible Department, as well as the Government Gazette (FEK) where they were published, if necessary; otherwise, the announcement of the registration in GEMI.
- b) The Government Gazette Issue (FEK) where the minutes on the establishment of its current Board of Directors into a body were published, if required, otherwise, the announcement of the registration in GEMI.
- c) Certificate issued by GEMI (Issuance date no later than thirty (30) days from the deadline for the submission of the offers) on any amendments made to the Statutes, non dissolution of the Company and its winding-up, non existing request, petition or Court Decision for dissolution of the

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company and the appointment or replacement of a liquidator or co-liquidator, etc.

If the bidders are established abroad, the relevant supporting documents for establishment are issued by the respective countries, according to the applicable legislation in the country of installation.

21.7 Official Registries of approved economic operators

21.7.1 The economic operators that are registered in official registries or are holders of a certification issued by certification institutions that comply with the European Certification Standards, in the sense of Annex VII, Appendix A, L. 4412/16, can submit to AM a registration certificate issued by the responsible Authority or the certificate issued by the responsible certification institution.

The above certificates indicate the supporting documentation, based on which the said economic operators were registered or certified and classified in this registry.


The certified registration in the official registries or the certificate issued by the certification institution serves as a proof of competence as regards the requirements for qualitative selection which are satisfied by the official registry or certificate.

The economic operators that are registered in official registries are exempted from the obligation to submit the supporting documentation mentioned in their registration certificate.

21.7.2 Economic operators registered in MEEP and if they submit a “Licence Validity Certificate” in effect are exempted from the obligation to submit the following documents:

- an extract of the penal record mentioned in article 21.2(a) herein for the contracting company’s Chairman and Managing Director. As regards the other BoD members, individual penal record extracts must be submitted since these persons are not covered by the Licence Validity Certificate.
- Tax and Social Security Contributions Clearance certificate mentioned in article article 21.2(b) herein.
- The certificates mentioned in article 21.2(c) herein issued by the responsible Court of First Instance and GEMI, on condition, however, that all cases foreseen in the Licence Validity Certificate are fully covered.
- A certificate issued by the responsible Chamber concerning the disqualification grounds mentioned in article 19.1.3(i) herein.
- A certificate issued by the responsible authority testifying the nominalization of the shares (article 21.3(f) herein).

In the event that some of the above documents have expired, the equivalent valid document is submitted. If the Licence Validity Certificate does not explicitly state that the bidders’ executives mentioned in the Licence have paid the respective Social Contributions to ETAA-TMEDE, then in addition to

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the Licence Validity Certificate, the bidder also submits the Social Security Contributions Clearance Certificate for the said executives.

21.8 Back up Documentation to demonstrate the “borrowed experience” mentioned in article 20.4

In the event that the bidding economic operator or association relies on the competence of other entities, as per article 20.4 herein, these latter entities are also required to submit the supporting documents proving that the disqualification grounds in article 19 herein do not apply to them, as well that they fulfill the specific selection criteria on a per case basis (article 20).

The economic operator is obliged to replace an entity on whose competence the economic operator relies if this entity does not satisfy the relevant selection criterion, or does not fall under the reasons for disqualification specified in article 19.

In addition, should the economic operator wishes to rely on the competence of other entities, he can prove that he has ensured the necessary resources by submitting the relevant Agreement signed by these entities to this end, which shall necessarily present in detail all issues pertaining to the availability of the necessary resources (type, quantity, time schedule, preconditions, terms, responsibilities etc.).

This presentation must be detailed and itemize the specific resources that will be made available in the framework of the Agreement in such a way so that AM may proceed to the evaluation, assess the importance of the relevant resources and ascertain the implementation of such a commitment during the execution of the Agreement.


ARTICLE 22: CONTENT OF THE PARTICIPATION FOLDER

22.1 The folder containing the Offers of Bidders shall include at the penalty of disqualification the following electronic sub-folders:
a. sub-folder named “Participation back up documentation”,
b. sub-folder named ”Financial Offer”,
as described below:

22.2 At the penalty of disqualification, the electronic sub-folder “Participation back up documentation” must contain the **European Standard Procurement Document (ESPD)**.

22.2.1 Basic information for the submission of the ESPD:

When submitting their offers, the economic operators submit the European Standard Procurement Document (ESPD) mentioned in article 79, paragraph 1, L. 4412/2016, which serves as an updated official statement bearing the consequences of L. 1599/1986 (A’ 75), as a preliminary proof of evidence in replacement of the certificates issued by public authorities or third parties,

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confirming that the subject economic operator fulfills the following requirements:

- a) it is not in one of the situations described in article 19 herein;
- b) it fulfills the relevant selection criteria, that have been specified as per article 20 herein.

If more than one natural entities are members of the administrative, managerial or supervising body of an economic operator or if they have the power to represent, make decisions or have control over the subject body, then –the ESPD shall be submitted and signed by each one of the aforesaid entities or by the representative of the economic operator, in line with paragraph 13, article 107, Law 4497/2017.

The representative of the economic operator for the implementation of the above is the operator’s legal representative - as it derives from the statutes in effect or the proceedings for his representation at the time the offer is submitted or the application for participation - or the natural entity duly authorized to represent the subject economic operator in procedures related to the conclusion of contracts or in this specific procedure for the contract conclusion.

It is stressed that the ESPD should bear a digital signature within the last thirty (30) calendar days prior to its submission, as an updated legal statement, with all consequences of Law 1599/1986 (A’ 75),

In the case of economic operator **associations**, submitting a joint offer, the ESPD is submitted separately for each economic operator participating in the association.


In the event that the economic operator relies on the competence of other entities (**borrowed experience**), the ESPD is submitted by the economic operator lending the experience.

In case the economic operator is aware of the fact that he will assign a part of the contract **on a sub-contracting basis** to third parties, the ESPD is submitted by the sub-contractor.

22.2.2 INSTRUCTIONS ON HOW TO FILL IN THE EUROPEAN SINGLE PROCUREMENT DOCUMENT

(1) AM:

- (a) creates the ESPD for the subject Invitation in the website <https://ec.europa.eu/tools/espd>
- (b) once the ESPD is created, the file is exported
- (c) the exported file is in **.xml** format and is not readable. AM posts this file along with the remaining documents of the Invitation on ESIDIS.

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(2) The bidder must proceed to the following actions:

- (a) download the file from ESIDIS, save it on his computer and then, go to the web page <https://ec.europa.eu/tools/espd>. 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 AM, as well as the date and preparation location 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) Digitally sign the **.pdf** file printed (even if it is already digitally signed in the web page).
- (e) Submit the ESPD file in **.xml** and **.pdf** formats in his offer folder that includes the participation supporting documentation.

(3) The Committee responsible for the Conduct of the Tender shall evaluate the ESPD on the basis of the **.pdf** file or on the basis of the file uploading **.xml**, in the pertinent web page it was created.

22.3


The electronic sub-folder “Financial Offer” contains the Financial Offer, which is prepared by filling in the overall cost of the entire Project, VAT excluded, as it arises from the “Overall Financial Offer Form” of AM, in the respective electronic form of the system. Subsequently, the system creates a relevant electronic file in **.pdf** format, which is digitally signed and submitted by the bidder. The information contained in the special electronic form of the system and the produced electronic file, which is digitally signed, must coincide. In any other case, the system produces a relevant message and the bidder is called upon to create anew the electronic **.pdf** file.

22.3.1

Moreover, the Bidder attaches to a separate electronic file, in a **.pdf** format, the “Financial Offer Form” (Statement and Offer’s Tables) duly filled in. The subject Form must be digitally signed by the Bidder himself (in case of natural entity) or the legal representative (in case of Association or Joint Venture). In any other case, the financial offer is considered to be unfounded.

The Lowest Bidder is the Bidder who offered the lowest price.

In any case, applicable shall be the Financial Offer, per AM’s “Financial Offer Form”.

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Bidders must fill in correctly the form, according to the provisions of this article.

22.3.2

In addition, a statement digitally signed by the bidder himself (in case of natural entity) or the legal representative – in case of association or a joint venture – shall be attached to the electronic sub-folder of the financial offer; the subject statement shall specify the extent and the type of participation of every member of the association, including the allocation of their fee, as well as the association's or joint venture's representative / coordinator.

It is stressed that:


- a) **At the penalty of disqualification, Financial Offers shall not exceed the respective amount of AM's budget;**
- b) The figures of the discount expressed in words prevail over the figures expressed in numbers;
- c) If the details in the Financial Offer are incomplete (missing details other than those entailing disqualification), there are discrepancies between the prices in words and in numbers, or accounting errors to sums and products, as well as rounding up errors, the Tender Committee corrects these errors and writes down the correct financial offer
- d) Any correction, deletion, reference to or any alteration of the text of the Financial Offer Form and/or comments, conditions, or terms on it, shall be considered as reservations on the terms of the Tender and shall result in the rejection of the Financial Offer of the Bidder who expresses same.

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CHAPTER D’

ARTICLE 23: SUB-CONTRACTING

- 1 The bidding economic operator specifies in his offer the part of the Contract works he intends to assign on a sub-contracting basis to third parties, as well as the proposed sub-contractors.
- 2 The responsibility of the main Contractor is not raised by the fact that the sub-contractors respect the obligations ensuing from paragraph 2, article 18, L. 4412/2016.
- 3 ATTIKO METRO S.A:
 - a) necessarily verifies that there are no grounds for the disqualification of the sub-contractors on the basis of article 19 herein and that they possess the necessary qualifications to execute the specific Project according to article 165. L. 4412/16.
 - b) demands that the economic operator replaces a sub-contractor whenever the above verification reveals that reasons for disqualification do actually exist and that the sub-contractor does not possess the necessary qualifications to execute the specific Project according to article 165. L. 4412/16.

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ΥΠΟΔΕΙΓΜΑ Α1

ΕΓΓΥΗΤΙΚΗ ΕΠΙΣΤΟΛΗ ΚΑΛΗΣ ΕΚΤΕΛΕΣΗΣ

Εκδότης (Πλήρης επωνυμία Πιστωτικού Ιδρύματος / Τ.Μ.Ε.Δ.Ε.

Ημερομηνία έκδοσης

Προς: (Πλήρης επωνυμία Αναθέτουσας Αρχής/Αναθέτοντος Φορέα¹)
(Διεύθυνση Αναθέτουσας Αρχής/Αναθέτοντος Φορέα)²

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

ευρώ.....⁴

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

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 την καλή εκτέλεση της σύμβασης “(τίτλος σύμβασης)”, σύμφωνα με την (αριθμό) Διακήρυξη της Αττικό Μετρό Α.Ε..


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.

¹ Όπως ορίζεται στα έγγραφα της σύμβασης.

² Όπως ορίζεται στα έγγραφα της σύμβασης.

³ Ολογράφως και σε παρένθεση αριθμητικώς.

⁴ Όπως υποσημείωση 3.

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Η παρούσα ισχύει μέχρις ότου αυτή μας επιστραφεί μαζί με έγγραφη δήλωσή σας ότι μπορούμε να θεωρήσουμε την Τράπεζα μας απαλλαγμένη από κάθε σχετική υποχρέωση εγγυοδοσίας μας.

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 υπόκειται στην αποκλειστική δικαιοδοσία των αρμόδιων Ελληνικών Δικαστηρίων της Αθήνας κατά το ελληνικό δίκαιο.

(Εξουσιοδοτημένη Υπογραφή)

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SAMPLE A2

GOOD PERFORMANCE LETTER OF GUARANTEE

Issued by (Full name of the Credit Institution)

...../TMEDE

Date of issuance:.....

To: (Full name of the Awarding Authority / Agency ¹)

.....

(Address of the Awarding Authority / Agency²)

.....

Our Guarantee no. against the amount of euro³.

We hereby declare that we irrevocably and unreservedly guarantee waiving our rights 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 Association/ 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 Association/ Consortium)

individually and for each one of the above and jointly and severally liable in their capacity as members of the Association / Consortium for the good performance of the contract “**(title of the contract)**”, in accordance with ATTIKO METRO S.A. Invitation to Tender (number)”.


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.

¹ As specified in the Contract documents

² As specified in the Contract documents

³ The amount of the Letter of Guarantee is written in full and in numbers in brackets.

⁴ See footnote 3

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The present guarantee shall remain valid until it is returned to us along with a written statement of yours that we can assume that our Bank is free from any relevant obligation for the provision of security.

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)

	<p align="center"> “ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI” </p> <p align="center"> INVITATION TO TENDER </p>	<p align="center"> RFP-322/17 Α.Σ. 66925 </p>
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ΥΠΟΔΕΙΓΜΑ Β1


ΒΕΒΑΙΩΣΗ ΧΡΗΜΑΤΟΛΗΠΤΙΚΗΣ ΚΑΙ ΟΙΚΟΝΟΜΙΚΗΣ ΙΚΑΝΟΤΗΤΑΣ

Προς την
ΑΤΤΙΚΟ ΜΕΤΡΟ ΑΕ
Μεσογείων 191-193
115 25, Αθήνα

Κύριοι,

Σε συνέχεια αιτήματος που μας υπέβαλε η εταιρεία «ΕΠΩΝΥΜΙΑ ΕΤΑΙΡΕΙΑΣ», «ΔΙΕΥΘΥΝΣΗ ΕΤΑΙΡΕΙΑΣ», η οποία όπως δήλωσε, πρόκειται να συμμετάσχει στο Διαγωνισμό που πρόκειται να διενεργηθεί στις (ή οποιαδήποτε άλλη ημερομηνία λόγω παράτασης της ημερομηνίας υποβολής των Προσφορών) για την ανάδειξη αναδόχου προς εκτέλεση του Έργου: **«ΑΡΧΑΙΟΛΟΓΙΚΕΣ ΕΡΓΑΣΙΕΣ ΚΑΙ ΜΕΤΑΤΟΠΙΣΕΙΣ ΔΙΚΤΥΩΝ ΟΚΩ ΤΟΥ ΤΜΗΜΑΤΟΣ Α’ ΤΗΣ ΓΡΑΜΜΗΣ 4, ΑΛΣΟΣ ΒΕΪΚΟΥ – ΓΟΥΔΗ» (RFP-322/17)**, σας γνωρίζουμε τα εξής:

1. Η ως άνω εταιρεία συνεργάζεται με την Τράπεζά μας και η μέχρι σήμερα συναλλακτική συμπεριφορά της κρίνεται ικανοποιητική.
2. Με βάση τη σημερινή οικονομική της κατάσταση μπορεί να πιστοποιηθεί από την Τράπεζά μας υπό συγκεκριμένους όρους και προϋποθέσεις, μέχρι του ποσού των Ευρώ το οποίο να χρησιμοποιηθεί:
 - Για χρηματοδοτήσεις μέχρι ποσού Ευρώ (.....)
(Να συμπληρωθεί ολογράφως και αριθμητικώς)
 - Για εγγυητικές επιστολές μέχρι ποσού Ευρώ (.....)
(Να συμπληρωθεί ολογράφως και αριθμητικώς)
3. Σε περίπτωση που η εταιρεία αναδειχθεί ανάδοχος του ως άνω Έργου, η Τράπεζα προτίθεται να εξετάσει οποιοδήποτε συγκεκριμένο αίτημα πιστοδοτήσεως υποβληθεί για το Έργο αυτό:
 - Για χρηματοδοτήσεις μέχρι ποσού Ευρώ (.....)
(Να συμπληρωθεί ολογράφως και αριθμητικώς)
 - Για εγγυητικές επιστολές μέχρι ποσού Ευρώ (.....)
(Να συμπληρωθεί ολογράφως και αριθμητικώς)
4. Η Τράπεζα, σε κάθε περίπτωση πιστοδοτήσεως, εξετάζει, με τραπεζικά κριτήρια, τους ειδικούς όρους και τις προϋποθέσεις πιστοδοτήσεων που εφαρμόζει, τους ισχύοντες νομισματικούς κανόνες και την οικονομική κατάσταση και τις προοπτικές της εταιρείας κατά τον χρόνο της χρηματοδοτήσεως.
5. Η παρούσα δεν επέχει θέση εγγυητικής επιστολής ή συμβουλής ή συστάσεως κατά τη διάταξη του άρθρου 729 του Αστικού Κώδικα.

 <p>ATTIKO METRO A.E.</p>	<p>“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI”</p> <p>INVITATION TO TENDER</p>	<p>RFP-322/17 A.Σ. 66925</p>
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SAMPLE B2

CERTIFICATE CONCERNING THE CREDIT AND FINANCIAL COMPETENCE

To
ATTIKO METRO A.E.
191-193 Messogion Av.
115 25, Athens

Dear Sirs,

Following the request submitted by”NAME OF COMPANY”, “ADDRESS OF COMPANY” which, in line with its statements, shall participate in the tender), to be conducted on (or on any other new date due to extension to the submission date of the Offers), concerning the project: **“ARCHAEOLOGICAL WORKS AND PUBLIC UTILITY ORGANIZATIONS NETWORK RELOCATIONS – ATHENS METRO LINE 4, SECTION A’ ALSOS VEIKOU - GOUDI (RFP-322/17)** we hereby affirm the following:

1. The aforesaid Company cooperates with our Bank and its transactional behavior until the present date is deemed to be satisfactory.
2. Based on its current financial status, this Company may be credited by our Bank under specific terms and conditions up to the amount of which can be used as follows:
 - For financing, the limit of EURO..... (.....)
(To be filled in full and in numbers)
 - For letters of guarantee, the limit of EURO..... (.....)
(To be filled in full and in numbers)

.....
3. In case this Company is appointed as the Contractor of the Project, our Bank is willing to examine any specific request for crediting that may be submitted in the framework of this Project:
 - For financing, the limit of EURO..... (.....)
(To be filled in full and in numbers)
 - For letters of guarantee, the limit of EURO..... (.....)
(To be filled in full and in numbers)
4. In any case of crediting, the Bank shall examine - based on banking criteria - the special crediting terms and conditions that it implements, the applicable monetary regulations, as well as the financial status and the perspectives of the Company during the financing period.
5. This certificate shall not serve as letter of guarantee or advice or suggestion, in line with the provisions of article 729 of the Civil Code.



**“ARCHAEOLOGICAL WORKS AND PUBLIC
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INVITATION TO TENDER

THE CANDIDATE