



### **Tender specifications**

Procurement contract for the “**Provision of Mobile Heating Systems**”

Ref.: UKR24001-10018

Competitive procedure with negotiation

**Deadline for requests to participate:  
4 November 2024, 11 a.m. (Kyiv time – UTC  
+3)**

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# 1 General provisions

## 1.1 Derogations from the General Implementing Rules

The chapter 'Specific contractual provisions' of these Tender Specifications holds the specific administrative and contractual provisions that apply to this public contract as a complement or an elaboration of the Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement.

These Tender Specifications derogate from the following provisions:

- Derogations from Articles 25 to 33 and 158 of the Royal Decree of 14 January 2013: different method of providing the performance bond.

## 1.2 Contracting authority

The contracting authority is Enabel, the development agency of Belgium's federal government, public-law company with social purposes, with its registered office at Rue Haute 1000, 147 Brussels, Belgium (enterprise number 0264.814.354, RPM/RPR Brussels).

Enabel has the exclusive competence for the execution, in Belgium and abroad, of public service tasks of direct bilateral cooperation with partner countries. Moreover, it may also perform other development cooperation tasks at the request of public interest organisations, and it can develop its own activities to contribute towards realisation of its objectives.

For this procurement contract, Enabel is represented by Dirk Deprez, Country Director and Danny Verspreet, Finances & IT Director.

## 1.3 Institutional framework of Enabel

Enabel's institutional framework is governed by the following laws:

- The Belgian Law on Development Cooperation of 19 March 2013<sup>1</sup>;
- The Belgian Law of 21 December 1998 establishing the Belgian Technical Cooperation as a public-law company<sup>2</sup>;
- Having regard to the Belgian Law of 23 November 2017 changing the name of the Belgian Technical Cooperation and defining the missions and functioning of Enabel, the Belgian development agency, published in the Belgian Official Gazette on 11 December 2017.

## 1.4 Rules governing the public contract

The public contract is subject to Belgian law and is governed by the provisions of these Tender Specifications.

Without prejudice to other applicable legal, regulatory or contractual provisions, and insofar as they are not derogated from in these Tender Specifications, it is also subject to the following clauses and conditions:

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<sup>1</sup>Belgian Official Gazette of 30 December 1998, of 17 November 2001, of 6 July 2012, of 15 January 2013 and of 26 March 2013.

<sup>2</sup> Belgian Official Gazette of 1 July 1999.

- The Law of 17 June 2016 on public procurement<sup>3</sup>;
- The Law of 17 June 2013 on justifications, notification and legal remedies for public contracts and certain contracts for works, supplies and services<sup>4</sup>;
- Having regard to the Royal Decree of 18 April 2017 on the awarding of public contracts in the classic sectors<sup>5</sup>;
- The Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement<sup>6</sup>;
- Enabel's Code of Conduct;
- Enabel's Policy regarding sexual exploitation and abuse – June 2019;
- Enabel's Policy regarding fraud and corruption risk management – June 2019;
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, hereinafter referred to as 'the GDPR'), and repealing Directive 95/46/EC;
- The Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data

Furthermore, please note the following requirements:

- The trailer must comply with the DSTU 3850-99 standard, "**Road Vehicles. Specialized Trailers and Semi-Trailers**";
- Emissions shall not exceed the limits specified in **Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants**;
- The towing coupler must meet the requirements of **DSTU 3649:2010**.

All subsequent amendments made to the aforementioned texts by provisions that entered into force no later than the day before the deadline for the submission of tenders are also applicable.

The candidates and tenderers' attention is also drawn to the fact that their request to participate and their tender may not contain or refer to general sales conditions that contradict the provisions of these Tender Specifications and the aforementioned legal and regulatory texts

Belgian regulations on public procurement are available on the website <https://bosa.belgium.be/fr/themes/marches-publics/reglementation>.

Enabel's specific regulations can be consulted on the website <https://www.enabel.be/content/integrity-desk>.

## 1.5 Definitions

The following definitions apply to this contract:

- Contracting authority: Enabel;
- Candidate: an economic operator, including a group of economic operators, who submits a request to participate;
- Tenderer: an economic operator, including a group of economic operators, who submits a tender;
- Contractor: the tenderer with whom the procurement contract is concluded;

<sup>3</sup> Belgian Official Gazette of 14 July 2016.

<sup>4</sup> Belgian Official Gazette of 21 June 2013.

<sup>5</sup> Belgian Official Gazette of 9 May 2017.

<sup>6</sup> Belgian Official Gazette of 27 June 2017.

- Request to participate: the formal submission by a candidate expressing interest in the public procurement procedure. It serves to demonstrate that the candidate meets the required selection criteria, such as technical and financial capacity, allowing them to proceed to the next stage of the tender process;
- Tender: the undertaking of the tenderer to perform the contract in accordance with the contract documents and the conditions contained therein;
- Contract document: any document applicable to the contract supplied by the contracting authority or to which it refers (Tender Specifications, inventory, technical specifications, etc.);
- Subcontractor: natural or legal person to whom the contractor entrusts, under its responsibility, the performance of all or part of the contract concluded with the contracting authority.

## 1.6 Confidentiality

The candidate, tenderer or contractor and Enabel are bound to secrecy vis-à-vis third parties with regards to any confidential information obtained within the framework of this public contract and will only divulge such information to third parties after receiving the prior written consent of the other party. They will disclose this confidential information only among appointed parties involved in the assignment. They guarantee that said appointed parties will be adequately informed of their obligations in respect of the confidential nature of the information and that they shall comply therewith.

PRIVACY NOTICE OF ENABEL: Enabel takes your privacy serious. We undertake to protect and process your personal data with care, transparently and in strict compliance with privacy protection legislation.

## 1.7 Deontological obligations

1.7.1. Any failure to comply with one or more of the deontological clauses may lead to the exclusion of the candidate, tenderer or contractor from other public contracts for Enabel.

1.7.2. For the duration of the public contract, the contractor and his staff respect human rights and undertake not to go against political, cultural or religious customs of the beneficiary country. The candidate, tenderer or contractor is bound to respect fundamental labour standards, which are internationally agreed upon by the International Labour Organization (ILO), namely the conventions on union freedom and collective bargaining, on the elimination of forced and obligatory labour, on the elimination of employment and professional discrimination and on the abolition of child labour.

1.7.3. In accordance with Enabel's Policy regarding sexual exploitation and abuse, the contractor and his staff have the duty to behave in an irreproachable manner towards the beneficiaries of the projects and towards the local population in general. They must abstain from any acts that could be considered a form of sexual exploitation or abuse and they must abide by the basic principles and guidelines laid down in this policy.

1.7.4. Any attempt of a candidate or a tenderer to obtain confidential information, to proceed to illicit arrangements with competitors or to influence the evaluation committee or the contracting authority during the investigation, clarification, evaluation and comparison of tenders and candidates procedure will lead to the rejection of the application or the tender.

1.7.5. Moreover, in order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the contractor to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to appointees of the contracting authority who are concerned, directly or



indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

1.7.6. The contractor commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any desk review or on-the-spot check which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure. Depending on the gravity of the facts observed, the contractor having paid unusual commercial expenditure is liable to have his contract cancelled or to be permanently excluded.

1.7.7. In accordance with Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management complaints relating to issues of integrity (fraud, corruption, sexual exploitation and abuse, etc.) must be sent to the Integrity desk via <https://www.enabel.be/who-we-are/integrity/>.

## **1.8 Applicable law and competent courts**

The procurement contract must be performed and interpreted according to Belgian law.

The parties commit to sincerely perform their engagements to ensure the good performance of this procurement contract.

In case of litigation or divergence of opinion between the contracting authority and the contractor, the parties will consult each other to find a solution.

If agreement is lacking, the Brussels courts are the only courts competent to resolve the matter.

## 2 Subject-matter and scope of the procurement contract

### 2.1 Type of procurement contract

This contract is a goods procurement contract in the meaning of Article 2, 20°, of the Law of 17 June 2016 on public procurement.

### 2.2 Subject-matter of the contract

On February 5th, 2024, the Belgian Minister for Cooperation asked Enabel to propose a program in the context of Belgium's contribution to the reconstruction of Ukraine.

On May 27, 2024, Enabel and the Belgian Federal State signed an implementation agreement regarding the "Be-Relieve Ukraine" program.

This public procurement contract is part of the program and focuses on the provision of urgent mobile heating systems for the oblasts of Dnipropetrovsk, Kyiv, Odesa, Kharkiv, and Chernihiv.

This public procurement contract entails the fabrication, assembly, supply and delivery of trailer-mounted mobile diesel boilers and fuel tanks to be used by regional authorities as a back-up heating system for public buildings.

### 2.3 Lots

This public procurement contract is composed of three lots, each corresponding to a geographical area:

- Lot 1: provision of mobile heating systems for Kyiv Oblast;
- Lot 2: provision of mobile heating systems for Chernihiv Oblast;
- Lot 3: provision of mobile heating systems for the following cities: Dnipro, Zaporizhzhia, Odesa, Sumy, Kharkiv, and Kryvyi Rih.

The tenderer may submit a tender for all lots or for each lot separately.

The tenderer **MAY NOT** offer discounts or better conditions in their tender if several lots are awarded to them.

The contracting authority has set minimum requirements for qualitative selection when awarding multiple lots to the same tenderer. Therefore, the tenderer must indicate their order of preference for these lots in their request to participate using FORM (6) - Order of preference for awarding lots.

A detailed description of each lot is given in PART (5) – Term of references.

### 2.4 Items

Each lot of this public contract consists of the following items:

- Item 1: Mobile Boiler Units Power 1,8 MW;
- Item 2: Mobile fuel tanks 6m<sup>3</sup>;
- Item 3: Spare parts for 24 months, tools and equipment.

Tenderers must submit price quotations for all items within a lot. Partial tenders for individual items within a lot are not permitted.

## **2.5 Specifics of the contract**

### **2.5.1 Right to renounce the procedure**

In accordance with Article 85 of the Law of 17 June 2016, the completion of a procedure in no way implies an obligation to award a public contract. The contracting authority may either decide not to award all or part of the lots of the public contract, if necessary through another award procedure, without having to pay compensation to tenderers for any reason whatsoever.

### **2.5.2 Exclusive rights**

Conclusion of this public procurement contract confers no exclusive rights to the contractor. The contracting authority may, throughout the validity term of this contract, have other suppliers or its own departments deliver supplies that are identical or similar to those referred to in these Tender Specifications. Consequently, the contractor may not lay claim to the payment of any sort of compensation.

## **2.6 Duration of the public contract**

For each of the lots, the contract starts on the first calendar day following the day the awardee receives notification of the contract's conclusion and lasts until the last day of the legal warranty period for the goods.

The duration of the public procurement contract should not be confused with the performance period or the delivery schedule. The performance period is outlined in Point [4.11.1 Deadlines and terms \(Art. 116\), p.31](#).

## **2.7 Variants and options**

No variants are required or authorised.

Free variants are forbidden.

No options are required or authorised.

Free options are forbidden.

## **2.8 Quantities**

This procurement contract is a priced bill of quantities contract. Unit prices are lump sum, and quantities are estimated. The amount to be paid will be calculated by applying the unit prices mentioned in the tender form to the quantities executed.

## **2.9 Particularities**

### **2.9.1 Right to renounce the procedure**

In accordance with Article 85 of the Law of June 17, 2016, the completion of a procedure does not imply the obligation to award a procurement contract. The contracting authority may either renounce the award of the procurement contract or redo the procedure, if necessary, using a different method, without having to pay compensation to the tenderers for any reason whatsoever.

### **2.9.2 Right to non-exclusivity**

The conclusion of this procurement contract does not grant any exclusivity to the awardee. During the validity period of this contract, the contracting authority may have similar or analogous goods to those described in the Tender Specifications delivered by other providers. The awardee cannot claim any compensation for this.

## 3 Award procedure

### 3.1 Procedure

The contract is awarded through a competitive procedure with negotiation.

This procurement procedure involves **two successive and distinct phases: first, the submission of a request to participate following the publication of the contract notice, and second, the submission of an offer only by the candidates selected during the first phase of the procedure.**

Although economic operators have direct access to all contract documents, only the request to participate is required during the first phase of the procedure.

**Given the urgency of the situation, the deadline for submitting requests to participate is set for November 4, 2024, at 11 a.m. (Kyiv time – UTC +3), in accordance with Article 37, § 4, of the Law of June 17, 2016.**

**Furthermore, and for the same reasons of urgency, the contracting authority already draws the attention of interested economic operators to the fact that the deadline for submitting offers will be very short (5 days from the invitation to submit an offer), in accordance with Article 37, § 5, of the Law of June 17, 2016.**

The contracting authority therefore invites interested economic operators to take this into account when preparing their request to participate.

The competitive procedure with negotiation allows the contracting authority to negotiate with the tenderers regarding the content of their offer and the terms of execution of the contract throughout the procedure.

Before negotiations, the contracting authority may request that tenderers rectify non-substantial irregularities which, due to their cumulative or combined effect, have the same impact as a substantial irregularity, as well as substantial irregularities. However, this is merely a prerogative of the contracting authority, which does not grant any rights to the tenderers.

Negotiations will be conducted at the contracting authority's initiative, either concurrently with all tenderers, or successively or simultaneously with some of them, or with only one, without this choice being interpreted as an indication of the final award decision or as the exclusion of the tenderers(s) with whom negotiations are not or not immediately undertaken.

Negotiations may cover both the (initial and subsequent) offer and, where applicable, the contract documents. However, the contracting authority will refuse any negotiations regarding its minimum requirements and the title and weighting of the award criteria.

In the event of negotiations on an aspect of the contract, the contracting authority will inform all tenderers and allow them to submit a revised or, where appropriate, an adapted offer, taking into account the modification.

Following the negotiations, if applicable, the tenderers will be able to submit a final offer.

The final offer will not be subject to any negotiation.

The contracting authority reserves the right not to negotiate if it deems that the initial offers allow it to award the procurement contract.

## 3.2 Publication

This contract is advertised in:

- The Belgian Public Tender bulletin (<https://www.publicprocurement.be/bda>);
- The website of Enabel (<https://www.enabel.be/public-procurement>).

## 3.3 Information

The awarding of this contract is coordinated by Ms. Marie Sculier, Procurement Partner. For the duration of the procedure, all contacts between the contracting authority and interested economic operators concerning this contract must go exclusively via these persons, and the economic operators are prohibited from contacting the contracting authority in any other way in connection with this contract.

Interested economic operators may submit questions regarding the Tender Specifications and the contract up to 2 days before the deadline for the submission of the requests to participate. Questions should be submitted via the forum at <https://www.publicprocurement.be/>. The contracting authority will publish the answers on the forum as soon as possible, and no later than 3 calendar days before the deadline for the submission of the requests to participate. Candidates are advised to check the forum regularly.

No information regarding the progress of the procedure will be provided until the notification of the award decision.

## 3.4 Information session

Interested economic operators are invited to attend an information session organized by Enabel. During this session, participants will have the opportunity to ask for clarification regarding the procedure and content of this procurement contract.

**The information session will be conducted via Microsoft Teams for all lots on 25 October 2024 at 11:00 Kyiv time (UTC +3).**

The meeting can be accessed using the following link and credentials:

<a href="#">Link to Join the meeting</a> <b>Meeting ID: 357 330 688 259</b> <b>Passcode: 6cmTTT</b>
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## 3.5 Determination of prices

### 3.5.1 Method for determining the prices

All prices given in the tender form must obligatorily be quoted in EURO.

This procurement contract is a priced bill of quantities contract. Unit prices are lump sum, and quantities are estimated. The amount to be paid will be calculated by applying the unit prices mentioned in the inventory to the quantities executed.

At the request of the contracting authority, the tenderer provides it, prior to public contract awarding, with all information intended to enable it to verify the prices offered.

The verification of prices may include any checks of accounting documents and/or any on-the-spot checks by the agents of the contracting authority appointed for this purpose.

The tenderer must include in their unit and total prices all charges and taxes generally applicable to the performance of the contract, excluding value-added tax (VAT). Specifically, the following are included in the prices:

### **3.5.2 Elements included in the prices**

#### **3.5.2.1 Taxes and other levies**

The tenderer includes in his prices any charges and taxes generally applied to goods, with the exception of VAT.

VAT is recorded as a separate item in the inventory.

It should be borne in mind that Enabel is neither subject to VAT nor identified for VAT purposes.

#### **3.5.2.2 Other elements included in the prices**

As a reminder, the service provider must include all service-related costs in their unit prices. The following costs in particular must be included in the prices:

- Insurances, including against theft or damage [but excluding bombing] during storage (for lot 3: to be included in storage cost);
- Costs and charges for staff or equipment needed to perform this procurement contract;
- Participation in meetings;
- Administrative management and secretariat;
- Transport costs and travel expenses;
- Packaging (except if these remain the property of the tenderer), loading, trans-shipment and intermediate unloading, transportation, insurance and customs clearance;
- Unloading, unpacking and deployment at the place of delivery, provided that the procurement documents state the exact place of delivery and the means of access;
- training required for operation;
- where applicable, the measures imposed by occupational safety and health legislation
- customs, tariffs, taxes and excise duties;
- warranty (duration and coverage);
- ongoing maintenance during warranty period;
- Spare parts (necessary for maintenance);
- Cost of security surveillance of the mobile boilers after production, until delivery (for lot 3: to be included in storage cost)

This list is merely illustrative and by no means exhaustive.

**All prices are [Delivered Duty Paid \(DDP – Incoterms 2020\)](#).**

## **3.6 Submission and opening of requests to participate**

The selection will be based on a request to participate, which must be submitted during the first phase of the procedure, in response to the contract notice.

Only the selected candidates will be invited to submit their offers in response to the present tender specifications.

The submission of offers shall follow the same procedures outlined for submitting requests to participate (refer to point [3.7 Submission of participation requests/tenders, below](#)).

### **3.6.1 Use of languages**

Tenderers may submit their request to participate in French or English.

### **3.6.2 Commitment period of the request to participate**

Tenderers are bound by their request to participate and by their offer for a period of 120 calendar days from the submission deadline.

### **3.6.3 Form of the requests to participate**

Each candidate may submit only one request to participate and one offer per lot.

Tenderers are reminded that their request to participate and their offer must not include or reference general or special conditions.

If this is the case, the tender may be considered to be materially irregular and the contracting authority may reject it for that reason alone.

## **3.7 Submission of participation requests/tenders**

### **3.7.1 Participation request submission deadline**

**Given the urgency of the situation, the deadline for submitting requests to participate is set for November 4, 2024, 11 a.m. (Kyiv time – UTC +3), in accordance with Article 37, § 4, of the Law of June 17, 2016.**

### **3.7.2 Tender submission deadline**

**Furthermore, and for the same reasons of urgency, the contracting authority already draws the attention of interested economic operators to the fact that the deadline for submitting offers will be very short (5 days from the invitation to submit an offer), in accordance with Article 37, § 5, of the Law of June 17, 2016.**

### **3.7.3 Submission procedure**

#### **3.7.3.1 General**

Without prejudice to any variants, each candidate/tenderer may submit only one request to participate and one offer per lot.




In accordance with the rules applicable to the means of communication, only offers and requests to participate submitted by electronic means are accepted. Therefore, the submission on paper is not allowed and the contracting authority will only take into account the tenders/requests to participate submitted electronically.

Electronic *requests to participate/tenders* must be sent via the Platform e-Procurement <https://www.publicprocurement.be/> which guarantees compliance with the conditions established in article 14 § 6 and 7 of the law of June 17, 2016.



### 3.7.3.2 Submission of requests to participate (Phase 1)



To submit a request for participation, candidates shall follow the instructions below:

	<b>Step 1: Registrations via e-Procurement</b> Candidates must first <a href="#">register as a new user</a> . After registering as a supplier, candidates still need to <a href="#">create/add your enterprise</a> . If already registered, tenderer may log in immediately.
	<b>Step 2: Consulting the tender publication</b> For reconsulting the tender publication in in the BDA (Bulletin of Tenders/Bulletin of Procurement) of the e-procurement platform, follow steps explained here: <a href="#">Searching the BDA</a> and <a href="#">Information about the tender</a> .
	<b>Step 3: Submit</b> For submitting the request for participation, candidates should follow the steps detailed here: <a href="#">How do I submit an offer / request for participation?</a>

### 3.7.3.3 Submission procedure for offer (Phase 2)

The Contracting Authority will invite those *selected* in the second phase of this procurement procedure (via e-procurement) to submit a tender. Tenderer must be registered as an economic operator on e-procurement for this purpose. The invitation will also be sent **by e-mail** to the contact person mentioned on your participation form.

To submit a tender, tenderers shall follow the instructions below:

	<b>Step 1: Receiving an invitation via e-Procurement</b> Invited tenderers receive an invitation from the e-Procurement platform from the email address <a href="mailto:noreply@bosa.fgov.be">noreply@bosa.fgov.be</a> . Tenderers should check the spam filters and firewall settings within their company and ensure that emails from <a href="mailto:noreply@bosa.fgov.be">noreply@bosa.fgov.be</a> are not blocked. More details about this step can be found at <a href="#">Consulting an invitation</a> . The invitation includes the following elements: name of the public buyer, reference number of the invitation, reference number of the dossier, name of the invited enterprise, link to the invitation (dossier), password of the invitation, and submission date.  Tenderers can log in using the email address and <i>password</i> entered during registration. If not yet registered.
	<b>Step 2: Submit</b> For submitting the tender, tenderers should follow the steps detailed here: <a href="#">How do I submit an offer / request for participation?</a>

### 3.7.3.4 Getting Support

More information can be obtained on the website: [e-Procurement Help Center](#).

## 3.7.4 Electronic signature

### 3.7.4.1 Electronic signature of Request to participate (Phase 1)

In this phase of the procurement procedure, it is **not required** for your request to participate to be signed electronically.

However, it is recommended to sign your request to participate electronically, already in this phase.

If the candidate now uses the option of signing the request to participate electronically on the submission report, the candidate's European Single Procurement Document (ESPD) doesn't need to be re-submitted to the tender in the second phase of the procurement procedure.

If the candidate does not sign its request to participate electronically, the ESPD will have to be re-submitted with the tender in the second phase of the procurement procedure (which does have to be signed electronically).

#### 3.7.4.2 Electronic signature of offer (Phase 2)

The contracting authority draws attention to the fact that **tenders in the second phase do have to be signed electronically with a qualified electronic signature on behalf of the authorized person(s)**. You then sign the so-called submission report that you generate in your submission space on e-procurement.

The tenderer must not sign the tender, its annexes individually when they are uploaded to the electronic platform. These documents are signed globally by affixing a signature to the relevant submission report.

In preparation for this, the candidate may use the submission of the request to participate via e-Procurement to test its technical readiness for the placement of a qualified electronic signature. The candidate may sign the request to participate by signing the submission report that can be generated in the submission space on e-Procurement.

*The e-Procurement platform also facilitates the signing of the submission report by an external means. The candidate downloads the submission report in pdf-format and can sign the document with a QeS with an application of its choosing (for example Adobe Acrobat) and then upload it back on the e-Procurement platform. It is however crucial that the signature corresponds to the level of a QeS.*

A qualified electronic signature is an “advanced electronic signature that is created using a qualified electronic signature creation device, and which is based on a qualified electronic signature certificate”. To be advanced, the signature must:

- be linked to the signatory in an unequivocal manner;
- allow identification of the signatory;
- be created using electronic signature creation data that the signatory can, with a high level of confidence, use under their exclusive control and;
- be linked to the data to which it relates in such a way that any subsequent modification of the data is detected (article 26 of the eIDAS Regulation).

#### 3.7.5 Withdrawal, substitution, and modification of tenders

When a tenderer wants to change or withdraw a tender already sent or submitted this must be done in accordance with the provisions of Articles 43 and 85 of the Royal Decree of 18 April 2017. The subject-matter and the scope of the changes must be indicated in detail. The withdrawal must be pure and simple.

The tender is modified or withdrawn in accordance with Article 43, §2 of the Royal Decree of 18 April 2017.

Thus, modifying or withdrawing a tender after the submission report has been signed requires a new submission report to be signed in accordance with paragraph 1.

Where the submission report issued following modification or withdrawal as referred to is not signed as referred to in paragraph 1, the modification or withdrawal is automatically void. This nullity applies only to the modifications or withdrawal, not to the tender itself.

## **3.8 Selection of candidates**

### **3.8.1 Group of operators**

If the request to participate is submitted by a group of economic operators, it must contain the following information:

- The designation of one operator, a member of the group, to represent the group before the contracting authority;"
- Proof of a joint and several commitment between the members of the consortium;
- Listing, for each member of the group, of the name, first name, capacity or profession, nationality and domicile or, in the case of a legal person, its social purpose or corporate name, its legal form, its nationality, its registered office, its e-mail address and its enterprise number.

### **3.8.2 Use of third party capacity**

A candidate may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which he has with these entities. In that case, the following rules apply:

- Where an economic operator wants to rely on the capacities of other entities, it shall prove to the contracting authority that it will have at its disposal the resources necessary, for example, by producing a commitment by those entities to that effect.
- The contracting authority shall verify whether the entities on whose capacity the economic operator intends to rely fulfil the relevant selection criteria and whether there are grounds for exclusion, without prejudice to the possibility of applying corrective measures.
- With regard to criteria relating to the educational and professional qualifications, or to the relevant professional experience, economic operators may however only rely on the capacities of other entities where the latter will deliver the services for which these capacities are required.

Under the same conditions, a group of candidates or tenderers may submit the capacities of the group's participants or of other entities.

### **3.8.3 European Single Procurement Document (ESPD)**

#### **3.8.3.1 General - the ESPD**

The candidate submits the European Single Procurement Document (ESPD), which consists of an updated self-declaration which is accepted by the contracting authority providing

preliminary evidence replacing the certificates issued by public authorities or third parties confirming that the economic operator concerned:

- 1° is not in one of the situations listed in Articles 67 to 69 of the Law of 17 June 2016;
- 2° fulfils the applicable selection criteria which have been established in accordance with Article 71 of the Law of 17 June 2016.

### 3.8.3.2 Procedure for completing the ESPD

Go to <https://dume.publicprocurement.be>, and select your language.

- To the question, 'Who are you?', answer 'I am an economic operator'.
- To the question, 'What would you like to do?', answer 'Create an ESPD response'.
- Indicate your country and click 'Next';
- Complete the following sections of the ESPD:

- **Part I: Information concerning the procurement procedure and the contracting authority or contracting entity**

- Identity of the procurer:
  - 'Official name': 'Enabel'
  - 'Country': choose 'Belgium'
- Information about the procurement procedure:
  - 'Type of procedure': choose 'Competitive procedure with negotiation'.
  - 'Title': 'Procurement contract for the provision of mobile heating systems'.
  - 'Short description': Leave this box empty.
  - 'File reference number attributed by the contracting authority or contracting entity (if applicable)': answer 'Tender Specifications UKR24001-10018'

- **Part II: Information concerning the economic operator**

- Information about the economic operator: provide the information requested as accurately as possible. Your attention is drawn specifically to the following two questions:
  - 'Is the economic operator participating in the procurement procedure together with others?': Only answer 'yes' if you are submitting your tender with one or more other economic operators. These economic operators must submit the tender together with you. They must not simply be subcontractors.
- Information about representatives of the economic operator: If the tenderer is an individual, the information to be provided here is the tenderer's own information. If the tenderer is a legal entity, the information to be provided here relates to the natural person(s) authorised to represent the candidate/legal entity tenderer outside the limits of day-to-day management. The identity of this (these) natural person(s) is generally stipulated in the articles of association of a tenderer which is a legal entity. If, for example, there are two directors, information should be provided for each of them. To add a person, click on the '+' tab to the right of the heading 'Information about representatives of the economic operator'.

Information about reliance on the capacities of other entities: Click on 'yes' if you are relying on the capacity of one or more entities to help you meet the qualitative selection criteria set out in these Tender Specifications. These entities may be

subcontractors, but this is not mandatory. These entities are not the operators who may participate in the procurement procedure together with you. For these operators, please refer to the previous question (see above).

- Information concerning subcontractors on whose capacity the economic operator does not rely: Indicate here whether you intend to use subcontractors on whose capacity you will not rely. If you indicate 'yes', specify in the bottom line the identity of any subcontractors you already know.

- **Part III: Exclusion grounds**

- Grounds relating to criminal convictions: Answer each question, and provide any additional information that may be required if you answer 'yes' to any of them.
- Grounds relating to the payment of taxes or social security contributions: Answer each question, and provide any additional information that may be required if you answer 'yes' to any of them.
- Grounds relating to insolvency, conflicts of interests or professional misconduct: Answer each question, and provide any additional information that may be required if you answer 'yes' to any of them.
- Purely national exclusion grounds: In the context of the present contract, this ground for exclusion refers to any conviction you may have for employing illegally resident third-country nationals. If you have been convicted for this reason, select 'Yes' and answer the additional questions that appear. If you have not been convicted for this reason, answer, 'No'.

- **PART IV: Selection criteria** To the question 'Do you want to use the selection criteria from A to D?' answer 'no'. In this case, you will be asked to provide a global indication of the selection criteria. Specify whether you meet all the required selection criteria (see below).

- **PART V: Reduction of the number of qualified candidates:** No reduction in the number of qualified candidates is envisaged in the context of the present contract. The response indicated is therefore unimportant.

- **Part VI: Concluding statements:** Provide the requested information.

After completing the entire form, click 'Overview' at the bottom of the page. You will see your completed ESPD, which you can download in PDF and/or xml format to submit electronically with your tender.

Economic operators may re-use a ESPD that has already been used for a previous procedure, provided that they confirm that the information provided is still valid.

### 3.8.3.3 Further details on grounds for exclusion

The mandatory and facultative grounds for exclusion are given in the ESPD and the declaration on honour regarding the policy: 'Know your Counterparty Policy'.

As a reminder, the grounds for exclusion apply to the tenderer as well as to:

- All members of a group of economic operators;
- All third-party entities on whose capacities the tenderer intends to rely upon to meet the selection criteria set out in the Tender Specifications.

The contracting authority is required to verify that there are no grounds for exclusion on the basis of the following documents:

- 1) **An extract from the criminal record (or any equivalent document) issued in the name of the tenderer (legal entity) or its representative(s) (natural person) proving that no criminal records exist. Note: For Ukrainian companies, we request the extract only for the legal representative(s) (natural person) regarding criminal liability, the absence (or presence) of a criminal record, or any restrictions as provided by the criminal procedural legislation of Ukraine (full version of the extract);**
- 2) **The document certifying that the tenderer is compliant with the payment of levies and taxes (including the unified social contribution);**
- 3) **The document certifying that the tenderer is not in a state of bankruptcy, liquidation, cessation of business or judicial reorganization.**

**For documents that are not accessible via a free national database in a member state of the European Union, the candidate must attach these documents to the request to proposal or be capable of providing the supporting documents within 3 working days of the contracting authority's request.**

**Candidates are strongly advised not to wait for the contracting authority's demand and to request the necessary documents from the competent authorities of the country in which they are based as soon as possible. The waiting times for obtaining certain documents can indeed be long.**

### **3.8.4 Selection criteria**

#### **3.8.4.1 Aptitude to exercise professional activity**

The candidate must demonstrate having legal capacity to exercise the professional activity targeted by the public contract (listed in relevant trade of vocation register, social security registration, VAT number, establishment permit, etc.) in accordance with the legislation of the country where they are established.

Supporting document(s):

A copy of registration in vocation or trade register or any other official document showing a registration number and VAT number namely:

- Copy of Extract/Excerpt from the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations;
- A copy of the VAT registration certificate and/or an extract from the register of VAT payers (for VAT payers) or a certificate of a single taxpayer and/or an extract from the register of a single taxpayer (for single taxpayers).

#### **3.8.4.2 Economic and financial capacity – Annual turnover**

The candidate must demonstrate that a turnover of at least the amounts specified below had been achieved from general activities, during one of the last three financial years (2021-2023), to qualify for each lot:

<b>Lot Number</b>	<b>Minimum required turnover in EUR (€)</b>
<b>Lot 1</b>	<b>4,500,000.00</b>
<b>Lot 2</b>	<b>1,500,000.00</b>

<b>Lot 3</b>	<b>5,000,000.00</b>
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If the candidate wishes to be considered for the award of multiple lots, they must demonstrate that their total turnover meets or exceeds the cumulative sum of the turnover requirements specified for the lots they are applying for.

Candidates shall attach to their tender audited balance sheets for the last three years (2021-2023) unless these documents are accessible via a digital portal. If the company has not yet published an annual account, an interim balance sheet certified by a certified accountant, or a company auditor will suffice.

Please use FORM (7) - Economic and financial capacity to declare your annual history of annual turnover.

### 3.8.4.3 Technical and professional capacity of the tenderer – References

The candidate must provide references for similar supply contracts performed and completed within the last three years (contracts completed from 2021 onwards are acceptable) that meet the following minimum values:

Lot N°	Minimum number of contracts	Minimum value per contract (€)	Minimum combined value (€)
Lot 1	3 contracts	150,000.00	€ 1,500,000.00
Lot 2			€ 500,000.00
Lot 3			€ 1,500,000.00

**Note: Only references for prefabricated modular units of solid fuel, gas, or diesel boilers (either fixed or mobile units) will be considered as relevant experience.**

To be considered for the award of multiple lots, the candidate must demonstrate that the total combined value of their accepted experience exceeds the cumulative minimum value requirements specified for the lots they are applying for. The minimum number of required contracts and the minimum accepted value for each contract remain unchanged, even when applying for multiple lots.

The candidate must attach a list of major supplies that meet the above requirements, including details such as amounts, dates, and recipients. Proof can be provided through certificates from contracting authorities, client certificates. The contracting authority reserves the right to accept a proof in the form of a declaration on honour from the tenderer.

References must be contracts implemented by the legal entity (or legal entities) submitting the tender (with the exception of documented cases of company buyout or universal succession). Only the proportion carried out by the legal entity may be used as reference. For contracts implemented in consortium with other entities, candidate proportion (%) of and nature of supplies provided the candidate shall be mentioned and only that proportion will be considered as an experience.

Only fully completed (100%) contracts will be considered.

The effect of inflation will not be taken into account when evaluating the value of the references provided. Value of the contracts shall be converted to EUR using the following exchange rates:

Financial data	2021	2022	2023	2024
Average annual exchange rates - EUR/UAH	32.301	33.995	39.562	43.188

Please use FORM (8) - Experience to declare previous experience.

## 3.9 For information purposes – second phase of the award procedure

### 3.9.1 General information

Only the selected candidates will be invited to submit their offers in response to the present tender specifications. The contracting authority will inform the selected candidates and invite them to submit their offers, following the same procedures as those outlined for submitting requests to participate (see point 3.7 of the present tender specifications).

### 3.9.2 Award criteria – valid for all lots

The contracting authority will choose the regular offer that it finds to be most advantageous, taking account of the following two criteria:

#### 3.9.2.1 First criterion – Price (80 points)

For each lot, tenderers will be evaluated based on the total price of the offer, which will be determined by multiplying the presumed quantities from the inventory by the unit prices proposed by the tenderers and summing all items.

The tender with the lowest price will be awarded the maximum points (80).

For the other tenders, the "price" criterion will be evaluated based on the following proportionality rule:

$$A_t = \frac{P_{lowest}}{P_t} \times 80$$

Where:

$A_t$  = the number of points obtained by the tender under consideration;

$P_{lowest}$  = the price of the lowest regular tender;

$P_t$  = the price of the tender under consideration.

#### 3.9.2.2 Second Criterion – Timing (20 points)

For each lot, tenderers must submit a detailed note outlining the supply schedule and the timeframes (in calendar days) required for contract execution. In this note, tenderers may propose an improvement on the delivery duration specified in the tender documents (see Point [4.11.1 Deadlines and terms \(Art. 116\), p.31](#)). The total duration for the delivery of all items within each lot must be recorded in FORM (9) – Tender form. This total duration will be considered in the evaluation of the timing award criterion. Under no circumstances may the total duration exceed 90 calendar days, as stipulated in Point [4.11.1 Deadlines and terms \(Art. 116\), p.31](#).

The tenderer who proposes the shortest total duration will be awarded the maximum score of 20 points.



For the other offers, the "timing" criterion will be evaluated based on the following proportionality rule:

$$B_t = \frac{C_{min}}{C_t} \times 20$$

Where:

$B_t$  = score of the tenderer;

$C_{min}$  = shortest duration proposed (among regular tenders);

$C_t$  = duration of the tender under consideration.

The total duration proposed by the tenderer in their offer is binding, so if their offer is selected, they must strictly adhere to it, otherwise, late penalties may be applied.

### 3.9.3 Final score

The procurement contract will be awarded to the tenderer with the highest final score ( $S_f$ ), summing up the two award criteria:

$$S_f = A_t + B_t$$

Notice though that in accordance with Art. 85 of the Law of 17 June 2016, there is no obligation for the contracting authority to award the procurement contract.

The contracting authority may either decide not to award the procurement contract; either redo the procedure, if necessary, through another award procedure.

In an objective of transparency, Enabel undertakes to publish each year a list of recipients of its contracts. By introducing his tender, the successful tenderer declares that he agrees with the publication of the title of the contract, the nature and object of the contract, its name and location, and the amount of the contract.

### 3.9.4 Concluding the public contract

In accordance with the procedure applicable to this contract, the conclusion of the concerned lot will only take place after a 15-day standstill period, which begins the day after the notification of the reasoned award decision.

The complete contract will consist of the following elements:

- This Tender Specification and its annexes;
- The approved tender from the contractor and all its annexes;
- The approved Best and Final Offer (BAFO) of the supplier with all its annexes;
- The registered letter notifying the award decision;
- Any subsequent documents that are accepted and signed by both parties, as applicable.

For the sake of transparency, Enabel will annually publish a list of contractors for its public contracts. By submitting a tender, the contractor agrees to the publication of the contract's title, nature, subject matter, the contractor's name and location, as well as the contract's value.

## 4 Special contractual provisions

### 4.1 Use of electronic means (art. 10)

The contracting authority mandates the use of electronic means for the exchange of written documents. Regardless of whether electronic means are utilized, all communications, exchanges, and storage of information must be conducted in a manner that ensures the integrity and confidentiality of the data are maintained.

### 4.2 Managing official (Art. 11)

The managing official for the contract will be assigned in the award notification.

After the contract is signed, the managing official will be the primary contact for the contractor. All correspondence and inquiries should be directed to this person, except as noted otherwise in the Tender Specifications, such as in the 'Payments' section. The managing official is responsible for overseeing contract performance, issuing service orders, preparing reports, and approving services and progress. They can request modifications within the contract's scope.

The managing official cannot sign amendments or alter the essential terms of the contract, including performance periods, regardless of the financial impact. Any unauthorized commitments or changes will be considered invalid. Decisions of this nature fall under the authority of the contracting authority as specified in the Tendering Instructions.

### 4.3 Subcontractors (Art. 12 to 15)

The successful tenderer, or a member of the consortium, must perform the essential task of supplying the mobile heating systems, while the supply of auxiliary equipment may be subcontracted.

The successful tenderer (or supplier) remains fully liable to the contracting authority, even if they delegate part of their commitments to subcontractors. The contracting authority does not recognize any contractual relationship with these subcontractors.

The successful tenderer retains sole responsibility towards the contracting authority in all circumstances.

When the supplier uses a subcontractor to carry out specific processing activities on behalf of the contracting authority, the same data protection obligations as those of the contractor are imposed on that subcontractor by contract or any other legal act.

### 4.4 Confidentiality (art. 18)

The knowledge and information gathered by the tenderer under the framework of this procurement contract is strictly confidential.

Under no circumstances can the information collected, regardless of its origin and nature, be transferred to third parties in any form.

The tenderer is therefore bound by the duty of discretion.

In accordance with Article 18 of the Royal Decree of 14 January 2013 establishing the general rules for public procurement, the tenderer undertakes to consider and process in a strictly confidential manner any information, all facts, any documents and/or any data, whatever their nature and support, which have been communicated to him, in any form and by any means, or to which he has access, directly or indirectly, in the context or on the occasion of this procurement contract. Confidential information covers the very existence of this procurement contract, without this list being limited.

## **4.5 Protection of personal data**

### **4.5.1 Processing of personal data by a subcontractor**

During contract performance, the contractor may process personal data of the contracting authority exclusively in the name and on behalf of the contracting authority, for the sole purpose of delivering the goods in accordance with the provisions of the Tender Specifications or in execution of a legal obligation.

For any processing of personal data carried out in connection with this procurement contract, the contractor is required to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR) and the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data.

By simply participating in the contracting process, the tenderer certifies that he will strictly comply with the obligations of the GDPR for any processing of personal data conducted in connection with the procurement contract.

The personal data that will be processed are confidential. The contractor will therefore limit access to data to the strictly necessary personnel for the performance, management and monitoring of the procurement contract.

For the performance of the procurement contract, the contracting authority will determine the purposes and means of processing personal data. In this case, the contracting authority will be responsible for the processing and the contractor will be its processor, within the meaning of Article 28 of the GDPR.

Processing carried out on behalf of a controller must be governed by a contract or other legal act that is binding on the processor with regard to the personal data controller and that sets out that the subcontractor acts only on the instruction of the person in charge of the processing and that the confidentiality and security obligations regarding the processing of personal data are also the responsibility of the subcontractor (Article 28 §3 of the GDPR).

### **4.5.2 Processing of personal data by a controller (recipient)**

During contract performance, the contractor may process personal data of the contracting authority or in execution of a legal obligation.

For any processing of personal data carried out in connection with this procurement contract, the contractor is required to comply with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR) and the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data.

By simply participating in the contracting process, the tenderer certifies that he will strictly comply with the obligations of the GDPR for any processing of personal data conducted in connection with the procurement contract.

Given the procurement contract, it is to be considered that the contracting authority and the contractor will each be responsible, individually, for the processing.

## 4.6 Intellectual property (Art. 19 to 23)

The contracting authority does not acquire the intellectual property rights created, developed or used during performance of the public contract.

Where the contracting authority does not acquire the intellectual property rights, it obtains a patent licence of the results protected by intellectual property law for the exploitation modes that are mentioned in the procurement documents.

The contracting authority lists the exploitation modes for which it intends to obtain a licence in the procurement documents.

## 4.7 Performance bond (Art. 25 to 33)

### 4.7.1 Scope and amount (Art. 25)

The performance bond is set at **5 %** of the total value, excluding VAT, of the procurement contract. The value thus obtained is rounded up to the nearest 10 euros.

### 4.7.2 Nature of the performance bond (Art. 26)

The bond may be provided in accordance with legal and regulatory requirements in any of the following ways: as cash or public funds, through a collective guarantee issued by a legally authorized company, or as a guarantee from a credit institution that meets the legal requirements for credit institutions. Alternatively, it may be provided by an insurance company that complies with insurance regulations and is approved for branch 15 (deposit).

According to Art.26 § 2, the guarantor may not impose any conditions on the guarantee to be furnished other than those stipulated in the Royal Decree of January 14, 2013 or in these contract specifications.

*By way of derogation from Article 26 the performance bond may be posted through an establishment that has its registered office in **Ukraine** and in this case Ukrainian economic operators, if they chose this form of bond, shall provide it in the form of **an electronic guarantee or paper** (an irrevocable bank guarantee issued in accordance with the requirements of the Resolution of the Board of the National Bank of Ukraine No. 639 of 12/15/2004 and the Order of the Ministry of Economy No. 2628 of 12/14/2020), with the bank's obligation. Ideally, the performance bond shall not have an expiry date. However, Contracting Authority may accept a performance bond with an expiry date that is at least **one calendar year** from the deadline specified in Point [4.11.1 Deadlines and terms \(Art. 116\), p.31](#) given that it should always be subject to renewal to properly cover warranty period specified in Point [4.18.3 Guarantee period \(Art. 134\), p.35](#). The contracting authority reserves the right to accept or refuse the posting of the bond through that institution. The tenderer mentions the name and address of this institution in the tenders.*

#### **4.7.2.1 Deadline for submitting performance bond (Art. 27)**

If a performance bond is required, the contractor must, within 30 calendar days from the day of procurement contract conclusion.

The period of 30 calendar days specified above is suspended during the period of closure of the contractor's business for paid annual holidays and the days off in lieu stipulated by regulation or by a collective binding labour agreement.

#### **4.7.2.2 Posting of the performance bond (Art. 27)**

If a performance bond is required, it must be posted by the successful bidder in one of the following ways:

- a) Deposit and Consignment Fund: Use the online application E-DEPO to constitute a security. For more information, visit [www.caisseledesdepots.be](http://www.caisseledesdepots.be);
- b) Public Funds: Deposit with the State cashier at the National Bank's headquarters in Brussels or one of its provincial branches, on behalf of the Caisse des Dépôts et Consignations or a similar public body;
- c) Collective Guarantee: Deposit a joint guarantee act with the Caisse des Dépôts et Consignations or a similar public body by a legally authorized company;
- d) Guarantee Act: Provide an act of commitment from a credit institution or insurance company.

#### **4.7.2.3 Proof of posting bond (Art. 27)**

If a performance bond is required, Proof of posting the bond must be provided as applicable by submission to the contracting authority of:

- a) A deposit receipt from the Caisse des Dépôts et Consignations or a similar public body;
- b) A debit notice from the credit institution or insurance company;
- c) An acknowledgment of deposit issued by the State cashier or a similar public body;
- d) The original joint and several guarantee document endorsed by the Caisse des Dépôts et Consignations or a similar public body;
- e) The original commitment document from the credit institution or insurance company granting the guarantee.

These documents, signed by the depositor, must state why the performance bond was posted and its precise usage, consisting of a concise indication of the subject-matter of the procurement contract and a reference to the procurement documents, as well as the name, first name and full address of the contractor and, where relevant, that of the third party that made the deposit on the contractor's account, bearing the statement 'lender' or 'mandatory', as appropriate.

Proof that the required performance bond has been posted must be sent to the address that will be mentioned in the contract conclusion notification.

#### **4.7.2.4 Releasing of bond**

Request by the contractor for the acceptance procedure to be carried out:

- a) For the provisional acceptance: This is equal to a request to release the first half of the performance bond;
- b) For the final acceptance: This is equal to a request to release the second half of the performance bond, or, in case no provisional acceptance applied, to release the whole of the performance bond.

## **4.8 Conformity of performance (Art. 34)**

The works, supplies and services must comply in all respects with the procurement documents. Even in the absence of technical specifications in the procurement documents, the works, supplies and services must comply in all aspects with good practice.

## **4.9 Changes to the public contract (Art. 37 to 38/19 and 80)**

### **4.9.1 Replacement of the contractor (Art. 38/3)**

Provided that he meets the selection and exclusion criteria set out in this document, a new contractor may replace the contractor with whom the initial contract was agreed in cases other than those provided for in Art. 38/3 of the General Implementing Rules (GIR).

The contractor submits his request as quickly as possible by registered post, stating the reasons for this replacement and providing a detailed inventory of the state of the supplies already delivered, the new contractor's contact details and the documents and certificates which the contracting authority cannot access free of charge.

The replacement will be recorded in an amendment dated and signed by all three parties. The initial contractor remains liable to the contracting authority for the performance of the remainder of the contract.

### **4.9.2 Revision of prices (Art. 38/7)**

For this contract, price revisions are not permitted.

### **4.9.3 Indemnities for the suspensions ordered by the contracting authority (Art. 38/12)**

The contracting authority reserves the right to suspend the performance of the contract for a specified period, particularly if it deems that the contract cannot be executed without undue inconvenience at that time. The performance period will be extended by the duration of the suspension, provided that the original contractual performance period has not expired. If the period has expired, the recovery of fines for late performance will be negotiated.

During any suspension of activities under this clause, the supplier must take all necessary precautions, at their own expense, to protect the services already performed and any materials from potential damage due to adverse weather conditions, theft, or other malicious acts.

The supplier is entitled to claim damages for suspensions ordered by the contracting authority if:

- The suspension lasts longer than one-twentieth of the performance period and at least ten working days or two calendar weeks, depending on whether the performance period is measured in working days or calendar days;
- The suspension is not due to adverse weather conditions;
- The suspension occurs during the contract performance period.

The supplier must report the facts or circumstances succinctly to the contracting authority within thirty days of their occurrence, or from the date when the supplier or the contracting authority would reasonably have become aware of them. This report should include a precise description of how the suspension impacts the progress and cost of the contract.

#### **4.9.4 Unforeseeable circumstances**

As a rule, the contractor is not entitled to any modification of the contractual terms due to circumstances of which the contracting authority was unaware.

A decision of the Belgian State to suspend cooperation with a partner country is deemed to be unforeseeable circumstances within the meaning of this article. Should the Belgian State break off or cease activities which implies therefore the financing of this public contract, Enabel will do everything reasonable to agree a maximum compensation figure.

#### **4.9.5 Terms of introduction (Art. 38/14)**

The contracting authority or the successful tenderer seeking to invoke one of the review clauses outlined in Articles 38/09 to 38/12 must provide a written disclosure of the relevant facts or circumstances within 30 days of their occurrence, or from the date when the party would reasonably have been expected to become aware of them.

### **4.10 Preliminary technical acceptance (Art. 41 -42)**

Products may not be used if they have not been accepted by the managing official or his or her representative.

Products that at a given stage do not satisfy the technical acceptance tests imposed will be declared unfit for technical acceptance. Upon the request of the supplier, the contracting authority in accordance with the procurement documents verifies whether the products have the required qualities or at the very least comply with good practice and satisfy the conditions of the contract. If certain products are destroyed during verification, the supplier replaces these at its own expense. The procurement documents specify the quantity of products to be destroyed.

Where the contracting authority declares that the product presented is not in the required condition for examination, the acceptance request by the building supplier will be considered not having been made. A new request is made when the product is fit for acceptance.

### **4.11 Performance modalities (Art. 115 et seq.)**

#### **4.11.1 Deadlines and terms (Art. 116)**

The supplies must be delivered within maximum 120 calendar days. This period starts as from the day following the date on which the supplier received the contract conclusion notification letter. This deadline is mandatory and must be strictly respected by the tenderers in their tender, under substantial irregularity.

A shorter duration may be proposed in [FORM \(9\) Tender form, p.51](#), which will be considered in the evaluation of the award criteria (see [3.9.2.2 Second Criterion – Timing \(20 points\), p.24](#)).

As the timing of delivery is part of the award criteria, any shorter duration proposed by tenderers in [FORM \(9\) Tender form, p.51](#), will be contractual upon awarding, and will serve as a basis for the application of delay penalties (see [4.16 Fines for delay \(Art. 46 and 123\), p.34](#)).

This deadline applies regardless of the number of lots awarded to the tenderer. If they submit an offer for all or several lots, they must have sufficient capacity to execute the relevant lots concurrently.

#### **4.11.2 Quantities to be supplied (Art. 117)**

The public contract's minimum quantities are mentioned under [5.2 Description of the equipment, p.39](#).

Without prejudice to the possibility for the contracting authority to terminate the contract if the supplies delivered do not meet the requirements imposed or if they are not delivered by the deadlines asked, by concluding this contract the supplier acquires the right to deliver these quantities, under penalty of indemnification by the contracting authority.

#### **4.11.3 Place where the services must be performed and formalities (Art. 149)**

The supplies for all three lots will be delivered to different locations in both Kyiv and Chernihiv Oblasts, as well as potentially in the following cities: Dnipro, Zaporizhzhia, Odesa, Sumy, Kharkiv, and Kryvyi Rih.

For confidentiality reasons, the exact locations will be provided in the second phase of this procurement, exclusively to the selected candidates invited to submit an offer.

### **4.12 Inspection of the supplies delivered (Art. 120)**

The supplier delivers only goods that have no apparent and/or hidden defects and that correspond strictly to the order (in kind, quantity, quality...) and, if necessary, to the prescriptions of related documents as well as applicable regulations, in compliance with good practice, the state of the art, the highest standards of usage, of reliability and of longevity, and for the purposes that the contracting authority has in mind, which the supplier knows or at least should know.

Acceptance (provisional acceptance) only takes place after the complete inspection by the contracting authority of the conformity of the goods and services delivered. The contracting authority disposes of a period for verification of thirty days starting on the date of delivery. This period will begin on the day after arrival of the supplies at the place of delivery, provided that the contracting authority is in possession of the delivery note or invoice.

The signature of (a staff member of) the contracting authority, in particular in electronic reception devices, upon delivery of the goods, does consequently only count as evidence of taking possession and does not concern the acceptance of the goods.

Acceptance on site counts as complete provisional acceptance.

Acceptance implies the transfer of ownership and of risks of damage and loss.

In case of full or partial refusal of a delivery, the supplier is bound to take back, at his own costs and risks, the products refused. The contracting authority may ask the supplier to deliver goods that comply as soon as possible, either cancel the order and get supplied by another supplier.



#### **4.13 Liability of the supplier (Art. 122)**

The supplier shall be liable for his supplies up to the time when the inspection and notification formalities referred to under Article 120 are carried out, unless losses or damage sustained in the warehouses of the consignee are due to the events or circumstances referred to in Articles 54 and 56.

Moreover, the supplier indemnifies the contracting authority against damages for which it is liable towards third parties due to late performance of the contract or due to failure of the supplier

#### **4.14 Means of action of the contracting authority (Art. 44-51 and 123-126)**

The supplier 's default is not solely related to performance as such but also to the whole of the supplier 's obligations.

In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the supplier to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to appointees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.

In case of violation, the contracting authority may impose a lump-sum fine to the supplier for each violation, which can be to up to three times the amount obtained by adding up the (estimated) values of the advantage offered to the employee and of the advantage that the supplier hoped to obtain by offering the advantage to the employee. The contracting authority will decide independently about the application and the amount of this fine.

This clause is without prejudice to the possible application of other measures as of right provided in the GIR, namely the unilateral termination of the contract and/or the exclusion from procurement by the contracting authority for a determined duration.

#### **4.15 Failure of performance (Art. 44)**

§1 The supplier is considered to be in failure of performance under the public contract:

- 1° when the delivery is not carried out in accordance with the conditions specified in the procurement documents;
- 2° at any time, when the delivery has not progressed in such a way that it can be fully completed on the due dates;
- 3° when he does not observe written orders, which have been given in due form by the contracting authority.

§2 Any failure to comply with the provisions of the public contract, including the non-observance of orders of the contracting authority, is recorded in a report ('process verbal'), a copy of which will be sent immediately to the supplier by registered mail.

The supplier must repair the defects without any delay. He may assert his right of defence by registered letter addressed to the contracting authority within fifteen days from the date of dispatch of the report (process verbal). Silence on his part after this period shall be deemed acknowledgement of the reported facts.

Any defects detected that can be attributed to the supplier render him liable to one or more of the measures provided for in Articles 45 to 49, 154 and 155.

## 4.16 Fines for delay (Art. 46 and 123)

The fines for delay differ from the penalties referred to in Article 45. They are due, without the need for notice, by the mere lapse of the performance period without the issuing of a report and they are automatically applied for the total number of days of delay.

The maximum duration of the performance period is mentioned in [4.11.1 Deadlines and terms \(Art. 116\), p.31](#). A shorter duration may be proposed by tenderers in [FORM \(9\) Tender form, p.51](#), which will be considered in the evaluation of the award criteria (see [3.9.2.2 Second Criterion – Timing \(20 points\), p.24](#)). In case a shorter duration is proposed for one or several lots, it will be contractual and be the one considered for the application of fines.

Regardless of the application of any fines for delay, the supplier indemnifies the contracting authority against damages for which it is liable towards third parties due to late performance of the contract.

### 4.16.1 Penalties

Any failure to perform, not covered by a special penalty, gives rise to:

- A single penalty of 0.07% of the initial amount of the contract with a minimum of €40 and a maximum of €400 or;
- A daily penalty of 0.02% of the initial amount of the contract with a minimum of €20 and a maximum of €200 in the event that it is important to immediately eliminate the object of the failure to perform.

### 4.16.2 Fines

Late payment fines are independent of penalties.

They are due, without formal notice, by the sole expiry of the deadline for performance and without the intervention of a report. They are applied automatically for all days of delay.

Penalties for delay are calculated at a rate of 0.3% per day of delay. A maximum is set at 8% of the value of the supplies delivered with the same delay.

## 4.17 Measures as of right (Art. 47 and 124)

§1 When, upon expiry of the term given in Article 44, §2, the supplier has not taken action or has presented means deemed unjustified by the contracting authority, the contracting authority may apply the measures as of right described in paragraph 2.

However, the contracting authority may apply measures as of right without waiting for the expiry of the term given in Article 44, §2, when the supplier has explicitly recognised the defects detected.

§2 The measures as of right are:

- 1° Unilateral termination of the contract. In this case the entire performance bond, or if no bond has been posted an equivalent amount, is acquired as of right by the contracting authority as lump sum damages. This measure excludes the application of any fine for delay in performance in respect of the terminated part;
- 2° Performance under regie of all or part of the non-performed contract;

3° Conclusion of one or more replacement contracts with one or more third parties for all or part of the contract remaining to be performed.

The measures referred to in 1°, 2° and 3° will be taken at the expense and risk of the defaulting supplier. However, any fines or penalties imposed during the performance of a replacement contract will be borne by the new supplier.

## **4.18 End of the public contract**

### **4.18.1 Acceptance of the products delivered (Art. 64-65 and 128)**

The contracting authority disposes of a period for verification of thirty days starting on the end date of the delivery, set in conformity with the modalities in the procurement documents, to carry out the technical acceptance and provisional acceptance formalities and to notify the result to the supplier.

When the supplies will be delivered before or after this date, it is the responsibility of the supplier to inform them by registered mail or electronic mail, ensuring in an equivalent manner the date of dispatch to the managing official and to ask, at the same time, to proceed to reception. Within thirty days of the date of receipt of the suppliers request, a report of receipt Full acceptance is proceeded to at the place of delivery without partial acceptance at the place of manufacture;

Provisional acceptance is carried out in full at the place of delivery. To investigate and test the supplies as well as to notify its decision to accept or reject the delivery, the contracting authority disposes of a period of thirty days

This period will begin on the day after the date of arrival of the supplies at the place of delivery, provided that the contracting authority is in possession of the delivery note or invoice. It comprises the 30-day period stipulated in Article 120.

### **4.18.2 Transfer of ownership (Art. 132)**

The contracting authority automatically becomes the owner of the supplies as soon as they have been accepted for payment pursuant to Article 127 of GIR.

### **4.18.3 Guarantee period (Art. 134)**

The warranty period commences on the date of provisional acceptance and lasts for a minimum of 36 months from the date of manufacture and at least 24 months from the first use of the equipment. An exception is made for the warranty of boilers, which must be no less than 10 years.

The warranty period for the equipment should be specified in the manufacturer's passport. However, it must be at least 36 months from the delivery date of the equipment and 24 months from the first startup. The warranty period officially begins on the day the acceptance commission's report is signed, confirming the facility's acceptance for operation.

Any damages observed will be documented in a dated and signed report by the contracting authority.

This report must be prepared before the warranty period expires and communicated to the contractor within 30 days of the observation.

The contractor is required to replace any products deemed defective during the warranty period at their own expense and within the specified timeframe.

An equivalent warranty period applies to all replacement products provided. The warranty period will be extended, if necessary, by the duration during which the product could not be used due to the defect.

Damage resulting from fortuitous events, force majeure, or abnormal use of delivered products is excluded from warranty coverage.

If the contractor fails to carry out the replacement as required, they will be liable to pay the value of the products to be replaced, as well as any associated replacement costs.

#### **4.18.4 Final acceptance (Art. 135)**

Final acceptance occurs upon expiry of the warranty period. It is implicit when the delivery has not led to any claims during said period.

If delivery has led to complaints during the warranty period, a final acceptance or refusal of acceptance report will be issued within 15 days prior to the expiry of said period.

### **4.19 Terms and Conditions of Payments (Art.12, 66 to 72 – 160)**

#### **4.19.1 General payment terms**

Payment(s) will be made within 30 days after submission and approval of the invoice.

Payment will be by bank transfer only.

Only delivery that has been performed correctly may be invoiced.

The payment is made after partial provisional acceptance of each delivery of a same order.

Payment will be made in several instalments, based on the actual quantities delivered and the corresponding partial provisional acceptance.

#### **4.19.2 Invoicing requirements**

The invoice must be in EUROS.

The invoice shows the full details of the supplies that justify the payment. The invoice will be signed and dated, and will include the following:

- the statement: ‘Certified true and sincere for the amount of EUR .... (amount in words)’;
- the reference: UKR24001-10018 (Lot#X) and the 8-digit Purchase Order number mentioned in the awarding letter.

The contractor sends (one copy only of) the invoices and the contract acceptance report (original copy) to the following address:

Enabel, the Belgian development agency  
To the attention of Mr. Dirk Deprez, [dirk.deprez@enabel.be](mailto:dirk.deprez@enabel.be)  
Enabel, Regus Office, Gulliver Tower A, 1A Sportyvna sq, Kyiv, 01023

According to Directive 2014/55/EU and the Royal Decree of March 9, 2022, on public procurement stipulating the obligation for companies to use electronic invoicing, the awardee must utilize an electronic invoicing system.

For awardees registered with the Belgian Crossroads Bank for Enterprises (CBE), they may use the Belgian portal Mercurius to receive electronic invoices in accordance with current standards and regulations.

For non-Belgian awardees, they may utilize one of the certified access points of the international Peppol network. To access the list of service providers offering the use of these access points: <https://peppol.org/members/peppol-certified-service-providers/>.

Only goods delivered correctly and corresponding to the technical requirements of the Tender Specifications may be invoiced.

The contracting authority has a verification period of thirty days from the delivery of goods as determined according to the terms outlined in the contract documents, to carry out technical acceptance and provisional acceptance formalities and notify the provider of the outcome.

Payment of the amount due to the provider must be made within a payment period of thirty days from the end of the verification period or from the day after the last day of the verification period if it is less than thirty days, provided that the contracting authority simultaneously holds a duly issued invoice.

When the contract documents do not provide for a separate claim statement, the invoice serves as the claim statement.

For Enabel to obtain the VAT exemption and customs clearance documents as quickly as possible, the original invoice and all ad hoc documents will be transmitted as soon as possible before provisional acceptance.

#### **4.19.3 Advances**

Pursuant to articles 12/1, paragraph 2, 1<sup>o</sup>, and 12/2, of the law of 17 June 2016, an advance payment will be granted to the contractor of each lot if the latter is an SME. However, the payment of the advance is conditional upon the submission of a dated written request by the successful tenderer.

The amount of the advance is calculated by applying the rules provided in Articles 12/1 and following of the Law of June 17, 2016.

No advance payment will be made before the notification of the contract is concluded.

The payment of the advance may be suspended if it is found that the successful tenderer is not complying with their contractual obligations or if they violate the provisions of Article 7 of the Law of June 17, 2016.

The advance granted will be offset against the amounts owed to the successful tenderer as follows: the first half of the advance will be deducted from the amounts owed when the value of the completed work reaches 30% of the initial contract amount including VAT, and the second half will be deducted when the value of the completed work reaches 60% of the initial contract amount including VAT.

## **4.20 Litigation (Art. 73)**

The competent courts of Brussels have exclusive jurisdiction over any dispute arising from the performance of this procurement contract. French or Dutch are the languages of proceedings.

In case of 'litigation', i.e. court action, correspondence must (also) be sent to the following address:

Enabel, public-law company  
Global Procurement Services  
To the attention of Mrs Inge Janssens  
rue Haute 147  
1000 Brussels  
Belgium

## 5 Term of references

### 5.1 Description of goods – Terms of Reference

On February 5th, 2024, the Belgian Minister for Cooperation asked Enabel to propose a program in the context of Belgium's contribution to the reconstruction of Ukraine.

On May 27, 2024, Enabel and the Belgian Federal State signed an implementation agreement regarding the "Be-Relieve Ukraine" program.

This public procurement contract is part of the program and focuses on the provision of urgent mobile heating systems for the oblasts of Dnipropetrovsk, Kyiv, Odesa, Kharkiv, and Chernihiv.

This public procurement contract entails the fabrication, assembly, supply and delivery of trailer-mounted mobile diesel boilers and fuel tanks to be used by regional authorities as a back-up heating system for public buildings.

This public procurement contract is composed of three lots, each corresponding to a geographical area:

- Lot 1: provision of mobile heating systems for Kyiv Oblast;
- Lot 2: provision of mobile heating systems for Chernihiv Oblast;
- Lot 3: provision of mobile heating systems for the following cities: Dnipro, Zaporizhzhia, Odesa, Sumy, Kharkiv, and Kryvyi Rih.

### 5.2 Description of the equipment

Lot 1:

- Item 1: 16 sets of Mobile Boilers Power 1,8 MW
- Item 2: 32 fuel tanks 6 m<sup>3</sup>
- Item 3: 2 sets of spare parts, tools and equipment

Delivery in one place in Kyiv city

Lot 2:

- Item 1: 5 sets of Mobile Boilers Power 1,8 MW
- Item 2: 10 fuel tanks 6m<sup>3</sup>
- Item 3: 1 set of spare parts, tools and equipment

Delivery in one place in Chernihiv city

Lot 3:

- Item 1: 18 sets of Mobile Boilers Power 1,8 MW
- Item 2: 36 fuel tanks 6m<sup>3</sup>
- Item 3: 6 sets of spare parts, tools and equipment

Delivery in 5 or 6 different locations, to be defined.

Storage in Kyiv - cost of storage per month

Potential locations: Dnipro, Kryvyi Rih, Zaporizhzhya, Odessa, Sumy, Kharkiv (price per 100km)

Please see the attached table in annex 1.

## 6 Forms

### FORM (1) Request to participate

I (We), the undersigned

Applicable?  YES /  NO

<b>A. Natural person</b>	
<b>Name and first name:</b>	
<b>Function or profession:</b>	
<b>Nationality:</b>	
<b>Residence (full address):</b>	
<b>Enterprise n°:</b>	
<b>Social security n°:</b>	

Applicable?  YES /  NO

<b>B. Corporation or company</b>	
<b>Name and legal form:</b>	
<b>Nationality:</b>	
<b>Registered office (full address):</b>	
<b>Enterprise n°:</b>	
<b>Social security n°:</b>	

Applicable?  YES /  NO

<b>C. Group of economic operators. candidate forming a group of economic operators, consisting off the following participants:</b>	
<i>For each company, state the same information below as set out under A or B, above. Fill in a separate row for each member, preceded by member 1, 2, etc.</i>	
<b>Hereby form a group of economic operators for this contract under the name:</b>	
<b>That is represented by the following participant in the group of economic operators (corporation):</b>	
<i>For each participant in the group, supporting documents relating to the exclusion grounds (and an ESPD) must be submitted.</i>	



<b>D. Contact person of the tenderer</b>	
<b>Single contact person of the candidate for electronic communication from the contracting authority:</b>	
<b>First name and surname:</b>	
<b>Function:</b>	
<b>E-mail address</b>	
<b>Telephone:</b>	

By submitting our request to participate, Declare that:

- we undertake to comply with all clauses contained in these Tender Specifications. The content of our tender becomes an integral part of the public contract, along with any details provided in response to requests for clarification.
- We acknowledge that we have obtained all necessary information and have prepared our tender with full knowledge of the facts, with no ambiguities or uncertainties.
- We clearly designate in our request to participate which information is confidential and, as such, should not be disclosed by the contracting authority.

We acknowledge:

- Having reviewed all procurement documents;
- Being fully aware of the scope and specific requirements of the public contract's execution;
- Having received all the information needed to prepare the tender;
- Having made all relevant comments and asked all necessary questions for the preparation and submission of their tender, as well as for the performance of the public contract;
- Not having identified any errors or defects in the procurement documents that would prevent the calculation of the price or comparison of the tenders;
- Accepting all the terms of the procurement documents, even if they differ from the candidate's own invoicing or sales conditions (any alternative invoicing or sales conditions proposed by the tenderer will not apply).

**Attestations:**

We attach to this request for participation:

- The ESPD, by which the applicant declares not to be in one of the exclusion situations as referred to in articles 67 to 69 of the Act of June 17th, 2016;
- The documents required by the selection guideline;
- The other information, required by the selection guideline.

<b>Done at:</b>		<b>Date:</b>	
<b>By (company or group):</b>		<b>Represented by (Full name)</b>	
<b>Signature of authorised representative:</b>			



## FORM (3) Declaration on honour – Exclusion grounds

Hereby, I / we, acting as legal representative(s) of above-mentioned tenderer declare that the tenderer is not in any of the following cases of exclusion:

1. The tenderer nor any of his directors was found guilty following **an infeasible judgement** for one of the following offences:
  - 1° involvement in a **criminal organisation**
  - 2° **corruption**
  - 3° **fraud**
  - 4° **terrorist offence**, offence linked to terrorist activities or incitement to commit such offence, collusion or attempt to commit such an offence
  - 5° **money laundering or financing of terrorism**
  - 6° **child labour** and other trafficking in human beings
  - 7° employment of foreign citizens under illegal status
  - 8° creation of a shell company.

The exclusions on the basis of this criterion apply for a 5-year term from the date of judgement (or the end of the offence for 7°).

2. The tenderer has failed to fulfil his obligations to **pay taxes or social security contributions**, i.e. Late payment for an amount in excess of EUR 3 000, except if the tenderer can demonstrate that a contracting authority owes him one or more unquestionable and due debts which are free of all foreseeable liabilities. These debts are at least of an amount equal to the one for which he is late in paying outstanding tax or social charges.

3. The tenderer is in **a state of bankruptcy, liquidation, cessation of activities, judicial reorganisation** or has admitted bankruptcy or is the subject of a liquidation procedure or judicial reorganisation, or in any similar situation resulting from a procedure of the same kind existing under other national regulations.

4. The tenderer or one of his directors has committed **serious professional misconduct which calls into question their integrity.**

The following are considered serious professional misconduct, among others:

- a. A breach of Enabel's Policy regarding sexual exploitation and abuse – June 2019  
[https://www.enabel.be/app/uploads/2022/11/Exploitation\\_Abus\\_Sexuel\\_-\\_Policy\\_FR.pdf](https://www.enabel.be/app/uploads/2022/11/Exploitation_Abus_Sexuel_-_Policy_FR.pdf)
  - b. A breach of Enabel's Policy regarding fraud and corruption risk management – June 2019  
[https://www.enabel.be/app/uploads/2022/11/Fraude\\_Corruption\\_Policy\\_FR.pdf](https://www.enabel.be/app/uploads/2022/11/Fraude_Corruption_Policy_FR.pdf)
  - c. A breach of a legal regulatory provision applicable in the country of performance of the goods regarding au sexual harassment on the work floor;
  - d. The tenderer was seriously guilty of misrepresentation or false documents when providing the information required for verification of the absence of grounds for exclusion or the satisfaction of the selection criteria, or concealed this information;
  - e. Where Enabel has sufficient plausible evidence to conclude that the tenderer has committed acts, entered into agreements, or entered into arrangements to distort competition.  
The presence of this tenderer on one of Enabel's exclusion lists as a result of such an act/agreement/arrangement is considered to be sufficiently plausible an element.
5. When a conflict of interest cannot be remedied by other, less intrusive measures;
  6. When **significant or persistent failures** by the tenderer were detected during the execution of an **essential obligation** incumbent on him in the framework of a past contract concluded with Enabel or another contracting authority, when these failures have given rise to measures as of right, damages or another comparable sanction. Failures to respect applicable obligations regarding environmental, social and labour rights

under European Union law, national law, labour agreements or international provisions on environmental, social and labour rights are considered ‘significant’.

The presence of the tenderer on the exclusion list of Enabel because of such a failure serves as evidence.

7. The tenderer or one of his directors are on the lists of persons, groups or entities subject to United Nations, European Union or Belgian financial sanctions – consolidated list:  
[https://finances.belgium.be/fr/sur\\_le\\_spf/structure\\_et\\_services/administrations\\_generales/tr%C3%A9sorerie/services-et-activit%C3%A9s-o](https://finances.belgium.be/fr/sur_le_spf/structure_et_services/administrations_generales/tr%C3%A9sorerie/services-et-activit%C3%A9s-o)

I have / we have read and understood the articles about deontology of this procurement contract (see 1.6) as well as Enabel’s Policy regarding sexual exploitation and abuse and Enabel’s Policy regarding fraud and corruption risk management and I / we declare fully endorsing and respecting these articles.

The tenderer formally agrees with Enabel accessing the supporting documents substantiating the information provided in this document.

Done at:		Date:	
By (Tenderer):		Represented by (Full name)	
<b>Signature of authorised representative:</b>			

## FORM (4) Integrity Statement for the tenderers

Hereby, I / we, acting as legal representative(s) of above-mentioned tenderer, declare the following:

- Neither members of administration or employees, or any person or legal person with whom the tenderer has concluded an agreement in view of performing the public contract, may obtain or accept from a third party, for themselves or for any other person or legal person, an advantage appreciable in cash (for instance, gifts, bonuses or any other kind of benefits), directly or indirectly related to the activities of the person concerned for the account of Enabel.
- The board members, staff members or their partners have no financial or other interests in the businesses, organisations, etc. that have a direct or indirect link with Enabel (which could, for instance, bring about a conflict of interests).
- I have/we have read Enabel's Policy regarding sexual exploitation and abuse and Enabel's Policy regarding fraud and corruption risk management, and I/we declare fully endorsing and respecting these articles.
- I/we have read and understood the articles about deontology and anti-corruption included in the Tender Specifications and I / we declare fully endorsing and respecting these articles.

If above-mentioned public contract is awarded to the tenderer, I/we declare, moreover, agreeing with the following provisions:

- In order to avoid any impression of risk of partiality or connivance in the follow-up and control of the performance of the public contract, it is strictly forbidden to the public contractor (i.e. members of the administration and workers) to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of Enabel who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the contract, regardless of their hierarchical rank.
- Any (public) contract will be terminated, once it appears that contract awarding or contract performance would have involved the obtaining or the offering of the above-mentioned advantages appreciable in cash.
- Any failure to comply with one or more of the deontological clauses is considered a serious mistake which may lead the contracting authority to take action such as excluding the contractor from this and other public contracts for Enabel, the Belgian development agency.
- The contractor of the public contract commits to supply, upon the demand of the contracting authority, any supporting documents related to the performance conditions of the contract. The contracting authority will be allowed to proceed to any desk review or on-the-spot check which it considers necessary to collect evidence to support the presumption of unusual commercial expenditure.

Finally, the tenderer takes cognisance of the fact that Enabel reserves the right to lodge a complaint with the competent legal instances for all facts going against this statement and that all administrative and other costs resulting are borne by the tenderer.

Done at:		Date:	
By (Tenderer):		Represented by (Full name)	
<b>Signature of authorised representative:</b>			

## **FORM (5) Declaration on Honour Regarding Potential Links with Russia**

I, the undersigned, in my capacity as a representative of the tenderer, hereby declare on my honour that there is no Russian involvement in the contract of the tenderer I represent that exceeds the limits set out in Article 5 duodecies of Council Regulation (EU) No 833/2014 of 31 July 2014 on restrictive measures in view of Russia's actions destabilizing the situation in Ukraine, as amended by Council Regulation (EU) No 2022/578 of 8 April 2022.

In particular, I declare that:

- The contractor I represent (as well as the companies within our consortium) is not a Russian national, nor a natural or legal person, entity, or body established in Russia;
- The contractor I represent (as well as the companies within our consortium) is not a legal person, entity, or body of which more than 50% of the ownership rights are held, directly or indirectly, by an entity referred to in point (a) of this paragraph;
- Neither I nor the tenderer I represent is a natural or legal person, entity, or body acting on behalf of or under the instruction of an entity referred to in point (a) or (b) above;
- No subcontractor, supplier, or entity whose capacities I use for more than 10% meets the criteria in (a), (b), or (c).

Done at:		Date:	
By (Tenderer):		Represented by (Full name)	
<b>Signature of authorised representative:</b>			

## FORM (6) Order of preference for awarding lots

The tenderer who wishes to submit a tender for several lots but be awarded a lesser amount of lots specifies here below the number of lots they wish to be awarded. Additionally, tenders must specify their order of preference for the allocation of lots. If their first-choice lot cannot be awarded due to unmet selection conditions, the preference order will guide the allocation of alternative lots (as per Article 49 of the Royal Decree dated April 18, 2017).

<b>Maximum Lot award preference:</b>	
Please specify the maximum number of lots you wish to be awarded. If left blank, it will be understood that you wish to be awarded all the lots for which you have applied:	
The tenderer wishes to be awarded (add maximum number):	Lots
<b>Order of preference for awarding lots:</b>	
Please Indicate your preference by filling in the corresponding lot number in the spaces provided below, ranking them from Preference 1 (Most preferable) to Preference 2 (Least preferable). This order will be used either when you have indicated a limit on the number of lots you wish to be awarded or in the event of unmet selection conditions.	
<b>Order</b>	<b>Lot N°</b>
Preference 1 (Most preferable)	
Preference 2	
Preference 3 (Least preferable)	

Place:	
Date:	
By (Tenderer):	
Represented by (Full name):	
<b>Signature of authorised representative:</b>	

## FORM (7) Economic and financial capacity

Please complete the following table of financial data based on your annual closed accounts.

To ensure fair treatment of all tenderers, figures in all columns must be calculated on a consistent basis. Therefore, tenderers are asked to use the average annual exchange rates listed below (EUR/UAH) when presenting financial figures.

Please add clarifications or explanations which is judged necessary may also be provided. If the tenderer is a public body, please provide equivalent information.

<b>Financial data</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Annual turnover<sup>7</sup> (EUR)</b>			
<b>Average annual exchange rates - EUR/UAH</b>	<b>32.301</b>	<b>33.995</b>	<b>39.562</b>
<b>Clarification or explanation:</b>			

Done at:		<b>Date:</b>	
By (Tenderer):		Represented by (Full name):	
<b>Signature of authorised representative:</b>			

<sup>7</sup> The gross inflow of economic benefits (cash, receivables, other assets) generated from the ordinary operating activities of the enterprise (such as sales of goods, sales of services, interest, royalties, and dividends) during the year.



## FORM (8) Experience

Please fill in the table below to summarise the main projects related to this contract carried out over the past **[3] years** by the legal entity or entities making this this tender.

<b>1</b>	<b>Project title</b>						
	<b>Name of legal entity<sup>8</sup></b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)<sup>9</sup></b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>2</b>	<b>Project title</b>						
	<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>3</b>	<b>Project title</b>						
	<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>4</b>	<b>Project title</b>						
	<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>5</b>	<b>Project title</b>						
	<b>Name of legal entity</b>	<b>Country</b>	<b>contract value</b>	<b>Tenderer</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>

<sup>8</sup> References must be contracts implemented by the legal entity (or legal entities) submitting the tender (with the exception of documented cases of company buyout or universal succession).

<sup>9</sup> If the reference contract is only partially completed, please quote the percentage and value which has been completed.

		<b>(EUR)</b>	<b>proportion (%)</b>			
<b>6</b>	<b>Project title</b>					
<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>7</b>	<b>Project title</b>					
<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>8</b>	<b>Project title</b>					
<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>9</b>	<b>Project title</b>					
<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>
<b>10</b>	<b>Project title</b>					
<b>Name of legal entity</b>	<b>Country</b>	<b>contract value (EUR)</b>	<b>Tenderer proportion (%)</b>	<b>Name of client</b>	<b>Start date</b>	<b>End date</b>

## FORM (9) Tender form

I (We), the undersigned

Applicable?  YES /  NO

<b>A. Natural person</b>	
<b>Name and first name:</b>	
<b>Function or profession:</b>	
<b>Nationality:</b>	
<b>Residence (full address):</b>	
<b>Enterprise n°:</b>	
<b>Social security n°:</b>	

Applicable?  YES /  NO

<b>B. Corporation or company</b>	
<b>Name and legal form:</b>	
<b>Nationality:</b>	
<b>Registered office (full address):</b>	
<b>Enterprise n°:</b>	
<b>Social security n°:</b>	

Applicable?  YES /  NO

<b>C. Group of economic operators. candidate forming a group of economic operators, consisting off the following participants:</b>	
<i>For each company, state the same information below as set out under A or B, above. Fill in a separate row for each member, preceded by member 1, 2, etc.</i>	
<b>Hereby form a group of economic operators for this contract under the name:</b>	
<b>That is represented by the following participant in the group of economic operators (corporation):</b>	
<i>For each participant in the group, supporting documents relating to the exclusion grounds (and an ESPD) must be submitted.</i>	

<b>D. Contact person of the tenderer</b>
<b>Single contact person of the candidate for electronic communication from the contracting authority:</b>

<b>First name and surname:</b>	
<b>Function:</b>	
<b>E-mail address</b>	
<b>Telephone:</b>	

declare to have read the contract(s) and formally accept its clauses and conditions. Consequently, I (we) undertake jointly and severally on my (our) property and buildings to execute this contract(s) in accordance with the aforementioned documents for the fixed price(s) below:

Lot	Item	Q	Unit	Unit price	Total price (without VAT, in EUR)	VAT % (If applicable)
<b>Lot 1 Provision of mobile heating systems for Kyiv Oblast</b>	Item 1 – Mobile boilers	16	Pce			
	Item 2 - Fuel tank	32	Pce			
	Item 3 – Spare parts	2	Set			
	<b>Total Lot 1</b>					
<b>Lot 2 Provision of mobile heating systems for Chernihiv Oblast</b>	Item 1 – Mobile boilers	5	Pce			
	Item 2 - Fuel tank	10	Pce			
	Item 3 – Spare parts	1	Set			
	<b>Total Lot 2</b>					
<b>Lot 3 Provision of mobile heating systems for other cities</b>	Item 1 – Mobile boilers	18	Pce			
	Item 2 - Fuel tank	36	Pce			
	Item 3 – Spare parts	6	Set			
	Item 4 – Storage cost per month for 1 mobile boiler + 2 fuel tanks + spare parts, at manufacturer's site or other safe location		Month			
	Item 5 (provisional) – Delivery for 1 mobile boiler + 2 fuel tanks + spare parts, unit price per 100 km, to areas such as: Dnipro, Zaporizhzhia, Odesa, Sumy, Kharkiv, and Kryvyi Rih	90	100km			
<b>Total Lot 3</b>						

Within the following duration(s):

Lot N°	Lot title	Calendar days
<b>Lot 1</b>	Provision of mobile heating systems for Kyiv Oblast;	
<b>Lot 2</b>	Provision of mobile heating systems for Chernihiv Oblast	
<b>Lot 3</b>	Provision of mobile heating systems for the following cities: Dnipro, Zaporizhzhia, Odesa, Sumy, Kharkiv, and Kryvyi Rih.	

Please note that in accordance with [4.11.1 Deadlines and terms \(Art. 116\), p.31](#), the proposed duration may not exceed 90 calendar days.

Payments to the successful bidder will be validly made by transfer to the account:

Account No:	
IBAN:	
BIC) Bank identification code):	
Located at:	
In the name of:	

The subcontractors that I will employ will be those designated in the attached forms and for whom I will have transmitted the documents required as part of the qualitative selection (if applicable).

Commit to performing this public contract in conformity with the provisions of the Tender Specifications and explicitly declares accepting all conditions listed in the Tender Specifications, renouncing any derogatory provisions such as their own conditions.

Should this tender be approved, the performance bond will be constituted under the conditions and deadlines stipulated in the Tender Specifications.

Done at:		Date:	
By (company or group):		Represented by (Full name)	
<b>Signature of authorised representative:</b>			

## 7 Annexes

The following annexes are provided separately to these tender specifications as the following files:

### 7.1 Items technical specifications

<b>File description</b>	<b>File name</b>
<b>Mobile heating systems - technical specs, Auxiliary items technical specs</b>	Appendix 1. Technical Specification & ToR
<b>Form of submission of Technical Proposal</b>	Appendix 2. Form of Technical Proposal

### 7.2 Items distribution sheet

<b>File description</b>	<b>File name</b>
<b>Items distribution sheet (lot and beneficiary)</b>	To be provided to successful tenderer only
<b>Beneficiary delivery locations</b>	To be provided to successful tenderer only

## 7.3 Summary of documents to be included

### 7.3.1 Phase 1 – Selection Phase

Forms		
Reference	Form	Completed & attached?
<a href="#">FORM (1)</a>	<a href="#">Request to participate</a>	
<a href="#">FORM (2)</a>	<a href="#">Subcontractors</a>	
<a href="#">FORM (3)</a>	<a href="#">Declaration on honour – Exclusion grounds</a>	
<a href="#">FORM (4)</a>	<a href="#">Integrity Statement for the tenderers</a>	
<a href="#">FORM (5)</a>	<a href="#">Declaration on Honour Regarding Potential Links with Russia</a>	
<a href="#">FORM (6)</a>	<a href="#">Order of preference for awarding lots</a>	
<a href="#">FORM (7)</a>	<a href="#">Economic and financial capacity</a>	
<a href="#">FORM (8)</a>	<a href="#">Experience</a>	
Attachments to be provided		
Reference	Attachment	Attached?
<b>All candidates shall submit the following attachments with the participation request:</b>		
ATTACHMENT (1)	Document proving the competence of the signatory(s)	
ATTACHMENT (2)	Completed European single procurement document (ESPD)	
ATTACHMENT (3)	A copy of registration showing a registration number: Copy of Extract/Excerpt from the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations.	
ATTACHMENT (4)	A copy of the VAT registration certificate and/or an extract from the register of VAT payers (for VAT payers) or a certificate of a single tax payer and/or an extract from the register of a single tax payer (for single tax payers);	
ATTACHMENT (5)	Completion certificates for declared previous experiences	
ATTACHMENT (6)	Audited balance sheets for the last three years (2021-2023)	
ATTACHMENT (7)	A document confirming criminal records absence for legal entities	
ATTACHMENT (8)	A document certifying that the tenderer is compliant with the payment of levies and taxes (including the unified social contribution)	

ATTACHMENT (9)	A document certifying that the tenderer is not subject to bankruptcy, liquidation, cessation of business, or judicial reorganization	
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### 7.3.2 Phase 2 – Submission of Offer

Forms		
Reference	Form	Completed & attached?
<a href="#">FORM (9)</a>	<a href="#">Tender form</a>	

ANNEXES		
Reference	Annex	Completed & attached?
	<b>LIST OF SUPPORTING DOCUMENTS TO BE PROVIDED AS PART OF THE TENDER PROPOSAL:</b>	
	Technical proposal in the form of Appendix 2 to the Tender Documentation	
	Passport or operational documentation of the module in Ukrainian (item I in specification)	
	Passport or instruction for auxiliary equipment (items II-III in specification)	
	Valid permission of the equipment manufacturer to perform high-risk work: installation, dismantling, adjustment, repair, maintenance, reconstruction of high-risk machines, mechanisms, and equipment. Steam and hot water boilers with a heating capacity above 0.1 MW (steam boilers with a steam capacity up to 100 t/hr with operating steam pressure up to 3.9 MPA and steam temperature up to 350 °C; hot water boilers with a heating capacity up to 100 GCal/hr with operating pressure up to 3.9 MPA and water heating temperature up to 250 °C); vessels operating at pressures above 0.05 MPA (vessels operating at pressures up to 4.0 MPA	
	Permit for technical inspection, testing, expert examination, technical diagnostics of machines, mechanisms, and equipment of increased safety issued by the State Labor Service to the manufacturer of the equipment operating under pressure, which is specified in the Technical Regulations of equipment operating under	

	pressure, approved by the resolution of the Cabinet of Ministers of Ukraine dd 16.01.2019 No.27	
	A letter in any format confirming that the permit to operate a transportable boiler plant has been obtained from the State Labour Service of Ukraine	
	License from the equipment manufacturer for installation of fire alarm and fire extinguishing systems (water, foam, gas, powder, aerosol) at sites with a high, medium, and low degree of fire safety risk	
	A copy of the current technical specifications (TY) or another regulatory document (title page) for the equipment being the subject of purchase	
	<ul style="list-style-type: none"> <li>• Information about the availability of the equipment and the material and technical base: <ul style="list-style-type: none"> <li>• 5-ton cargo truck;</li> <li>• 3.5-ton cargo truck;</li> <li>• Sheet bending machine;</li> <li>• Shearing press;</li> <li>• Milling machine;</li> <li>• Lathe machine;</li> <li>• Metal plasma cutting machine;</li> <li>• High-pressure device;</li> <li>• Availability of a production hall with area of at least 150 m<sup>2</sup>;</li> <li>• Availability of an installation site with area of at least 100 m<sup>2</sup>;</li> <li>• In the case of rented equipment or premises, please provide valid lease agreements;</li> </ul> </li> </ul> <p>Certificate of conformity of the product manufacturer for transportable boiler installations</p>	
	For non-manufacturers of goods: a contract with the manufacturer and/or a certificate of distributor, representative, dealer and/or a letter of authorization from the manufacturer and/or other similar document confirming the legal relationship between the manufacturer and the participant	

	A letter confirming the possibility of warranty service for the purchased item in Ukraine, indicating the addresses of service centers (at least 2)	
	<b>Documents that shall be provided within 3 weeks upon the conclusion of the Agreement</b>	
	Drawings of tasks for attaching all the supplied equipment	
	Technological diagrams of pipelines, including connection dimensions, thermal displacements, and permissible loads at points	
	List of safety and control valves and pipeline specifications	
	Instrument list, instrument data, and materials specification for the control system	
	Electrical component diagrams and connection diagrams of automatic burner control panels, with terminal boxes of thermocouples, igniters, scanning devices, etc	
	The supply points of resources, i.e., the heat media and electricity (with a list of electrical equipment) shall be specified, including the corresponding consumption figures and indicating the necessary temperature and pressure modes	
	<b>Documents that shall be provided with the products</b>	
	<p>Declaration of conformity of the module with the requirements:</p> <ul style="list-style-type: none"> <li>- Technical regulations of the equipment operating under pressure approved by resolution of the Cabinet of Ministers of Ukraine No. 27 dd January 16, 2019;</li> <li>- Technical regulations of low-voltage electrical equipment approved by resolution of the Cabinet</li> </ul>	

	of Ministers of Ukraine No. 1067 dd December 16, 2015	
	Factory test reports	
	Instructions for the equipment acceptance by the Buyer on the site and processing claims and compensations	
	Certificates of conformity according to the technical regulations of equipment operating under pressure approved by resolution of the Cabinet of Ministers of Ukraine No. 27 dd January 16, 2019 for the boiler and all relevant equipment that it is equipped with	
	Passports for the boiler and equipment supplied with the transportable boiler plant from the manufacturers	