**CANCELLATION OF A TENDER PROCEDURE**

**II.1.1) Contract Notice Title:** Supply of technical equipment - Supply of technical equipment for protection and maintanance of habitats and species off road vehicle equipped with modules for fires, floods and snowstorms
**II.1.1) Contract Notice Reference Number:** CB007.2.32 .165-SUPPLY (B3)

**Section V: Award of contract**

**A contract/lot is awarded: no.

V.1) Information on non-award**

**The contract/lot is not awarded. Only a notification letter and letters to unsuccessful tenderers has been sent.**

**Other reasons (discontinuation of procedure) Notice reference:** CB007.2.32 .165-SUPPLY (B3)

**1. The procurement is cancelled because there have been “breach of obligations, irregularities or frauds in the procedure, in particular where these have prevented fair competition”, as per PRAG’s point 2.6.13. *Cancellation of procurement procedures*. The evaluation committee rejected two of the participants as unsuitable because their offers weren’t dully sealed. According to the evaluation committee the technical and financial offers were supposed to be sealed in separate envelopes. This fact is proved by the evaluation committee report and an official letter of the chairperson No. 995/1/02.08.2021 is which he states that the reason for rejection is that “technical and financial were divided”. According to the Instruction to Tenderers, point 10, *“****The technical and financial offers must be placed* ***together*** *in a sealed envelope. The envelope should then be placed in another single sealed envelope/package.”.* Furthermore, in accordance with 2.9.3. Responsibilities of evaluation committee members of PRAG, *“Tenders or proposals should not be rejected in the following cases: The tender was sent in a single envelope rather than the two envelopes required, provided the envelope is sealed (the confidentiality of the tender has been preserved).* This means that two of the tenderers Excelor Holding group Ltd. and Avto Engineering were rejected in breach of art. 2.9.3. of PRAG and in breach with the published Instructions to tenderers.

**2.** There is another irregularity in the work of the evaluation committee**. According to the PRAG basic rules and supply tender procedures rules, if a tenderer has been rejected for a formal reason such as the one stated in the tender opening report summary of tenders received, the offer should not be considered for further evaluation. Even if the rejection of the** Excelor Holding group Ltd. and Avto Engineering was correct, the evaluation committee should not have considered the two offers and examine them in the technical evaluation report.

There is also another mistake in the evaluation report of the evaluation committee, where it was written that “*The offer of tenderer does not contain documentation related to the prescribed criteria for selection of tenderer from article 16 – Selection criteria of annex A5f”*. This statement of the evaluation committee is also in breach of the requirements of the tender procedure, where the Contracting Authority should not require documentary proves of the selection criteria. According to point 16 of the Contract Notice and point 11 of the Instructions to tenderers at the time of submission of the offer compliance with the selection criteria is proved by filling in point 4, 5 and 6 of the tender submission form, which is made by both Excelor Holding group Ltd. and Avto Engineering. This statement of the evaluation committee is **in infringement of PRAG’s point 2.6.11.1., which states that “only successful tenderers have to supply proof documents to support the information submitted in the tender before the award of the contract”.**

**3. According to article 4.3.9.7. The evaluation committee's conclusions *“The evaluation committee's decisions are collective and its deliberations must remain secret. The evaluation committee members and any observers are bound to secrecy. If its law conflicts with the confidentiality required, the contracting authority must obtain prior authorisation from the European Commission before disclosing any information.”* Having in mind that the Tourist Organization Surdulica as a Contracting Authority of the tender such an authorization is no required the sending of information before the end of the evaluation of tenderers is in breach of this requirements. The opening report with outgoing No 975/26.07.2021 was sent to all three participants before the end of the evaluation process.**

**4. Furthermore, there is an internal contradiction in the documents from the work of the evaluation committee – the committee accepts that the offered prices should be placed in a separate envelope and are subject to separate and subsequent evaluation according to the evaluation report, but at the same time they are indicated point 4 of the opening report.**

**The above irregularities require the procedure to be cancelled and re-launched.**

This cancelation notice is published on the basis of point 4.3.10 and point 2.6.13. *Cancellation of procurement procedures,* where it is stated that *“****Cancellation of the procedure can take place up until signature of the contract (Art. 171 FR).*** *Candidates or tenderers must always be informed as soon as possible if it is decided, in the course of the procedure, to cancel it.”*

 **VI.3) Additional information:**

Should a new tender procedure be launched for this project, a new contract notice will be published, unless the contracting authority awards the contract through a negotiated procedure – in which case only the award of the contract will be published.