



Tender Specifications

Public contract for "Supply of Hearing Aids for children with hearing disability in Gaza, Ministry of education, Special Education Department" PSE22001-10062

Negotiated Procedure without Prior Publication

Quality Education and Learning

Navision code: PSE220011

Enabel in Palestine

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1 General provisions

1.1 Derogations from the General Implementing Rules

Section 4, '*Specific contractual and administrative conditions*' of these Tender Specifications (CSC/Cahier Spécial des Charges) holds the specific administrative and contractual provisions that apply to this public procurement contract as a derogation of the Royal Decree of 14.01.2013 or as a complement or an elaboration thereof.

These Tender Specifications derogate from Article(s) 26 and of the General Implementing Rules – GIR (Royal Decree of 14.01.2013).

1.2 Contracting authority

The contracting authority of this public procurement contract is Enabel, the Belgian development agency, public-law company with social purposes, with its registered office at Rue Haute 147, 1000 Brussels in 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 the 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 public contract, Enabel is represented by Christelle JOCQUET, Resident Representative of Enabel in Palestine.

1.3 Institutional framework of Enabel

The general framework of reference in which Enabel operates is:

- The Belgian Law on Development Cooperation of 19 March 2013¹;
- The Belgian Law of 21 December 1998 establishing the Belgian Technical Cooperation as a public-law company²;
- The Belgian Law of 23 December 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.

The following initiatives are also guiding Enabel in its operations: We mention as main examples:

- In the field of international cooperation: the United Nations Sustainable Development Goals and the Paris Declaration on the harmonisation and alignment of aid;
- In the field of the fight against corruption: the Law of 8 May 2007 approving the United Nations Convention against Corruption, adopted in New York on 31 October 2003³, as well as the Law of 10 February 1999 on the Suppression of Corruption transposing the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions;
- In the field of Human Rights: the United Nations' Universal Declaration of Human Rights (1948) as well as the 8 basic conventions of the International Labour Organisation⁴ on Freedom of Association (C. n°87), on the Right to Organise and Collective Bargaining (C. n°98), on Forced Labour (C. n°29 and 105), on Equal Remuneration and on Discrimination

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

² Belgian Official Gazette of 1 July 1999.

³ Belgian Official Gazette of 18 November 2008.

⁴ <http://www.ilo.org/ilolex/french/convdisp1.htm>.

in Respect of Employment (C. n°100 and 111), on Minimum Age for Admission to Employment (C. n°138), on the Prohibition of the Worst Forms of Child Labour (C. n°182);

- In the field of environmental protection: The Climate Change Framework Convention in Paris, 12 December 2015;
- The first Management Contract concluded between Enabel and the Belgian federal State (approved by the Royal Decree of 17.12.2017, Belgian Official Gazette 22.12.2017) that sets out the rules and the special conditions for the execution of public service tasks by Enabel on behalf of the Belgian State.
- Considering Enabel's Code of Conduct of January 2019, Enabel's Policy regarding sexual exploitation and abuse of June 2019 and Enabel's Policy regarding fraud and corruption risk management of June 2019;

1.4 Rules governing the procurement contract

The following, among other things, applies to this public procurement contract:

- The Law of 17 June 2016 on public procurement contracts⁵;
- The Law of 17 June 2013 on justifications, notification and legal remedies for public procurement contracts and certain procurement contracts for works, supplies and services⁶;
- The Royal Decree of 18 April 2017 on the award of public procurement contracts in the classic sectors⁷;
- Royal Decree of 14 January 2013 establishing the General Implementing Rules for public procurement contracts and for concessions for public works⁸;
- Circulars of the Prime Minister with regards to public procurement contracts.
- All Belgian regulations on public contracts can be consulted on www.publicprocurement.be.
- Enabel's Policy regarding sexual exploitation and abuse – June 2019;
- Enabel's Policy regarding fraud and corruption risk management – June 2019;
- local legislation with regards to sexual harassment at the workplace or equivalent;
- 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 – '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.

All Belgian regulations on public contracts can be consulted on www.publicprocurement.be; Enabel's Code of Conduct and the policies mentioned above can be consulted on Enabel's website via <https://www.enabel.be/content/integrity-desk>.

⁵ Belgian Official Gazette 14 July 2016.

⁶ Belgian Official Gazette of 21 June 2013.

⁷ Belgian Official Gazette 9 May 2017.

⁸ Belgian Official Gazette 27 June 2017.

1.5 Definitions

The following definitions apply to this procurement contract:

The tenderer: An economic operator submitting a tender;

The contractor/ service provider: The tenderer to whom the procurement contract is awarded;

The contracting authority: Enabel, represented by the Resident Representative of Enabel in Palestine;

The tender: Commitment of the tenderer to perform the procurement contract under the conditions that he has submitted;

Days: In the absence of any indication in this regard in the Tender Specifications and the applicable regulations, all days should be interpreted as calendar days;

Procurement documents: Tender Specifications including the annexes and the documents they refer to;

Technical specifications: A specification in a document defining the characteristics of a product or a service, such as the quality levels, the environmental and climate performance levels, the design for all needs, including accessibility for people with disabilities, and the evaluation of conformity, of product performance, of the use of the product, safety or dimensions, as well as requirements applicable to the product as regards the name by which it is sold, terminology, symbols, testing and test methods, packaging, marking or labelling, instructions for use, the production processes and methods at every stage in the life cycle of the supply or service, as well as the evaluation and conformity procedures;

Variant: An alternative method for the design or the performance that is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;

Option: A minor and not strictly necessary element for the performance of the procurement contract, which is introduced either at the demand of the contracting authority, or at the initiative of the tenderer;

Inventory: The procurement document which splits up the performance in different items and specifies the quantity or the method to determine the price for each of them;

General Implementing Rules (GIR): Rules laid down in the Royal Decree of 14.01.2013 establishing the General Implementing Rules for public procurement contracts and for concessions for public work;

The Tender Specifications (Cahier spécial des charges/CSC): This document and its annexes and the documents it refers to;

BDA: Belgian Public Tender bulletin;

OJEU: Official Journal of the European Union;

OECD: Organisation for Economic Cooperation and Development;

Corrupt practices: The offer of a bribe, gift, gratuity or commission to any person as an inducement or reward for performing or refraining from any act relating to the award of a procurement contract or performance of a procurement contract already concluded with the contracting authority;

Litigation: Court action.

Subcontractor in the meaning of public procurement regulations: The economic operator proposed by a tenderer or contractor to perform part of the contract. The subcontractor is understood as the economic operator with the capacity which the applicant or tenderer relies upon or to whom he entrusts all or part of his engagements.

Controller in the meaning of the GDPR: the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.

Sub-contractor or processor in the meaning of the GDPR: a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

Recipient in the meaning of the GDPR: a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not.

Personal data: any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

1.6 Confidentiality

1.6.1 Processing of personal

The contracting authority undertakes to process the personal data that are communicated to it in response to the Call for Tenders with the greatest care, in accordance with legislation on the protection of personal data (General Data Protection Regulation, GDPR). Where the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data contains stricter provisions, the contracting authority will act in accordance with said law.

1.6.2 Confidentiality

The 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 due care, transparently and in strict compliance with privacy protection legislation.

See also: <https://www.enabel.be/content/privacy-notice-enabel> See also: <https://www.enabel.be/content/privacy-notice-enabel>

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 procurement contracts for Enabel.

1.7.2. For the duration of the procurement 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 tenderer or contractor is bound to respect fundamental labour standards, which are internationally agreed upon by the International Labour Organisation (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 procurement 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 agents of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the procurement contract, regardless of their hierarchical rank.

1.7.6. The contractor of the procurement 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 control, on paperwork or on site, 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 its contract cancelled or to be permanently excluded from receiving funds.

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, etc.) must be sent to the Integrity desk through the <https://www.enabelintegrity.be> website.

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

Public supplies contract (purchase of medical hearing aids).

2.2 Subject-matter of the procurement contract

The public supplies contract consists performance of the Supply of medical hearing aids in Gaza Ministry of Education/Special Education Department, in conformity with the conditions of these Tender Specifications.

2.3 Lots

The public contract has one lot. The tenderer may submit a tender for one lot. A tender for part of a lot is inadmissible.

The description of the lot is included in <Part 5> of these Tender Specifications.

The lot is specified according to geographical areas (See attached BoQ)

Lot 1; Gaza

When tendering for several lots, the tenderer may not offer discounts or better conditions in his tender in case these lots were to be awarded to him.

2.4 Items

Each lot of this contract consists of the items specified in Part 5 (5.3 technical specifications) of this tender document.

(See also Part 5)

These items are pooled and form one single lot. It is not possible to tender for one or several items and the tenderer must submit price quotations for all items of a same lot.

2.5 Duration of the public contract⁹

For each of the lots, the contract starts upon award notification and expires at the final acceptance.

2.6 Variants

Variants are not permitted.

Each tenderer may submit only one tender. Variants are forbidden.

2.7 Option

Options are not permitted.

⁹ Please note: duration of the contract not to be confused with the period of performance.

2.8 Quantity

Quantities will be determined in award notification/Purchase Order. The presumed quantities below are given per lot for information purposes only.

Exact quantities shall be determined in **order forms**. The estimated quantities are rough estimates given only to enable the estimation of the expected service volume in awarding the contract. Therefore, the contracting authority does not commit in any way as to quantities that will be ordered under this public contract.

The unit prices remain unchanged, regardless of the quantities actually ordered.

The provider cannot use the fact that the minimum quantities were not attained as grounds for claiming compensation.

3 Procedure

3.1 Award procedure

Negotiated Procedure without Prior Publication in application of Article 42 of the Law of 17 June 2016.

3.2 Publication

3.2.1 Enabel publication

These Tender Specifications are posted on the website of Enabel (www.enabel.be). Such publication constitutes an invitation to tender.

The contract notice is advertised through local website: www.Jobs.ps

3.3 Information

The awarding of this procurement contract is coordinated by Karmel Al Salqan, Expert in Contracting & Administration. Throughout this procedure all contacts between the contracting authority and the (prospective) tenderers about this procurement contract will exclusively pass through this service / this person. (Prospective) tenderers are prohibited to contact the contracting authority in any other way with regards to this contract, unless otherwise stipulated in these Tender Specifications.

Until the notification of the award decision no information will be given about the evolution of the procedure.

The procurement documents can be consulted free of charge at the following internet address:

- <https://www.enabel.be/content/enabel-tenders>

3.4 Tender

3.4.1 Data to be included in the tender

The tenderer must use the tender form in annexe. In case he does not use this form, he is fully responsible for the perfect concordance between the documents he has used and the form.

The tender and the annexes to the tender form are drawn up in English.

The following information will be included in the tender:

The lump-sum unit price/the lump-sum unit prices in words and figures (excluding VAT);

The name of the person or persons, depending on the case, who has or have a mandate (power of attorney) for signing the tender.

The function of the person or persons, depending on the case, who signs/sign the tender.

The full registration number of the tenderer with the Enterprise Crossroads Bank (Banque-Carrefour des Entreprises) for Belgian tenderers or with an equivalent institution for foreign tenderers.

By submitting a tender, the tenderer automatically renounces to his own general or specific sales conditions, even if these are mentioned in any of the annexes to his tender.

The tenderer clearly designates in his tender which information is confidential and/or relates to technical or business secrets and may therefore not be divulged by the contracting authority.

3.4.2 Period the tender is valid

The tenderers are bound by their tender for a period of 90 days from the deadline for the receipt date.

The validity of the tender will be negotiated, if the deadline stated above is overrun.

3.4.3 Determination of prices

All prices given in the tender form must obligatorily be quoted in EUROS and rounded off to two figures after the decimal point. Prices given are exclusive of VAT.

This public contract is a price-schedule contract, i.e. a contract in which only the unit prices are lump-sum prices. The price to be paid will be obtained by applying the unit prices mentioned in the inventory to the quantities actually performed.

In accordance with Article 37 of the Royal Decree of 18 April 2017, the contracting authority may for the purpose of verifying the prices carry out an audit of any and all accounting documents and an on-site audit to check the correctness of the indications supplied.

3.4.4 Elements included in the price

The tenderer is to include in his unit and global prices any charges and taxes generally inherent to the performance of the contract, with the exception of the value-added tax.

All duties, levies and taxes, except VAT, which is a separate item under the inventory. Tenderers are informed that Enabel is not subjected in the meaning of Articles 21 and 21 bis of the Belgian VAT Code and in the meaning of Article 59 of Directive 2006/112/EC. This implies that VAT is owed by the service provider in accordance with the rules of the service provider's state.

Service providers are informed that payment of taxes owed, including VAT, is fully their responsibility. Enabel can in no case be considered accountable or jointly liable in case of litigation or a claim by any authority regarding taxed due or paid.

In order to assure being in order, the service provider will himself have to collect the information that he needs from the competent authorities, also because taxation systems vary by location/ country of intervention of service.

Enabel can provide support to obtain information (for instance, by providing suitable contacts or by directing the service providers to useful documents) but it is exempt of any responsibility regarding the delivery or completeness of the information.

The following are in particular included in the prices:

- 1° packaging (except if these remain the property of the tenderer), loading, trans-shipment and intermediate unloading, transportation, insurance and customs clearance
- 2° 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
- 3° documentation pertaining to the delivery of supplies and any documentation required by the contracting authority
- 4° assembly and taking into operation
- 5° training required for operation
- 6° where applicable, the measures imposed by occupational safety and health legislation
- 7° customs and excise duties.

All prices are DDP (Delivered Duty Paid) Incoterms 2020. The supplier is responsible and assumes responsibility for the entire process of delivering supplies to the final destination. In addition to the DDP incoterm, the supplier also agrees to be responsible and include the final unloading of the supplies.

3.4.5 How to submit tenders?

The tenderer may only submit one tender only per lot.

The tenderer submits his tender as follows:

- One original copy of the completed tender will be submitted on paper. Moreover, the tenderer shall attach the copies requested by the tender guidelines to the tender (see Part 6). These copies may be submitted in one or more **PDF files on a USB stick**.

It is submitted in a properly sealed envelope bearing the following information: Tender name and code.

The tender and all accompanying documents have to be numbered and signed (original hand-written signature) by the tenderer or his/her representative. The same applies to any alteration, deletion or note made to this document. This also applies to erasures and alterations, additions or changes made by means of a correction ribbon or correcting fluid.

Any tender must arrive before the final submission date and time. Tenders that arrive late will not be accepted¹⁰.

The tender must be received before **July 24,2023 before 15:00pm** at one of the following addresses:

- | |
|--|
| <ul style="list-style-type: none"> ▶ Enabel, Belgian Development Agency, Al Bayed building, ground floor, Al Halabi street, Al Katiba Area, Gaza city ▶ Enabel - Belgian Development Agency, Royal Center, 7th Floor, Al Balou', Mecca Street, Ramallah - Al Bireh |
|--|

It may be submitted either:

- By mail (standard mail or registered mail). In this case, the sealed envelope is put in a second closed envelope addressed to: Enabel, Belgian Development Agency, (address). The delivery record makes proof of compliance with the time-limit for receipt.
- Delivered by hand directly to the Contracting Authority against a signed and dated receipt. In this case, the acknowledgment of receipt makes proof of compliance with the time-limit for receipt.

The service can be reached on working days during office hours: from 9 am to 4 pm.

3.4.6 Change or withdrawal of a tender that has already been submitted

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.

To change or withdraw a tender already sent or submitted, a written statement is required, which will be correctly signed by the tenderer or his representative. The subject-matter and the scope of the changes must be indicated in detail. Any withdrawal must be unconditional.

The withdrawal may also be communicated by fax or electronic means, provided that it is confirmed by registered letter deposited at the post office or against acknowledgement of receipt at the latest the day before the tender acceptance deadline.

The subject-matter and the scope of the changes must be indicated in detail.

The withdrawal must be pure and simple.

¹⁰ Article 83 of the Royal Decree Award

3.4.7 Opening of Tenders

The tenders will be opened behind closed doors.

3.5 Selection of tenderers

3.5.1 Exclusion grounds

The obligatory and facultative exclusion grounds are given in attachment to these Tender Specifications.

By submitting this tender, the tenderer certifies that he is not in any of the cases of exclusion listed in the Articles 67 to 70 of the Law of 17 June 2016 and the Articles 61 to 64 of the Royal Decree of 18 April 2017.

The contracting authority will verify the accuracy of this Declaration on honour for the tenderer with the best tender.

For that purpose, the contracting authority will ask the tenderer concerned to provide information or documents allowing the contracting authority to verify the tenderer's personal situation by the fastest means and within the term set by the contracting authority.

The contracting authority will itself ask for information or documents that it can obtain free of charge by digital means from the instances that manage the information or documents.

3.5.2 Selection criteria

Moreover, by means of the documents requested in the 'Selection file', the tenderer must prove that he is sufficiently capable, from an economic and financial as well as from a technical point of view, to successfully perform this public procurement contract.

The selection will be done on a fail/pass basis using the following 2 criteria:

- Technical offer:
 - Selection Criterion 1: Similar supply deliveries. Form 6.7.1
 - Selection Criterion 2: Conformance with technical specifications - Catalogue.

3.5.3 Overview of the procedure

In a first phase, the tenders submitted by the selected tenderers will be evaluated as to formal and material regularity.

The contracting authority reserves the right to have the irregularities in the tenderers' tender regularised during the negotiations.

In a second phase, the formally and materially regular tenders will be evaluated as to content by an evaluation commission. The contracting authority will restrict the number of tenders to be negotiated by applying the award criterion stated in the procurement documents. This evaluation will be conducted on the basis of the award criterion 'price/cost' given in these Tender Specifications and aims to setting a shortlist of tenderers with whom negotiations will be conducted. Maximum 5 tenderers may be included in the shortlist.

Then the negotiation phase follows. In view of improving the contents of the tenders, the contracting authority may negotiate with tenderers the initial tenders and all subsequent tenders that they have submitted, except final tenders. The minimum requirements and the award criteria are not negotiable. However, the contracting authority may also decide not to negotiate. In this case, the initial tender is the final tender.

When the contracting authority intends to conclude the negotiations, it will so advise the remaining tenderers and will set a common deadline for the submission of any BAFOs. Once negotiations have closed, the BAFO will be compared with the exclusion, selection and 'price/cost' award criteria. The tenderer whose regular BAFO is the best value for money will be appointed the contractor for this procurement contract.

The BAFOs of the tenderers with whom negotiations have been conducted will be evaluated as to their regularity. Irregular BAFOs will be excluded.

Only the regular BAFOs will be considered and assessed against the award criteria.

The contracting authority reserves the right to review the procedure set out above in line with the principle of processing equality and transparency.

3.5.4 Award criteria

The contracting authority will choose the regular tender that it finds to be most advantageous, taking account of the following criteria: award on the basis of the **price**.

$$\text{Points tender A} = \frac{\text{amount of lowest tender}}{\text{amount of tender A}} * 100$$

3.5.4.1 Final score

The scores for the award criteria will be added up. The procurement contract will be awarded to the tenderer with the highest final score, after the contracting authority has verified the accuracy of the Declaration on honour of this tenderer and provided the control shows that the Declaration on honour corresponds with reality.

3.5.4.2 Awarding the procurement contract

The lots of the contract will be awarded to the tenderer(s) who has/have submitted the most economically advantageous tender.

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.

The contracting authority also reserves the right to award only certain lots and to decide that the other lots will be the subject matter of one or more new contracts, if necessary, according to another award procedure in accordance with Article 58 §1, third paragraph.

3.6 Concluding the public contract

In accordance with Art. 88 of the Royal Decree of 18 April 2017, the procurement contract occurs through the notification to the selected tenderer of the approval of his tender.

Notification is via digital platforms, e-mail or fax and, on the same day, by registered post.

So, the full framework contract consists of a procurement contract awarded by Enabel to the chosen tenderer in accordance with:

- These Tender Specifications and its annexes;
- The approved BAFO of the contractor and all of its annexes;
- The registered letter of notification of the award decision;
- Any later documents that are accepted and signed by both parties, as appropriate.

In view of transparency, Enabel undertakes to annually publish the list of contractors of its public contracts. By submitting tender, the contractor of the public contract declares agreeing with the publication of the contract title, the nature and subject-matter of the contract, his name and location as well as the value of the contract.

4 Specific contractual conditions

This chapter of these Tender Specifications holds the specific provisions that apply to this public procurement contract as a derogation of the 'General Implementing Rules for public procurement contracts and for public works concessions' of the Royal Decree of 14 January 2013, hereinafter referred to as 'GIR', or as a complement or an elaboration thereof. The numbering of the articles below (between brackets) follows the numbering of the GIR articles. Unless indicated, the relevant provisions of the General Implementing Rules (GIR) apply in full.

These Tender Specifications derogate from Article(s) 26 of the General Implementing Rules – GIR.

4.1 Managing official (Art. 11)

The managing official is the Intervention Manager, **Mr Joeri Leysen, Joeri.leysen@enabel.be**.

Once the procurement contract is concluded, the managing official is the main contact point for the service provider. Any correspondence or any questions with regards to the performance of the procurement contract will be addressed to him/her, unless explicitly mentioned otherwise in these Tender Specifications.

The managing official is responsible for the follow-up of the performance of the contract.

The managing official is fully competent for the follow-up of the satisfactory performance of the procurement contract, including issuing service orders, drawing up reports and states of affairs, approving the services, progress reports and reviews. (S)he may order any modifications to the procurement contract with regards to its subject-matter provided that they remain within its scope.

However, the signing of amendments or any other decision or agreement implying derogation from the essential terms and conditions of the procurement contract are not part of the competence of the managing official. For such decisions the contracting authority is represented as stipulated under 'The contracting authority'.

4.2 Subcontractors (Art. 12 to 15)

The fact that the contractor entrusts all or part of his commitments to subcontractors does not relieve him of liability to the contracting authority. The latter does not recognise any contractual relation with third parties.

The contractor remains, in any case, solely liable to the contracting authority. The contractor may not subcontract the contract or a part of the contract to other subcontractors than those presented at the time of submission; subcontracting to subcontractors presented in the tender is allowed only after preliminary approval by the contracting authority of these subcontractors.

When the contractor 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.

In the same way, the contractor will respect and enforce to his subcontractors, the provisions of 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, GDPR). The contracting authority may conduct an audit of the processing carried out in order to validate compliance with this legislation.

4.3 Confidentiality (art. 18)

Knowledge and information obtained by the contractor, including any persons responsible for the mission and any other person involved in this public contact, are strictly confidential.

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

All parties directly or indirectly involved are 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 public contract. Confidential information covers, in particular, the very existence of this public contract, without this list being limited.

Therefore, he undertakes to:

- Respect and enforce the strict confidentiality of these elements and to take all necessary precautions in order to preserve their secrecy (these precautions cannot in any case be inferior to those taken by the tenderer for the protection of his own confidential information);
- Consult, use and/or exploit, directly or indirectly, all of the above elements only to the extent strictly necessary to prepare and, if necessary, to carry out this public contract (particularly in accordance with the privacy legislation with respect to personal data processing);
- Not reproduce, distribute, disclose, transmit or otherwise make available to third parties the above elements, in whole or in part, and in any form, unless having obtained prior and written consent of the contracting authority;
- Return, at the first request of the contracting authority, the above elements;
- In general, not disclose directly or indirectly to third parties, whether for advertising or any other reason, the content of this public contract, or the fact that the tenderer or contractor performs this public contract for the contracting authority, or, where applicable, the results obtained in this context, unless having obtained prior and written consent of the contracting authority.

4.4 Personal data protection

4.4.1 Processing of personal data by the contracting authority

The contracting authority undertakes to process the personal data that are communicated to it in response to the Call for Tenders with the greatest care, in accordance with legislation on the protection of personal data (General Data Protection Regulation, GDPR). Where the Belgian law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data contains stricter provisions, the contracting authority will act in accordance with said law.

4.4.2 PROCESSING OF PERSONAL DATA BY THE CONTRACTOR

Where 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 performing the services in accordance with the provisions of the Tender Specifications or in execution of a legal obligation, the following provisions apply:

For any processing of personal data carried out in connection with this public 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 that public 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 public contract.

For the performance of the public 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).

To this end, the tenderer must fill out, sign and submit to the contracting authority the subcontracting agreement given in Annex [X]. Filling out and signing this annex is therefore a condition of regularity of the tender.

4.5 Intellectual property (Art. 19 to 23)

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

Without prejudice to clause 1 and unless otherwise stipulated in the procurement documents, when the subject-matter of the procurement contract consists of the creation, manufacture or the development of designs or of logos, the contracting authority acquires the intellectual property thereof, as well as the right to trademark them, to have them registered and to have them protected.

For domain names created under the procurement contract, the contracting authority also acquires the right to register and protect them, unless otherwise stipulated in the procurement documents.

When 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.

4.6 Performance bond (Art. 25 to 33)

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

In accordance with the legal and regulatory provisions, the performance bond may be constituted either of cash or of public funds or may take the form of a joint performance bond.

The performance bond may also take the form of a surety bond issued by a credit institution meeting the requirements of the law on the statute and control of credit institutions, or by an insurance company meeting the requirements of the law on control of insurance companies and approved for branch 15 (bonds).

As a derogation from Article 26, the performance bond may be posted through an establishment that has its registered office in one of the countries of destination of the services. The contracting authority maintains the right to accept or refuse the posting of the bond through that institution. The tenderer shall mention the name and address of this institution in the tender.

This derogation is founded on the idea of providing possible local tenderers with an opportunity to submit a tender. This measure is made essential by the specific requirements of the contract.

The contractor must, within 30 calendar days from the day of procurement contract conclusion, furnish proof that he or a third party has posted the bond in one of the ways set out below:

- 1° in the case of cash, by transfer of the amount to the bpost account number of the Deposit and Consignment Office Fill out the form https://finances.belgium.be/sites/default/files/01_marche_public.pdf as completely as possible and return it to the e-mail address: info.cdcck@minfin.fed.be
After reception and validation of said form, an agent of Belgium's Deposit and Consignment Office (Caisse des Dépôts et Consignations) will communicate to you the payment instructions (account number + communication) for posting the bond in cash;
- 2° in the case of public funds, by depositing such funds, for the account of the Deposit and Consignment Office, with the State Cashier at the head office of the National Bank in Brussels or at one of its provincial agencies or with a public institution with an equivalent function;
- 3° in the case of a joint surety, by deposit via an institution that lawfully carries out this activity of a deed of joint surety with the Deposit and Consignment Office or with a public institution with an equivalent function;
- 4° in the case of a guaranty, by the deed of undertaking of the credit institution or the insurance company.

This proof must be provided as applicable by submission to the contracting authority of:

- 1° the deposit receipt of the Deposit and Consignment Office or of a public institution with an equivalent function; or
- 2° a debit notice issued by the credit institution or the insurance company; or

- 3° the deposit certificate issued by the State Cashier or public institution with an equivalent function;
or
- 4° the original copy of the deed of joint surety stamped by the Depot and Consignment Office or by a public institution with an equivalent function; or
- 5° the original copy of the deed of undertaking issued by the credit institution or the insurance company granting a guaranty.

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.

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.

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

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

- 1° For the provisional acceptance: This is equal to a request to release the first half of the performance bond;
- 2° 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.

4.7 Conformity of performance (Art. 34)

The supplies 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.

4.8 Changes to the procurement contract (Art. 37 to 38/19)

4.8.1 Replacement of the supplier (Art. 38/3)

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

The supplier 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 supplies and services already performed, 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 supplier remains liable to the contracting authority for the performance of the remainder of the procurement contract.

4.8.2 Revision of prices (Art. 38/7)

For this procurement contract, price reviews are not permitted.

4.8.3 Indemnities following the suspensions ordered by the contracting authority during performance (Art. 38/12)

The contracting authority reserves the right to suspend the performance of the procurement contract for a given period, mainly when it considers that the procurement contract cannot be performed without inconvenience at that time.

The performance period is extended by the period of delay caused by this suspension, provided that the contractual performance period has not expired. If it has expired, the return of fines for late performance will be agreed.

When activities are suspended, based on this clause, the contractor is required to take all necessary precautions, at his expense, to protect the services already performed and the materials from potential damage caused by unfavourable weather conditions, theft or other malicious acts.

The contractor has a right to damages for suspensions ordered by the contracting authority when:

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

Within thirty days of their occurrence or the date on which the contractor or the contracting authority would normally have become aware of them, the contractor reports the facts or circumstances succinctly to the contracting authority and describes precisely their impact on the progress and cost of the procurement contract.

4.8.4 Unforeseen 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 procurement contract, Enabel will do everything reasonable to agree a maximum compensation figure.

4.9 Preliminary technical acceptance (Art. 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.

4.10 Performance modalities (Art. 146 et seq.)

4.10.1 Deadlines and terms (Art. 116)

The supplies must be delivered within **1 month/30 calendar days** as from the day following the date on which the supplier received the contract conclusion notification letter. The closure of the supplier's business for annual holidays is not included in this calculation.

4.10.2 Quantities to be supplied (Art. 117)

The public contract has no minimum quantities.

The estimates given below are for information purposes only and regard the whole duration of the public contract. The supplier must be able to supply these quantities for the length of the public contract.

4.10.3 Place where the services must be performed and formalities (Art. 149)

The supplies will be delivered at the following address:

Gaza Directorates of Ministry of Education/ Lot #1

#	Directorate	Address
1	Gaza Directorate	Ministry of education building, Tel Al-Hawa, Southern Rimal, Beirut Street, next to the Ministry of captives.

4.10.4 Packaging (Art. 119)

Packaging will become the property of the contracting authority, without the supplier having any claim to compensation in this regard.

On expiry of this period, the supplier may invoice the cost of the packaging to the contracting authority at the price stated in its tender.

Packaging to be returned bears an order number and the mark of the supplier. It is returned at the supplier's expense to the destination stated in the tender.

4.10.5 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.

Acceptance only takes place after the complete verification by the contracting authority of the conformity of the supplies and services delivered. It implies the transfer of ownership and risks of damage and loss. The signature of (a staff member of) the contracting authority, in particular on electronic reception devices, upon delivery of the materials, does consequently only count as evidence of the transfer of possession and does not concern the acceptance of the materials.

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.

4.10.6 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

4.11 Zero tolerance Sexual exploitation and abuse

In application of Enabel's Policy regarding sexual exploitation and abuse of June 2019 there will be zero tolerance towards any misconduct that could impact the professional credibility of the tenderer.

4.12 Means of action of the contracting authority (Art. 44-51 and 154-155)

The service provider's default is not solely related to services as such but also to the whole of the service provider'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 procurement contract, it is strictly forbidden to the service provider to offer, directly or indirectly, gifts, meals or any other material or immaterial advantage, of whatever value, to the employees of the contracting authority who are concerned, directly or indirectly, by the follow-up and/or control of the performance of the procurement contract, regardless of their hierarchical rank.

In case of violation, the contracting authority may impose a lump-sum fine to the service provider for each violation, which can be 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 contractor 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 procurement contract and/or the exclusion of procurement contracts of the contracting authority for a determined duration.

4.12.1 Failure of performance (Art. 44)

The supplier is considered to be in failure of performance under the procurement 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 are given in due form by the contracting authority.

Any failure to comply with the provisions of the procurement 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 contractor 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 as acknowledgement of the reported facts.

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

4.12.2 Fines for delay (Art. 46 and 154)

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 term without the issuing of a report and they are automatically applied for the total number of days of delay.

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

4.12.3 Measures as of right (Art. 47 and 155)

When, upon expiry of the term given in Article 44, §2, the contractor 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 contractor has explicitly recognised the defects found.

The measures as of right are:

- 1° Unilateral termination of the procurement 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 procurement contract;
- 3° Conclusion of one or more replacement procurement contracts with one or more third parties for all or part of the procurement 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 contractor. However, any fines or penalties imposed during the performance of a replacement procurement contract will be borne by the new contractor.

4.13 End of the procurement contract

4.13.1 Acceptance of the services performed (Art. 64-65 and 128)

The managing official will closely follow up the delivery.

The products are stored for delivery in the supplier's warehouses. Delivery cannot occur prior to the contracting authority's accepting the goods stored for delivery. The managing official who will carry out acceptance is named in the contract award notification if his/her name has not yet been mentioned in the procurement documents.

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.

If the supplies are delivered before or after the delivery 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 or refusal of receipt is drawn up, as the case may be.

The products are stored for delivery in the supplier's warehouses. Delivery cannot occur prior to the contracting authority's accepting the goods stored for delivery. The managing official who will carry out acceptance is named in the contract award notification if his/her name has not yet been mentioned in the procurement documents.

4.13.2 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.

4.13.3 Guarantee period (Art. 134)

4.13.1 The warranty period commences on the date on which provisional acceptance is given. It lasts one year. 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.

4.14 Invoicing and payment of services (Art. 66 to 72 and 127)

The supplier sends (one copy only of) the invoices and the contract acceptance report (original copy):

Only delivery that have been performed correctly may be invoiced.

The contracting authority disposes of a verification term of thirty days starting on the end date for 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.

The amount owed to the supplier must be paid within thirty days with effect from the expiry of the verification term or with effect from the day after the last day of the verification term, if this is less than thirty days. And provided that the contracting authority possesses, at the same time, the duly established invoice and any other documents that may be required.

When the procurement documents do not provide for any separate debt claim, the invoice will constitute the debt claim.

The invoice must be in EUROS.

In order 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.

No advance may be asked by the supplier and the payment will be made after provisional acceptance of each service delivery of a same order.

Payment will be by bank transfer only.

Payments will be made exclusively on the bank account specified by the tenderer in Form1: Identification of the tenderer.

4.15 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.

The contracting authority will in no case be held liable for any damage caused to persons or property as a direct or indirect consequence of the activities required for the performance of this procurement contract. The contractor indemnifies the contracting authority against any claims for compensation by third parties in this respect.

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

Enabel, public-law company

Legal unit of the Logistics and Acquisitions service (L&A)

To the attention of Mrs Inge Janssens

rue Haute 147

1000 Brussels

Belgium

4.16 Obligations of the contracting authority (Art. 136)

The contracting authority shall:

1° use the goods delivered for the needs stipulated under the public contract and in accordance with technical user guidance provided by the supplier;

2° make not changes to the goods delivered without the written preliminary approval of the supplier.

4.17 Obligations of the supplier (Art. 137 and 138)

The supplier shall:

1° put the supplies at the disposal of the contracting authority within the deadline set in the procurement documents;

2° unless otherwise stipulated in the procurement documents, ensure their maintenance and make all necessary repairs within the timing imposed to keep the goods in good state during the public contract term.

Where the supplies are completely or partially destroyed during the contact term without the contracting authority being liable, the supplier shall replace these or repair them at his costs within the deadline set.

4.18 Transfer of ownership in case of hire-purchase (Art. 139)

In case of hire-purchase, the transfer of ownership takes place either when the purchase option is lifted or upon the expiry of the term given in the procurement documents.

4.19 Guarantee period in case of hire-purchase (Art. 140)

In case of hire-purchase, the guarantee period is set at <<one year>>
from the date that the purchase option is lifted,

4.20 Payment of the price (Art.141)

The price of the public contract is under the form of rent or a rental remuneration in accordance with the following conditions:

Rent or rental remunerations are not owed by the contracting authority during periods it cannot use the supplies following shortcomings of the supplier

4.21 Final acceptances (Art. 142 OR 143)

This report counts as final acceptance of the public contract.

§2. Any claim from the supplier concerning the state of the delivery that has been returned to him is laid down in a registered letter sent to the contracting authority at the latest fifteen days after the date of notification of the report mentioned in the first paragraph.

4.22 Release of the performance bond (Art. 144)

Unless otherwise stipulated in the procurement documents. The performance bond will be released in full upon final acceptance of the public contract;

5 Terms of Reference

5.1 General conditions

The supplies must be new and guaranteed of origin. They must be free of any flaw or defect that could harm their appearance and proper functioning and they must comply with the ‘Technical Sheets’.

The tenderer attaches the following to his tender:

- The duly completed technical forms of the supplies to be delivered.
- The certificates and attestations of origin of the supplies which must be delivered at the same time as the supplies.
- A working drawing or photographs of the supplies (brochure, technical documentation and so forth).

5.2 Pre and After-sales service

- The selected supplier is committed to conduct the a pre hearing medical assessment for the identified children.
- Maintaining and repairing the supply during a 1-year period and through a separate contract, either by his own services or through subcontractors.

5.3 Technical specifications

The tenderers are requested to complete the BoQ in the next pages:

The supplier should clearly indicate (highlight, mark) the models offered and the options included, if any, so that the evaluators can see the exact configuration. Offers that do not permit precisely identify the models and the specifications may be rejected by the evaluation committee.

The offer must be clear enough to allow the evaluators to make an easy comparison between the requested specifications and the offered specifications.

Technical Rules

- Offer should indicate the warranty and services terms for the products proposed.
- Offer should consider hardware proper operation verification.
- Installation and configuration should be included in the price and no extra cost for it.
- All Product Number and product name must be included in company offers.
- o All provided devices should be supplied from manufacturing with requested configuration without any modification.

The selected supplier is committed to conduct the hearing medical assessment for the identified children.

- The estimated number of devices is a total of 320 device, exact quantity from each item will be determined after the assessment.

1. Item number	2. Specifications required	Quantity	Unit price
Behind The Ear for moderate to severe hearing loss: for children with hearing disability.	Output Sound Pressure Level (peak): 130 dB and above Reference Test Gain : 44 dB and above Frequency Range: 170 Hz to 6500 Hz or wider 12 Channels Fully digital or above Programming Connection Noise Management Bandwidth Compression Feedback preventer Automatic Directional Microphone Internal Parts Humidity Seal Well-known brand name Availability of spare parts and maintenance Availability of client service center Guarantee period at least one year May be available with a rechargeable battery, if not offer # of extra hearing batteries for each child The selected supplier is committed to conduct the hearing medical assessment for the identified children	1	
Behind The Ear for mild to moderate hearing loss for children with hearing disability	Output Sound Pressure Level (peak): 115 dB and above Reference Test Gain : 40 dB and above Frequency Range: 170 Hz to 6500 Hz or wider 12 Channels Fully digital or above Programming Connection Noise Management Bandwidth Compression Feedback preventer Automatic Directional Microphone Internal Parts Humidity Seal Well-known brand name Availability of spare parts and maintenance Availability of client service center Guarantee period at least one year May be available with a rechargeable battery, if not offer # of extra hearing batteries for each child	1	

	The selected supplier is committed to conduct the hearing medical assessment for the identified children.		
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6 Forms

6.1 Instructions for compiling the tender

The tenderer must use the tender form in annex. In case he does not use this form, he is fully responsible for the perfect concordance between the documents he has used and the form.

The tender and the annexes to the tender form are drawn up in English.

The tenders must be submitted in a properly sealed and stamped envelope mentioning: “Tender – Supply of Printers for West Bank and Gaza Ministry of Directorates/Inclusive Education Departments” PSE22001-10062.

The different parts and annexes of the tender must be numbered.

The prices are given in euros and rounded off to two figures after the decimal point. If necessary, they may be rounded off to four figures after the decimal point.

Erasures and alterations, additions or changes in the tender forms must be accompanied by a signature next to the erasure and alteration, addition or change concerned.

This also applies to erasures and alterations, additions or changes made by means of a correction ribbon or correcting fluid.

The tender must bear the original hand-written signature of the tenderer or of his representative.

If the tenderer is a company / association without legal body status, formed by separate natural or legal persons (temporary group or temporary partnership), the tender must be signed by each of these persons.

6.2 Identification forms

6.2.1 Identification form

Name of the company and legal form							
Nationality of the tenderer and of staff (if different)							
Domicile / registered office complete address	Street name						
	House number						
	Zip code or neighbourhood						
	City or village						
	Country or territory						
Telephone number (with country code)							
National Social Security Office registration number or equivalent							
Enterprise number							
Represented by the undersigned	Full Name						
	Function						
Contact person	Full Name						
	Title / function						
	Phone						
	E-mail						
If different: Project manager	Full Name						
	Phone						
	E-mail						
Bank account for payments	IBAN						
	BIC/SWIFT						
	Financial institution						
	Account holder name						
First name:		Place:					
Last name:		Date:					
Duly authorised to sign this tender on behalf of:		Signature and stamp:					

6.2.2 Subcontractors

Name and legal form	Address / Registered office	Object

6.3 Tender Forms – prices

By submitting this tender the tenderer commits to performing this public contract in conformity with the provisions of the Tender Specifications **PSE22001-10062** and explicitly declares accepting all conditions listed in the Tender Specifications and renounces any derogatory provisions such as his own general sales conditions.

The unit prices and the global prices for each item in the inventory are established relative to the value of these items in relation to the total value of the tender. All general and financial costs as well as the profits are distributed between the various items in proportion to their weight.

The tenderer commits to performing the public contract in accordance with the provisions of the Tender Specifications for the following prices, given in euros and exclusive of VAT:

(No extra cost for delivery)

Lot 1 (Gaza)						
No.	Items	Estimated quantity	Unit price [€]	Sub-total by item [EUR]		
1.	Medical Hearing aids for children with hearing disability	320		,	.	€
TOTAL [EURO]				,	.	€
Price offer in words (EUR)						

VAT percentage:%.

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

The confidential information and/or the information relating to technical or business secrets is indicated clearly in the tender.

In order to correctly compare the tenders, the duly signed information or documents mentioned below or under point 'Overview of the documents to be submitted' must be attached to the tender.

The tenderer declares on honour that the information given is accurate and correct and that it has been established while fully aware of the consequences of misrepresentation.

Certified true and sincere,

Handwritten original signature(s):

First name:		Place:	
Last name:		Date:	
Duly authorised to sign this tender on behalf of:		Signature and stamp:	

6.4 Declaration on honour – exclusion criteria

Hereby, I / we, acting as legal representative(s) of above-mentioned tenderer, declare that the tenderer does not find himself in one of the following situations :

- 1) The tenderer or one of its 'directors[1]' was found guilty following a conviction by final judgement for one of the following offences:
 - 1° involvement in a criminal organisation
 - 2° corruption
 - 3° fraud
 - 4° terrorist offences, offences linked related to terrorist activities or incitement to commit such offence, collusion or attempt to commit such an offence
 - 5° money laundering or terrorist financing
 - 6° child labour and other trafficking in human beings
 - 7° employment of foreign citizens under illegal status
 - 8° creating a shell company.
- 2) The counterparty which fails to fulfil his obligations relating to the payment of taxes or social security contributions for an amount in excess of EUR 3 000, except if the counterparty 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 counterparty who 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) When Enabel can demonstrate by any appropriate means that the counterparty or any of its directors has committed serious professional misconduct which calls into question his integrity.

Are also considered such serious professional misconduct:

- a. A breach of Enabel's Policy regarding sexual exploitation and abuse – June 2019.
- b. A breach of Enabel's Policy regarding fraud and corruption risk management – June 2019.
- c. A breach of a regulatory provision in applicable local legislation regarding sexual harassment in the workplace.
- d. The counterparty 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 counterparty has committed acts, entered into agreements or entered into arrangements to distort competition. The presence of this counterparty 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 counterparty were detected during the execution of an essential obligation incumbent on him in the framework of a previous contract, a previous contract placed with another contracting authority, when these failures have given rise to measures as of right, damages or another comparable sanction.

Also failures to respect applicable obligations regarding environmental, social and labour rights, national law, labour agreements or international provisions on environmental, social and labour rights are considered 'significant'.

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

- 7) Restrictive measures have been taken vis-à-vis the counterparty with a view of ending violations of international peace and security such as terrorism, human-rights violations, the destabilisation of sovereign states and de proliferation of weapons of mass destruction.
- 8) The counterparty or one of its directors are on the lists of persons, groups or entities submitted by the United Nations, the European Union and Belgium for financial sanctions:

For the United Nations, the lists can be consulted at the following address:

<https://finances.belgium.be/fr/tresorerie/sanctions-financieres/sanctions-internationales-nations-unies>

For the European Union, the lists can be consulted at the following address:

<https://finances.belgium.be/fr/tresorerie/sanctions-financieres/sanctions-europ%C3%A9ennes-ue>

https://eeas.europa.eu/headquarters/headquarters-homepage/8442/consolidated-list-sanctions_en

https://eeas.europa.eu/sites/eeas/files/restrictive_measures-2017-01-17-clean.pdf

For Belgium:

https://finances.belgium.be/fr/sur_le_spf/structure_et_services/administrations_generales/tr%C3%A9sorerie/contr%C3%B4le-des-instruments-1-2

- 9) If Enabel executes a project for another funder or donor, other grounds for exclusion may be added.

Date:

Location:

Signature:

6.5 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, organizations, 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 and understood the articles about deontology and anti-corruption included in the Tender Documents (see 1.7.), as well as *Enabel's Policy regarding sexual exploitation and abuse* of June 2019 and *Enabel's Policy regarding fraud and corruption risk management* of June 2019 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 public 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 will be considered as a serious professional misconduct which will lead to the exclusion of the contractor from this and other public contracts for Enabel.
- The public 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 control, on paperwork or on site, 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.

Date:

Location:

Signature:

6.6 Exclusion Grounds

6.6.1 Power of attorney

The tenderer shall include in his tender the **power of attorney empowering the person signing the tender** on behalf of the company, joint venture or consortium.

In case of a **consortium** or a **temporary association**, the joint tender must specify the role of each member of the tendering party. A group leader must be designated and the power of attorney must be completed accordingly.

6.6.2 Incorporation certificate

The tenderer shall include in his tender the **incorporation certificate** from the competent authority (for local tenderers: Israeli or Palestinian Registration Certificate).

6.6.3 Certification of clearance with regards to the payments of social security contributions

The tenderer must provide a certification¹² from the competent authority stating that (s)he is **in order with its obligations with regards to the payments of social security contributions** that apply by law in the country of establishment. This requirement does not apply to tenderers registered in the Palestinian territory.

6.6.4 Certification of clearance with regards to the payments of applicable taxes

The tenderer must provide a **recent certification** (up to 1 year) from the competent authority stating that the tender is **in order with the payment of applicable taxes** that apply by law in the country of establishment. For firms registered in Israel or the Palestinian territory, a valid deduction at source certificate must be provided.

6.6.5 The tenderer shall submit a letter from an audit firm (certified auditor) specifying that the company is not under significant risk of **bankruptcy or insolvency**.

6.7 Selection file – technical aptitude

Technical aptitude: See Art. 68 of the Royal Decree of 18.04.2017	
<p>The tenderer must show the following references of supplies delivered over the past three years.</p> <p>The tenderer includes in his tender a list with the main supplies that have been delivered over the past three years including the amount and date as well as the public or private recipients. Supply delivery is demonstrated by certificates drawn up or approved by the competent authority or, where the client was a private purchaser, by certification of the private purchaser, or by default, by a simple statement of the service provider.</p>	<p>See Annex 6.7.1 and 6.7.2 [supporting documents to be attached]</p>
<p>an indication of the proportion of the contract which the supplier intends possibly to subcontract.</p>	<p>See Annex 6.2.2 or [supporting documents to be attached]</p>

6.7.1 List of the similar supply deliveries

Tenderer must provide in his offer the list of the **main similar supplies (min. 3) delivered in the last 3 years with a minimum amount of 20,000 EUR each.**

Description of the main similar supply deliveries	Delivery places	Amount involved	Relevant dates in the last 3 years	Name of the public or private bodies

6.7.2 Certificates of completion

The tenderer must provide in his offer the certificates of completion (statement or certificate without major reservation) and / or any supporting documents (contracts, invoices...) approved by the entity which awarded the contract.

The aim is to present similar projects in terms of services installation, within public or private bodies.

Overview of the documents to be submitted – to be completed exhaustively

The following documents need to be provided as part of the tender:

	Document	
Tender document	<p>One original copy of the completed tender document (the present document) filled electronically (not by hand), then printed completely, signed, and stamped.</p> <p>The following forms need to be completed:</p> <ol style="list-style-type: none"> 1. Form 6.2.1: Identification 2. Form 6.2.2: Subcontractors 3. Form 6.3: Prices 4. Form 6.4: Declaration on honour – exclusion grounds 5. Form 6.5: Integrity statement 6. Form 6.7.1: List of similar supply deliveries 7. Form 6.7.2: Certificates of completion 	
	Declaration from a competent authority of not being in a situation of bankruptcy or insolvency	
	Incorporation certificate from the competent authority	
	Valid deduction at source Certificate	
	Power of attorney empowering the person signing the tender on behalf of the company, joint venture or consortium, signed by the person(s) mentioned in the incorporation certificate (only needed if the person signing the tender is different).	
	In case of a consortium or a temporary association, a copy of the joint venture agreement.	