

SERBIA AND MONTENEGRO AIR TRAFFIC SERVICES SMATSA LLC
Nikole Pašića Square No. 10, 11000 Belgrade, Republic of Serbia

Registered number:

NAB.00 79/623 dated 23/08/2019



TENDER DOCUMENTS

for submitting bid in a negotiated procedure without invitation to bid

**PROCUREMENT OF A NEW VERSION OF A SOFTWARE TOOL FOR CONSTRUCTING
INSTRUMENT FLIGHT PROCEDURES
(Public Procurement 150/D/19)**

BID SUBMISSION DEADLINE: September 17th 2019 at 9:30 AM (CET)

BID OPENING: September 17th 2019 at 9:45 AM (CET)

NEGOTIATIONS COMMENCMENT: September 17th 2019 at 11:15 AM (CET)

Total number of pages: 35

Pursuant to Articles 36 para.1 point 2), 61 of the Public Procurement Law (“Official gazette of Republic of Serbia”, No. 124/12, 14/15 and 68/15) and Article 5 of Decree on the mandatory elements of the tender documents in public procurement, and the manner of proving eligibility Law (“Official gazette of Republic of Serbia”, No. 86/15) and based on the positive opinion of the Public Procurement Office no. 404-02-2996/19 dated 08/07/2019, Decision on Initiating Public Procurement Procedure PP 150/D/19 no. NAB.00-79/504 dated 23/07/2019 and the Decision on Establishing the Public Procurement Committee PP 150/D/19 no. NAB.00-79/505 dated 23/07/2019 the following has been compiled:

TENDER DOCUMENTS
in the negotiating procedure without invitation to bid the public procurement–
Procurement of a new version of a software tool for constructing instrument flight procedures
- PP 150/D/19

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**I GENERAL INFORMATION ON THE PUBLIC PROCUREMENT
CONTRACTING AUTHORITY'S BASIC DATA**

Name of contracting authority:	Serbia and Montenegro Air Traffic Services SMATSA LLC
Address:	Nikole Pašića Square No. 10 11000 Belgrade Republic of Serbia
Web page:	www.smatsa.rs
Type of negotiated procedure:	Negotiated procedure without invitation to bid
Justification for using negotiated procedure:	<p>The basic software package for the construction of instrument flight procedures was purchased as per contract no NAB.00 79/1124 dated 23/12/2015 concluded with manufacturer and owner of the subject software – ASAP s.r.o, Slovakia.</p> <p>In the statement on exclusive rights NAB.00-79/269 dated 05/06/2019 it has been confirmed that ASAP s.r.o, as the manufacturer of the PHX V17 software tool used by the Contracting authority, is the only one competent company to provide the transition to the new software tool and future tool upgrades, bearing in mind that it is the sole owner of the rights related to this software. Hiring any other software vendor, or legal entity / physical person, to carry out this procurement would be impracticable due to protect of the exclusive rights.</p> <p>The Contracting Authority had obtained a positive opinion no. 404-02-2996/19 dated 08/07/2019 from the Public Procurement Office, whereby the preconditions for execution of a negotiated procedure without publication of an invitation to submit a bid, had been met</p>
Type of procurement by sort:	Goods
Type of contract:	<input checked="" type="checkbox"/> Public procurement contract <input type="checkbox"/> Framework agreement
Reserved public procurement:	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Electronic auction:	yes <input type="checkbox"/> no <input checked="" type="checkbox"/>
Contact person:	tender@smatsa.rs When submitting questions via email it is mandatory to state in email Subject: Clarification of tender documents for PP 150/D/19

INFORMATION ABOUT THE PUBLIC PROCUREMENT SUBJECT MATTER

Description of the public procurement subject matter:	Procurement of a new version of a software tool for constructing instrument flight procedures. Detailed description of requested goods has been provided in the Description of Services – Section II
Name and code from the Common Procurement Vocabulary:	48000000 Software package and information systems

II TECHNICAL SPECIFICATION

The scope of procurement

The scope of procurement is comprised of 5 licenses for the new version of the software package PHX for the construction of Instrument Flight Procedures, starting with the version V20, including all other future updates during a three-year period.

Software update implies delivery of the latest versions of the software package PHX for the construction of Instrument Flight Procedures, updated in accordance with the latest ICAO Flight Procedure Design criteria. New versions of the software packages are issued on a yearly basis, ensuring the software compliance with the latest changes in the criteria and incorporating new functionalities (compatibility with new obstacle database formats, new digital terrain model formats etc).

Supplier shall provide on-line technical support for the period of three years. Identified software shortcomings shall be fixed, depending on the severity of impact on the software package functionality, either instantly or with the first following version of the software.

Technical specification

The software package for the construction of Instrument Flight Procedures shall satisfy the following technical requirements:

- That is designed as an add-on module for the Autodesk AutoCad software package;
- That it supports work with 64 and 32-bit operating systems Windows XP or later;
- That it enables the construction of nominal tracks and protective areas of Visual and Instrument Flight Procedures for the aircraft categories A, B, C, D, E and H, in accordance with ICAO Doc 8168 PANS OPS Vol II Construction of Visual and Instrument Flight Procedures for:
 - SID/STAR procedures, their specific segments or elements, based on conventional or area navigation.
 - Precision and non-precision Final Approach and Missed Approach Procedures based on conventional or area navigation.
- That it is compliant with standards defined in ICAO Annex 14 to the Convention on International Civil Aviation Vol 1 и 2.

III REQUIREMENTS FOR PARTICIPATION IN THE PUBLIC PROCUREMENT PROCEDURE FROM ARTICLES 75 AND 76 OF THE LAW, AND INSTRUCTIONS FOR PROVING COMPLIANCE TO THOSE REQUIREMENTS

MANDATORY REQUIREMENTS

As per Article 75 of the Law, a bidder must prove the following:

- (1) that he is registered with a competent authority, i.e. entered in an appropriate register (Article 75, para 1, point 1) of the Law):

Evidence:

LEGAL ENTITY/ENTREPRENEUR

DOMESTIC BIDDERS¹:

i) Extract from the Business Registers Agency, or extract from the register of relevant Commercial Court.

FOREIGN BIDDERS:

ii) Extract from the register of the competent authority.

NATURAL PERSON

Not applicable.

- (2) that neither he, nor persons having powers of representation, have been convicted for any crimes as member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud (Article 75, para 1, point 2) of the Law):

Evidence:

NOTE: Evidences may not be older than two months prior to bid-opening i.e. evidences must be issued after 17/07/2019

LEGAL ENTITY

DOMESTIC BIDDERS:

i) Certificate from criminal records, i.e. BASIC COURT CERTIFICATE with jurisdiction in the area where the registered seat of the bidder – domestic legal entity is located, i.e. where the registered seat of the bidder – representative or branch office of the foreign legal entity is located, confirming that the legal entity has not been convicted for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud. SPECIAL NOTE: If the basic court certificate does not include the information from criminal records for crimes within the jurisdiction of the ordinary Criminal Department of the Higher Court, it is necessary to submit, together with Basic Court certificate, a Higher Court certificate, with jurisdiction in the area where the registered seat of the bidder – domestic legal entity is located, i.e. where the registered seat of the bidder – representative or branch office of the foreign legal entity is located, for commercial crimes and criminal offence of receiving bribe;

ii) Certificate from criminal records of the Special department for organized crime of the Higher court in Belgrade confirming that the legal entity has not been convicted for any crimes as member of an organized criminal group; and

¹ Domestic bidder, in terms of the Public Procurement Law of the Republic of Serbia, is a resident legal entity, in terms of the law governing income taxes of legal entities, i.e. resident natural person, in terms of the law governing income taxes of citizens.

iii) Certificate from the criminal records from the COMPETENT POLICE ADMINISTRATION OF THE MINISTRY OF INTERNAL AFFAIRS, confirming that Bidder's legal representative has not been convicted for any crimes as member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud (the request may be submitted by place of birth or the place of residence of the legal representative. If the Bidder has several legal representatives, the evidence shall be submitted for each of them.

FOREIGN BIDDERS:

iv) Criminal records extract, i.e. certificate (confirmation) of the competent authority with jurisdiction confirming that the Bidder (legal entity) has not been convicted for any crimes as members of an organized criminal group; for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud, **and**

v) Certificate of a competent authority with jurisdiction that that Bidder's legal representative (natural persons - **all the legal representatives of the bidder registered in the extract from the register of the competent author**) has not been convicted for any crimes as members of an organized criminal group; for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud.

ENTREPRENEUR / NATURAL PERSON

DOMESTIC BIDDERS:

vi) Certificate from criminal records, i.e. certificate from the competent police administration of the **Ministry of Internal Affairs**, confirming that the Bidder has not been convicted for any crimes as a member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud (request may be submitted by place of birth or the place of residence);

FOREIGN BIDDERS:

vii) Certificate from the relevant court with jurisdiction confirming that the Bidder has not been convicted for any crimes as a member of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud.

- (3) that he has paid due taxes, contributions and other forms of public charges in accordance with the regulations of the Republic of Serbia or a foreign country if its registered seat is located in its territory (Article 75, para 1, point 4) of the Law):

Evidence:

NOTE: Evidences may not be older than two months prior to bid-opening i.e. evidences must be issued after 17/07/2019

LEGAL ENTITY

DOMESTIC BIDDERS:

- i) Certificate from the Tax Administration of the Ministry of Finance that the Bidder has settled all due taxes or the certificate of the relevant authority proving that the Bidder is undergoing a privatization process **AND**
- ii) Certificate of the local self-government institution that the Bidder has settled local due taxes or the certificate of the relevant authority proving that the Bidder is undergoing a privatization process.

FOREIGN BIDDERS:

- iii) Certificates of the competent tax authorities and organization for compulsory social insurance confirming that the legal entity has settled due taxes and contributions.

ENTREPRENEUR / NATURAL PERSON

DOMESTIC BIDDERS:

- iv) Certificate from the Tax Administration of the Ministry of Finance that the Bidder has settled all due taxes **AND**
- v) Certificate of the local self-government institution that the Bidder has settled local due taxes

FOREIGN BIDDERS:

- vi) Certificates of the competent tax authorities and organization for compulsory social insurance confirming that the legal entity has settled due taxes and contributions.

- (4) that he has adhered to all obligations that pertain to applicable legislation concerning safety at work, employment and working conditions, protection of environment and that he has not been prohibited from performing business activity by a final court or administrative measure, in force at the time of submitting the Bid (Article 75, para 2 of the Law):

Evidence:

LEGAL ENTITY / ENTREPRENEUR / NATURAL PERSON

Filled-in, stamped and signed Form VI - 5. Form VI – 5 shall be signed by Bidder's authorized person.

- (5) That he has a valid permit of the relevant authority with jurisdiction, for the activity that is the subject of this public procurement (Article 75, para 1, point 5) of the Law):- not applicable in this procedure.

ADDITIONAL REQUIREMENTS

There are no additional requirements for participation in the subject public procurement procedure.

INSTRUCTIONS FOR PROVING COMPLIANCE TO THE REQUIREMENTS:

1. IF A BIDDER SUBMITS BID WITH SUBCONTRACTOR, than, in accordance with Article 80 of the Law, subcontractor must fulfil mandatory requirements from point 1) through 4) of this Section. Proof of fulfilment of the requirement referred to in point 5) of this Section shall be submitted for part of the procurement which will be executed through subcontractors. If, for the execution of the procurement part whose value does not exceed 10% of the total value of procurement, it is necessary to meet a mandatory requirement from point 5) of this Section, the bidder can prove fulfilment of that requirement through subcontractors to which he has entrusted the execution of that part of procurement.
2. REQUIREMENTS FOR A GROUP OF BIDDERS - Not applicable for this public procurement procedure.
3. CHANGES RELATED TO THE FULFILMENT OF THE REQUIREMENTS - The Bidder shall inform Contracting authority, in writing and without delay, of any change concerning fulfillment of requirements for participation in public procurement procedure, which

occurs before the decision is made or the contract awarded, or during the public procurement contract validity period, and shall document such change in the prescribed manner.

4. MEANS OF SUBMITTING EVIDENCE – Proofs on fulfillment of requirements may be supplied as uncertified copies, and Contracting authority may, before decision on awarding contract, demand from the bidder, whose bid was evaluated as most advantageous on the grounds of the report of public procurement committee, to present the original documents or certified copies of all or of only some of proofs. If the bidder fails to present original or certified copies of requested evidence within the given adequate deadline, which may not be less than five days, Contracting authority shall refuse its bid as unacceptable.
5. REGISTER OF BIDDERS - The bidder, which is registered in the Register of Bidders kept by the Serbian Business Registers Agency, is not obliged to submit evidences of requirement fulfilment from points 1) to 3) of this Section, in accordance with Article 78 of the Law.
6. EVIDENCE WHICH IS PUBLICLY AVAILABLE ON THE INTERNET - The bidder is not obligated to provide evidence which is publicly available on internet websites of the competent authorities, such as: Extract from the Serbian Business Registers Agency available on the page www.apr.gov.rs. The Contracting Authority shall not reject a bid as unacceptable if it does not contain evidence required in the Tender Documents, provided that the bidder has indicated in his bid the webpage where the sought information is publicly available in Serbian language.
7. ELECTRONIC DOCUMENT - Where evidence of fulfilment of requirements is electronic document, bidder has to supply a hard copy of electronic document, in accordance with the law governing electronic documents.
8. BIDDER WITH A REGISTERED ADDRESS IN ANOTHER COUNTRY –If the country where the bidder’s principal address is located does not issue the evidence from this Section, the bidder may, instead of the evidence indicated, **submit his own written statement, given under criminal and material liability, certified/notarized by a court or administrative authority, notary public or other competent authority of that country**. By this statement the bidder affirms that such evidence cannot be issued in the country where the bidder’s principal address is located, and that the bidder fulfils the mandatory requirements from points from 1) through 3) of this Section. The Requirement Fulfilment Statement for bidders/subcontractors can be submitted using the form provided as **Form VI-6 of the Tender Documents**, or it can be submitted in another form as long as it contains all the elements indicated in Form VI-6. The Contracting Authority shall verify if the conditions for application of this point have been met. If the bidder’s principal address is in another country, the Contracting Authority may verify whether the documents provided by the bidder proving compliance with the requirements have been issued by the competent authority of that country.
9. THE LANGUAGE IN WHICH EVIDENCE FOR MANDATORY REQUIREMENTS IS SUBMITTED - Each document serving as an evidence for mandatory requirement for participation in the public procurement procedure defined in points from 1) to 3) of this Section, the bidder shall submit as the document in the official language spoken in the Bidder’s country along with the translation into Serbian language certified by an authorised court interpreter.

IV CRITERIA FOR CONTRACT AWARD

(1) TYPE OF CRITERIA FOR CONTRACT AWARD

Criteria for contract award is lowest offered price.

For this criterion, the total offered prices in dinars (RSD) without VAT in the Republic of Serbia stated in the Bid Form shall be taken into consideration. In case the prices in the Bid were stated in EUR the conversion into RSD counter value shall be made by applying the official middle exchange rate of the National Bank of Serbia applicable on the Bid opening date.

(2) CRITERIA FOR CONTRACT AWARD IN A CASE WHERE MULTIPLE BIDDERS OFFER THE SAME PRICE

Not applicable in the subject public procurement procedure, which is carried out as negotiated procedure without invitation to bid.

V ELEMENTS OF THE BID THAT ARE SUBJECT TO NEGOTIATIONS AND DESCRIPTION OF THE NEGOTIATING PROCEDURE

All articles of the model of the contract (Section VII) are the subject of the negotiations, except for Article 1 (Subject of the Contract).

Only the Public Procurement Committee members on behalf of the Contracting authority and the authorized representatives of the Bidders can participate in the negotiating procedure.

Before commencement of the negotiations, persons authorized to represent the Bidder in the negotiating procedure (the Bidder may authorize one or more persons), shall submit to the Contracting Authority a **power of attorney/authorization to represent the Bidder in the respective negotiations.**

If, during the Bid Opening Procedure, the Contracting Authority determines that the Bidder has submitted all required Forms and evidence with its Bid, this Bidder shall be invited in the negotiation procedure that will commence on 17/09/2019, at 11:15 AM, and will take place at the Contracting Authority's premises, at Nikole Pašića Square 10, Belgrade, Republic of Serbia.

If a final agreement on elements of the contracts could not be reached on the date of the negotiations commencement, the negotiations shall be continued via the electronic mail from the official Serbia and Montenegro Air Traffic Services SMATSA LLC e-mail address: tender@smatsa.rs with the Bidder's authorised person(s). The negotiating procedure shall be completed within 10 days from the Bid opening date.

If the Bidder's authorised representative does not attend the negotiating procedure in the stated period of time, the negotiations shall be conducted in writing in the manner described in the paragraph above with the person who is authorised to represent Bidder in the negotiations (power of attorney/authorisation shall be submitted with the Bid).

During the negotiating procedure, the Bidder cannot offer terms that are less favourable than those offered in the bid.

The Contracting Authority shall ensure that the offered price is not higher than the comparable market price, and shall check the quality of the public procurement subject with due diligence.

The negotiating procedure and its result shall be noted and evidenced in a special Negotiation Report, which shall be signed by the representatives of both the Contracting Authority and the Bidder.

Upon completing the Negotiation Procedure, the Contracting Authority shall conduct an expert evaluation of the submitted Bids, during which a close examination of accuracy and validity of submitted evidence shall be carried out. If the expert evaluation shows that a bid possess some of the Essential Deficiencies as per Article 106 of the Law, the Contracting authority shall eliminate such bid even though the Bidder participated in the Negotiated procedure.

VI FORMS WHICH REPRESENT INTEGRAL PART OF THE BID

- 1) Bid form (Form VI – 1)
 - 2) Price structure form, with instruction for filling (Form VI – 2)
 - 3) Bid-Preparation Expense Form (Form VI – 3)
 - 4) Independent bid statement form (Form VI -4)
 - 5) Bidder's Regulation compliance statement form (Form VI – 5)
 - 6) Subcontractor's Regulation compliance statement form (Form VI – 5a)
 - 7) Forms of Requirements fulfillment for participation in the public procurement – Article 75 and 76 of the Law, defined in the tender documents
-
- Requirements fulfillment form for participation in the public procurement for foreign bidders/subcontractors statement form (Form VI -6)

BID FORM²

Contract title: Procurement of a new version of a software tool for constructing instrument flight procedures – 150/D/19

For: **Serbia and Montenegro Air Traffic Services SMATSA Llc
Belgrade, Nikole Pašića Square No. 10, Belgrade, Serbia**

As per the Invitation to Bid for Procurement of a new version of a software tool for constructing instrument flight procedures (public procurement no. 150/D/19), we hereby submit our bid as follows:

independently with subcontractor(s)
(please mark applicable field)

I IDENTIFICATION DATA OF THE BIDDER

Business name or short name from relevant register:	
Registered address:	
Registration number of bidder:	
Tax Identification Number of bidder:	
Contact Person:	
E-mail address of Contact Person:	
Telephone number:	
Person authorized to sign the contract:	
Account Number and Name of the Bidder's Bank:	
Category of legal entities according to size in accordance with Article 6 of the Law on Accounting of the Republic of Serbia	<input type="checkbox"/> micro ³ <input type="checkbox"/> small ⁴ <input type="checkbox"/> medium ⁵ <input type="checkbox"/> big ⁶ (please mark the appropriate field <input checked="" type="checkbox"/>)

The currency of the prices in the bid:

RSD EUR

(please mark the appropriate field)

²Form must be filled in, certified by company seal and signed by an authorized person of the bidder, by which the bidder confirms that the data provided in the Bid Form are accurate.

³Legal entities that do not exceed two of the following criteria i) average number of employees 10, ii) operating revenues 700,000 EUR in RSD and iii) average value of operating assets (calculated as the arithmetic mean value at the beginning and end of the business year) € 350,000 in dinars.

⁴ Legal entities that exceed two criteria from the footnote 3, but do not exceed two of the following criteria: i) average number of employees 50, ii) operating revenues 8,800,000 euros in dinars, iii) average value of operating assets (calculated as the arithmetic mean value at the beginning and end of the business year) € 4,400,000 in dinars.

⁵ Legal entities that exceed two criteria from footnote 4, but do not exceed two of the following criteria: i) average number of employees 250, ii) operating revenues 35,000,000 EUR in dinars, iii) average value of operating assets (calculated as the arithmetic mean value at the beginning and at the end of the business year) € 17,500,000 in dinars.

⁶Legal entities that exceed two criteria from the footnote 5.

II BASIC ELEMENTS OF THE BID

<p>Validity period of the Bid</p>	<p>_____ days from the date of bid opening (not less than 60)</p>
<p>Total Price</p>	<p>_____ without VAT in the Republic of Serbia</p> <p>_____ with VAT in the Republic of Serbia.</p> <p>The bid price includes all costs associated with contract execution of the public procurement. The quoted price includes all applicable fees for the license, expenses, all taxes, duties, contributions, levies and charges, relating to the subject of the public procurement payable outside of the Contracting authority's country. The offered price does not include customs duties and taxes payable in the Republic of Serbia that are borne by the Contracting Authority.</p>
<p>Method of Payment (not less than 15 nor longer than 45 days)</p>	<p>Proposal of the method of payment:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>If the Bidders proposes advance payment than he shall be obliged to provide advance payment bank guarantee</p>
<p>Delivery Deadline</p>	<p>The delivery of the software tool for a particular year is 15 calendar days from the date of release of the new software version.</p>

By submitting this Bid, we accept all the conditions of the respective Invitation to Bid and the Tender Documents. The Bid pertains to entire procurement, all in accordance with the respective Invitation to Bid and the Tender Documents.

Place and date:

Bidder: Seal and signature

BID FORM – SUBCONTRACTOR’S IDENTIFICATION FORM ⁷

Business name or short name from relevant register:	
Address of the registered office:	
Registration number:	
Tax Identification Number:	
Contact person:	
E-mail address of Contact person:	
Telephone number:	

The part of the procurement that will be carried out by a stated subcontractor:

Percentage of total value of the procurement that will be entrusted to the named subcontractor: _____%

Place and date:

Bidder: Seal and signature

Place and date:

Subcontractor: Seal and signature

⁷ Form shall be filled-in only by those bidders that are submitting a Bid with a subcontractor. If the Bidder has more subcontractors, this page must be copied in a sufficient number of copies, each copy properly filled-in and submitted for each subcontractor. The percentage of the total value of the public procurement that the Bidder is entrusting to the subcontractor cannot exceed 50%, and if the Bidder is entrusting public performance to a multiple number of subcontractors, the percentage of the procurement value that is being entrusted to all subcontractors (the sum for all subcontractors), cannot exceed 50%.

PRICE STRUCTURE FORM, WITH INSTRUCTION FOR FILLING

No	Item	Qty	Annual price				Price for three years	
			A	B	C	D	E	F
			Unit price without VAT	Unit price with VAT	Total price without VAT	Total price with VAT	Total price without VAT = C * 3	Total price with VAT = D * 3
1	New version of a software tool for constructing instrument flight procedures	5 licenses						
TOTAL PRICE								

Place and date:

Bidder: Seal and signature

Instruction for filling Price Structure Form:

The Bidder shall fill-in Price structure form in the following manner:

- **Column A:** please enter unit price per year without VAT;
- **Column B:** please enter unit price per year with VAT. In case that the Bidder is appointed with a tax representative in the Republic of Serbia, he/she shall be obliged to fill in the total offered price with and without VAT in Republic of Serbia, in the Price Structure Form. Otherwise, he/she shall be obliged to fill in only the total offered price without VAT.
- **Column C:** please enter total price without VAT by multiplying unit price without VAT (Column A) by quantity (Column "Qty").
- **Column D:** please enter total price with VAT by multiplying unit price with VAT (Column B) by quantity;
- **Column E:** please enter total price for three years without VAT by multiplying total annual price without VAT (indicated in Column C) by 3;
- **Column F:** please enter total price for three years with VAT by multiplying total annual price without VAT (indicated in Column CD) by 3;
- **Total price FOR THREE YEARS** shall be entered in the Bid form (Form VI-1).

BID-PREPARATION EXPENSE FORM

As per article 88 para 1 of the Public Procurement Law (“The Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015), the Bidder (*name of bidder*) hereby submits total amount of expenses and structure of expenses incurred in the course of bid preparation, as follows:

TYPE OF EXPENSE	Amount in RSD
TOTAL AMOUNT OF BID-PREPARATION EXPENSES	

Bid-preparation and submission expenses shall be borne solely by the bidder, and the bidder cannot seek reimbursement of such costs. Where public procurement procedure was cancelled due to reasons related to Contracting authority, it shall reimburse the expenses for producing sample or model to the bidder, if these were made in compliance with the technical specifications of contracting authority, and expenses for acquiring a security bond, provided that bidder requested reimbursement of these expenses in its bid.

Remark: This form is not a mandatory element of the bid

Place and date:

Bidder: Seal and signature

DECLARATION OF INDEPENDENT BID FORM

As per Article 26 of the Public Procurement Law (“The Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015), the Bidder

(Business name, registered address and registration number of Bidder)

makes following:

DECLARATION OF INDEPENDENT BID

Under full financial and criminal responsibility, I confirm that the bid in the public procurement procedure PP 150/D/19 - Procurement of a new version of a software tool for constructing instrument flight procedures, has been submitted independently, without collaboration with other bidders or interested parties.

Place and date:

Bidder: Seal and signature

Remark: *In case of reasonable doubt in veracity of declaration of independent bid, the Contracting authority shall immediately notify thereon the organization authorized for the protection of competition. Organization authorized for protection of competition may ban a bidder or an interested party from participating in public procurement procedure, where it determines that the bidder or the interested party violated competition rules in public procurement procedure within the meaning of the law governing competition protection. The measure of ban to participate in public procurement procedure may last up to two years. Violation of competition represents negative reference as per Article 82 paragraph 1, point 2. of the Law.*

REGULATION COMPLIANCE STATEMENT FORM FOR BIDDERS

As per Article 75 par. 2 of the Public Procurement Law (“The Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015), the Bidder

(Business name, registered address and registration number of Bidder)

makes following:

REGULATION COMPLIANCE STATEMENT

Under full financial and criminal responsibility, I confirm that in the course of preparation of the bid in the public procurement procedure for PP 150/D/19 - Procurement of a new version of a software tool for constructing instrument flight procedures, I have adhered to all obligations that pertain to applicable legislation concerning safety at work, employment and working conditions, protection of environment and that I have not been prohibited from performing economic activity by any measure in force at the time of submitting the Bid.

Place and date:

Bidder: Seal and signature

REGULATION COMPLIANCE STATEMENT FORM FOR SUBCONTRACTORS

As per Article 75 par. 2 of the Public Procurement Law (“The Official Gazette of the Republic of Serbia”, no. 124/2012, 14/2015 and 68/2015), the Subcontractor

(Business name, registered address and registration number of Subcontractor)

makes following:

REGULATION COMPLIANCE STATEMENT

Under full financial and criminal responsibility, I confirm that in the course of preparation of the bid in the public procurement procedure for PP 150/D/19 - Procurement of a new version of a software tool for constructing instrument flight procedures, I have adhered to all obligations that pertain to applicable legislation concerning safety at work, employment and working conditions, protection of environment and that I have not been prohibited from performing economic activity by any measure in force at the time of submitting the Bid.

Place and date:

Bidder: Seal and signature

Remark:

If the Bid is submitted with subcontractors, this Statement must be signed by Subcontractor's authorized person and stamped. If the Bidder has more subcontractors, this form must be copied in a sufficient number of copies, each copy properly filled-in and submitted for each subcontractor.

**REQUIREMENTS FULFILLMENT FOR PARTICIPATION IN THE PUBLIC
PROCUREMENT FOR FOREIGN BIDDERS/SUBCONTRACTORS STATEMENT
FORM⁸**

As per Article 79 par. 10 of the Public Procurement Law ("The Official Gazette of the Republic of Serbia", no. 124/2012, 14/2015 and 68/2015), the Bidder/Subcontractor: _____
_____ (Business name of the Bidder/Subcontractor),
registered number: _____ from _____ (Country in
which Bidder / Subcontractor's registered address is located) makes following:

**STATEMENT ON REQUIREMENTS FULFILMENT FOR PARTICIPATION IN THE PUBLIC
PROCUREMENT⁹**

Under full financial and criminal responsibility, I confirm that following conditions have been met:

CONDITION		please mark applicable fields <input checked="" type="checkbox"/>
1	-that relevant authority in the country where my registered address is located does not issue formal evidences on legal entity's registration AND -that I am registered with the relevant authority in the country where the my registered address is located	
2	-that neither relevant court nor police administration in the country where my registered address is located does not issue formal evidences that legal entity and its legal representative had not been convicted for any criminal acts as part of an organized criminal group, for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud AND -that neither Bidder/Subcontractor as a legal entity, nor its legal representative(s) have been convicted for any criminal act as members of an organized criminal group; for commercial criminal offence, criminal offence against environment, criminal offence of receiving or offering bribe, criminal offence of fraud	
3	-that relevant authority in the country where my registered address is located does not issue formal evidences that legal entity has settled due taxes and other public charges AND -that I have paid due taxes and other forms of public charges in accordance with the regulations of the country where my registered address is located	

Place and date:

**Bidder/Subcontractor:
Seal and signature**

⁸This form is to be filled-in with relevant data and by marking the requirements in the table for which the bidder is submitting his statement in accordance with point 8. of Instructions for proving compliance to the requirements, Section III of the Tender Documents. The bidders and/or subcontractor shall fill-in this form individually and certify the form by company seal and signature of an authorized person.

⁹**This statement must be certified / notarized by a court or administrative authority, notary public or other relevant authority with jurisdiction in the country where the bidder's registered address is located.**

VII CONTRACT MODEL

A) The Contracting Authority has drafted a model contract in accordance with the Rulebook on General Contracting Conditions.

B) The subject of the negotiations are all articles of the Model Contract, except for: Article 1 (Subject of the Contract).

C) The Bidder may submit with its Bid proposal for the wording amendment of the Articles in the Model of the Contract, as well as proposal of addendum (new articles) to the Model of the Contract. This document will be analysed in the course of negotiations.

Pursuant to Article 112 of the Public Procurement Law ("Official Gazette of RS", No 124/2012, 14/2015 and 68/2015) and the Decision on Contract Award _____ since _____ ,

SERBIA AND MONTENEGRO AIR TRAFFIC SERVICES SMATSA LLC, Trg Nikole Pašića 10, TIN: 103170161, identification number: 17520407, represented by Director Predrag Jovanović (hereinafter referred to as: Contracting Authority)

and

(hereinafter referred to as: Supplier)

hereby conclude,

CONTRACT ON PUBLIC PROCUREMENT NO 150/D/19
Procurement of a new version of a software tool for constructing instrument flight procedures

Contracting Parties jointly state the following:

- pursuant to the Decision no NAB.00 79/504 since 23/07/2019, the Contracting Authority initiated the negotiated procedure without invitation to bid for procurement of goods - Procurement of a new version of a software tool for constructing instrument flight procedures, PP 150/D/19;
- that the Supplier submitted the acceptable Bid number ----- since ----- (hereinafter referred to as: Bid) in line with the requirements and conditions defined in the Tender Documentation for PP 150/D/19 and
- the Contracting Authority, pursuant to Article 108 of the Public Procurement Law, made the Decision on Awarding the Contract no ----- since -----, based on which the Contract is concluded.

SUBJECT OF THE CONTRACT

Article 1

Subject of this Contract shall be a procurement of a new version of a software tool for constructing instrument flight procedures (hereinafter referred to as: "Goods"), pursuant to the provisions of this Contract and

- Tender documents JH 150/D/19 (hereinafter referred to as: Tender documents) – Appendix 1;
 - Accepted Bid --- since --.--.2019 (hereinafter referred to as: Bid) – Appendix 2;
- which together shall be an integral part of this Contract.

In case when the Supplier has subcontractors:

Supplier shall execute the Contract in terms of the following activities:

entrusted to a subcontractor/subcontractors:

Supplier shall be responsible, in accordance with the provisions of this contract, solely for the manner in which the Contract is executed. All employees, representatives or subcontractors hired by the Supplier regarding the contract execution, shall be managed by the Supplier.

PRICE

Article 2

The annual price of the Goods referred to in Article 1 of this Contract is _____ EUR/RSD without the value added tax calculated and paid in the Republic of Serbia.

Total price for the three years period of the Goods referred to in Article 1 of this Contract is _____ EUR/RSD without the value added tax calculated and paid in the Republic of Serbia.

The value added tax shall be calculated according to the valid regulations in the Republic of Serbia.

The prices referred to in paragraphs 1 and 2 of this Article of the Contract cover all the costs necessary for the execution of the contract, fees, taxes and duties outside of the territory of the Republic of Serbia.

The prices referred to in paragraphs 1 and 2 of this Article of the Contract shall not include customs duties and other public duties paid in the Republic of Serbia, borne by the Contracting Authority.

The prices referred to in paragraphs 1 and 2 of this Article of the Contract shall be fixed and unchangeable during the execution of the Contract.

METHOD OF PAYMENT

Article 3

The Contracting authority shall pay to the Supplier amount referred to in paragraph 1 of the Article 2 of the Contract, upon annual delivery of the Goods, within _____ (not less than 15 days and not more than 45) calendar days from the day of receiving the following documents:

- Invoice and
- Minutes on acceptance for particular year, signed by the authorized person in the Contracting Authority.

The Contracting Authority shall have the right to request from the Supplier additional documents for payment in line with the regulations governing foreign currency transactions in the Republic of Serbia, and the agreements on avoiding double taxation.

DELIVERY DEADLINE

Article 4

Delivery deadline of Goods for the first year is 15 calendar days from the date of release of the new software version for 2020.

Delivery deadline of Goods for the second year is 15 calendar days from the date of release of the new software version for 2021.

Delivery deadline of Goods for the third year is 15 calendar days from the date of release of the new software version for 2022.

PERFORMANCE GUARANTEE

Article 5

Supplier shall be obliged to provide the Contracting Authority with a performance bank guarantee, within 20 (twenty) days from the day of entry into force of the contract, which will be unconditional and payable upon the first call. The performance bank guarantee shall be issued in the amount of 5% of the total contract value referred to in Article 2, paragraph 2 of the Contract with the validity period of 30 days longer than the period of contract validity.

If during the validity of the contract the deadlines for the execution of contract change, the validity of the performance bank guarantee must be extended.

Contracting Authority shall realize the required security if the Supplier fails to provide services within the defined volume, quality and deadlines.

OBLIGATIONS OF THE CONTRACTING AUTHORITY

Article 6

Contracting Authority shall be obliged:

- to appoint authorised representatives who will communicate with the representatives of the Supplier, perform the acceptance of the Goods and sign the Minutes on the acceptance; and
- to duly perform the payment in line with Article 3 of this contract.

OBLIGATIONS OF THE SUPPLIER

Article 7

Supplier shall be obliged:

- to perform a delivery of the Goods once per year in accordance with the provisions of this Contract and the Tender Documentation;
- performs delivery in timely manner and professionally, in accordance with good business practices, rules and professional standards and
- communicate and cooperate with authorised representatives of the Contracting authority.

DELIVERY AND ACCEPTANCE OF THE ETP LICNESES

Article 8

The supplier is obligated to deliver the Goods in electronic form, for 2020, 2021 and 2022.

The acceptance shall be performed by authorized representatives of the Contracting Authority within 5 (five) calendar days from the date of the delivery of the Goods.

The acceptance shall be performed by comparing the data from the Bid, Tender documents and delivery note with the actually delivered licenses.

If, during the acceptance, it is established that the delivered licenses are different from the contracted ones, the Contracting Authority shall make a written report thereof, which will be delivered without delay to the Supplier. The Supplier shall be obliged to deliver the proper or missing goods within fifteen (15) working days from the date of receiving the report on the shortcomings, at his own expense and at his own risk.

The Contracting Authority shall issue and sign the Minutes on the acceptance for first, second and third year, within 5 (five) calendar day upon the performed delivery.

One copy of the signed Minutes on the acceptance shall be provided to the Supplier within 7 (seven) calendar days from the date of its signature.

ON-LINE TECHNICAL SUPPORT

Article 9

The Supplier shall provide on-line technical support for the period of three years from the date of signature of the Minutes on the acceptance for the first year.

During the stated period, the Supplier is obliged to maintain the functionality of the Goods, to eliminate any errors, as well as to make the necessary adjustments to the changes in the legislation that affect the operation of the Goods.

AMENDMENTS OF THE PUBLIC PROCUREMENT CONTRACT

Article 10

The Supplier shall have the right to extend the deadline referred to in Article 4 of this Contract in the following cases:

1. when the Contracting authority is late in fulfilling the contracted liabilities referred to in Article 6 of the Contract for the time period equal to the time period of interferences caused by the delay of the Contracting Authority and/or
2. due to force majeure referred to in Article 14 of this Contract, or changed circumstances, which could be foreseen at the point of concluding the Contract

Supplier shall be obliged to immediately inform the Contracting Authority, in writing, about all the circumstances and events which might affect the extension of the contracted deadlines.

In case of circumstances or events, due to which the contracted deadlines shall be extended, the Supplier shall be obliged to provide the written proposal for extending the deadlines referred to in Article 4 of the Contract, on which the Contracting Authority shall decide within 8 days from the day of receiving the proposal.

Amendments of the contract on public procurement shall be in force only if in the form of annex to the contract and if signed by authorized representatives of both contracting parties.

CONTRACTUAL PENALTY

Article 11

In the event the extension of the deadlines from Article 4 due to the fault of the Supplier, except in the cases defined in Article 10 of the Contract, the Contracting Authority shall charge the Supplier a contractual penalty for each day of delay in the amount of 0.2% of the

total price referred to in Article 2, paragraph 2 of this Contract and not more than 10% of the total price referred to in Article 2, paragraph 2 of this Contract.

Payment of the Contractual Penalty shall not relieve the Supplier of its obligations to the Contracting authority pursuant to this Contract.

LIMITATION OF LIABILITY

Article 12

The contracting parties undertake to pay damages to the other contracting party if the damage is caused by the direct fault of the contracting parties, as a result of the failure to fulfill the obligations of the contract.

The contract cannot restrict the liability of contracting parties for damage caused by intent and gross negligence.

INTELLECTUAL PROPERTY RIGHTS

Article 13

All rights of intellectual and/or industrial property related to the subject of procurement referred to in Article 1 of this Contract shall remain acquired rights of the Supplier or their licensors, in accordance with the type and nature of such rights and the Contract concluded. The Supplier shall, at his own expense, obtain all necessary permissions and all authorizations from the owners of any patent, trademark or brand, industrial design, document or any information necessary for the fulfillment of his obligations under this Contract.

The Supplier shall give to the Contracting Authority a non-exclusive, non-transferable right to use the Software provided under the Service solely for the purpose or with the use of the System or Software, and the Contracting Authority, without the prior written permission of the Supplier, shall not:

1. Make permanent copies, translations, adaptations or modifications to the software,
2. Perform decompilation of the given software,
3. Sell or distribute the given software.

In the event of a third party instituting litigation or raising a claim for the exercise of some rights relating to the violation of intellectual property and/or industrial property rights, the party the first to find out about the existence of such a procedure shall promptly notify the other party of the same. The Supplier shall bear all liability and possible damage, and is obliged to indemnify the Contracting Authority in case of establishing liability for damages in the name of violation of protected intellectual and/or industrial property rights of third parties.

FORCE MAJEURE

Article 14

If a Contracting Party is prevented from fulfilling its obligations laid down in this Contract for reasons of force majeure, the time limit for the execution of such obligations shall be extended during the duration of the force of force majeure.

Force majeure includes all circumstances beyond the control of the Contracting Authority and the other contracting party, including but not limited to war, revolution, terrorist attacks, serious destruction, explosions, fire, floods, disasters, drought, earthquakes, epidemics, quarantine, general boycott of a system of countries from which one of the contracting parties exports or produces, strikes, passing decrees and other regulations preventing the performance of contractual obligations, embargo on transport, sanctions of United Nations or

other international organizations that prevent, hinder or obstruct the execution of obligations of the contracting parties.

The party affected by the force majeure shall, as soon as possible, inform the other contracting party in writing of the occurrence of force majeure.

If the force majeure lasts more than 90 (ninety) days, the contracting parties will resolve the problem of further implementation of the Contract by agreement as soon as possible. If they cannot reach an agreement within 120 (one hundred and twenty) calendar days following the occurrence of force majeure, each contracting party shall have the right to terminate this Contract.

TERMINATION OF THE CONTRACT

Article 15

Each of the contracting parties may terminate the contract if the other party fails to perform its contractual obligations in a contractual manner and within the agreed time limit, or in case of violating the contract.

The party wishing to terminate the contract shall inform the other contracting party of the breach of the contractual obligation before the termination, indicate what constitutes a breach of the contractual obligation and request that it be corrected within thirty (30) days from the date of the notification.

Subsequent deadline for fulfillment of the obligation cannot be granted after the expiry of the deadline for fulfillment of all contractual obligations.

The contracting party by whose fault the damage has been incurred and which is responsible for terminating the contract shall be liable for damage to the other contracting party.

Should a consensual termination of the contract occur, the contracting parties will regulate the mutual claims that are related to and arising from this Contract.

APPLICABLE LAWS AND DISPUTE SETTLEMENT

Article 16

This contract and its content will be implemented and interpreted in accordance with the Contract and Tort Law and other applicable laws in force in the Republic of Serbia.

Any possible disputes that might arise from this contract will be tried by the contracting parties in a consensual manner, and if they do not reach an agreement, they agree that the Commercial Court in Belgrade shall be competent to resolve the dispute.

TRANSITIONAL AND FINAL PROVISIONS

Article 17

All notices relating to this contract shall be in writing in Serbian or in English and shall be delivered in person, by e-mail or by mail to the receiving Party, at the address specified in this Contract or at any other address of which any Contracting Party may, in writing, inform the other contracting party.

Article 18

The Contract shall enter into force on the date of its signature by the authorized representatives of both contracting parties and shall apply from the date of delivery of the Goods in the first year.

The contract shall be valid in the period of three (3) years counting from the date of the application date.

Article 19

This Contract is made in 6 (six) identical copies, of which 3 (three) copies are in Serbian and 3 (three) copies are in English. The Contracting Authority shall retain 2 (two) copies in the Serbian language and 1 (one) copy in English, while the Service Provider shall retain 2 (two) copies in English and 1 (one) copy in the Serbian language.

In case of any discrepancy between the two versions of the contract, the version in the Serbian language shall prevail.

jj

CONTRACTING AUTHORITY

SUPPLIER

VIII INSTRUCTIONS FOR BIDDERS ON HOW TO COMPILE A BID

(1) INFORMATION ABOUT THE LANGUAGE IN WHICH BIDS MUST BE COMPILED

A Bidder must submit the Bid in written form.

The Bid and other Bid related documents shall be in either the Serbian or the English language, except of the evidences demonstrating fulfillment of the mandatory requirements for participation in the public procurement procedure defined in points 1) to 3) of Section III of the Tender Documents, which shall be submitted as the original documents in the official language of the country where the Bidder has its registered office, together with their translation into the Serbian language, certified by a court interpreter. If the contracting authority finds, in the course of the expert evaluation of bids, that a part of bid should be translated into Serbian language, it shall set an adequate time limit to the bidder for translating that part of the bid into Serbian.

These Tender Documents are prepared in the Serbian and English language. In case of a dispute, the version in the Serbian language shall prevail.

(2) THE MANNER OF SUBMITTING A BID

A Bidder shall submit a bid, directly or through postal services, in a closed envelope or box, sealed in such manner that during bid opening it can be determined with certainty that it is being opened for the first time.

The reverse side of the envelope or box must contain the name, address, telephone number and e-mail of the Bidder.

The Bid shall be submitted to following address: Serbia and Montenegro Air Traffic Services SMATSA Llc, Nikole Pašića Square No. 10, 11000 Belgrade, Republic of Serbia bearing a visible note: **“Bid for Procurement of a new version of a software tool for constructing instrument flight procedures – PP 150/D/19 – DO NOT OPEN”**. A bid that arrives at Contracting authority address by **9,30 A.M. (CET) on 17/09/2019** regardless of the method of delivery shall be considered as timely bid.

Upon reception of bid, the Contracting authority shall mark the time of receipt, registration number as well as date of the receipt. If the bid is submitted directly to the Contracting authority, the Contracting authority shall provide the Bidder with a delivery confirmation receipt.

The Bid which was not received by the Contracting authority within the indicated deadline shall be considered as untimely. Untimely bid shall be returned to the bidder unopened, after the bid opening procedure with a note stating that it has been submitted in an untimely manner.

The Bidder shall compile its Bid by entering requested data into the forms provided herein, and submitting documents and evidence in accordance with the Invitation to tender and these Tender Documents.

The bid must contain all elements requested in the Tender Documents and all amendments and addendums thereof, as per Article 63 of the Public Procurement Law. All forms must be submitted in their original form, filled-in clearly and unambiguously in legible writing, certified by the signature of an authorized person of the Bidder.

IMPORTANT A bid must contain the following elements:

- 1) Form VI - 1 - Bid Form;
- 2) Form VI -1a – Bid Form – Information on the Subcontractor – To be submitted only if the bidder has indicated that he will entrust partial execution of the procurement to a subcontractor;
- 3) Form VI - 2 – Price structure Form;
- 4) Form VI – 4 – Independent Bid Statement Form;
- 5) **Proposal of the wording for the Articles of the Model of the Contract** that are subject of negotiations. If the Bidder does not submit this element it shall be considered that he agrees with proposal of the wording provided in the Model of the Contract (Section VII);
- 6) Evidence of compliance with the requirements for the procurement procedure, as indicated in Section III of the Tender Documents;

It is recommended that all documents be bound together into a single whole and sealed in such a way that would make it impossible for additional sheets or appendices to be subsequently added, removed or changed. The bid must not contain editions on the text between lines inserted by the bidder, deletions of words, nor overwritten words, unless the bidder is correcting his own mistakes. If the bidder chooses to edit his own text in the forms, these editions shall be considered valid only if they are signed or initialed by the person or persons signing the bid and certified by the bidder's company seal.

(3) LOTS

This public procurement has not been divided into multiple groups (lots).

(4) BIDS WITH VARIANTS

Bids with variants are not permitted.

(5) AMENDING, SUPPLEMENTING AND RECALLING A BID

Before expiry of the bid submission deadline, the Bidder may amend, supplement or recall its bid, in the manner stipulated for submission of the Bid.

The Bidder shall clearly state which elements of the bid he is amending and/or which documents are submitted subsequently.

Bid amendment, supplement or recall is to be submitted to following address: Serbia and Montenegro Air Traffic Services SMATSA Llc, Nikole Pašića Square No. 10, 11000 Belgrade, Republic of Serbia bearing a visible note:

“Amendment of the Bid PP 150/D/19 - Procurement of a new version of a software tool for constructing instrument flight procedures— DO NOT OPEN” or

“Supplement of the Bid PP 150/D/19 - Procurement of a new version of a software tool for constructing instrument flight procedures— DO NOT OPEN” or

“Recall of the Bid PP 150/D/19 - Provision of Procurement of a new version of a software tool for constructing instrument flight proceduresDO NOT OPEN” or

“Amendment and Supplement of the Bid PP 150/D/19 - Procurement of a new version of a software tool for constructing instrument flight procedures DO NOT OPEN”

The reverse side of the envelope or box must contain the name, address, telephone number and e-mail of the Bidder. After expiry of the bid submission deadline, the Bidder cannot withdraw nor amend its bid.

(6) PARTICIPATION IN THE PROCEDURE

A bidder may submit only one bid.

A bidder that submits an independent bid cannot simultaneously participate in a joint bid or a bid with a subcontractor, nor can he participate in multiple joint bids. In case the Bidder does not act in accordance with this instruction, each bid in which such Bidder participates shall be rejected.

In a Bid form (Form VI - 1), the Bidder has to indicate the method of Bid submission i.e. if the Bidder is submitting the Bid independently, as a member of group of Bidders (joint Bid) or if the Bidder is submitting the Bid with a subcontractor.

(7) SUBCONTRACTORS

If the Bidder state in the Bid Form (Form VI - 1) that he will entrust partial execution of the procurement to a subcontractor, than he is obliged to state the name of the subcontractor the percentage of the total value of the procurement that will be entrusted to the subcontractor, which cannot exceed 50%, and indicate the part of the procurement that will be executed by the subcontractor.

If a contract is signed between the Contracting authority and the bidder, the subcontractor shall be named in the contract.

The Bidder is obliged to submit the evidence of compliance with the requirements for the subcontractors, as specified in Section III of the Tender Documents, in accordance with instructions for proving compliance to the requirements

The Bidder shall be fully liable to the Contracting Authority for the execution of the obligations under the public procurement procedure, i.e. the execution of the contractual obligations, regardless of the number of subcontractors.

At Contracting authority's request, bidder shall provide access at the subcontractor's in order to determine fulfillment of requirements.

The Contracting authority will pay the full amount of the contract, directly to the Bidder, regardless of the percentage of the total value of the public procurement procedure that has been entrusted to a subcontractor.

The Bidder cannot engage as subcontractor any person not named in the bid, otherwise the Contracting Authority will realize the performance bond and terminate the contract, unless where termination could cause significant damage to the Contracting Authority. In this case the Contracting Authority shall notify the authorized organization for protection of competition.

In the case of a Bid submitted with a subcontractor, all forms shall be signed and certified by the Bidder, except for the Form VI-1a and Form VI-5a which shall be signed and certified by the Bidder and by each subcontractor individually.

(8) JOINT BID

The bid cannot be submitted by a group of bidders, as the subject procurement procedure is being carried out as a negotiated procedure with one specific bidder.

(9) METHOD OF PAYMENT, WARRANTY PERIOD AND OTHER TERMS

9.1 Method of payment

Method of payment is one of the elements of the contract which are subject to negotiation. The Contracting Authority proposes the following method of payment:

The Contracting authority shall pay to the Supplier annual amount upon delivery of the Goods for a particular year and reception of the following documents:

- Invoice and
- Minutes on acceptance for particular year, signed by the authorized person in the Contracting Authority.

The Contracting Authority shall have the right to request from the Supplier additional documents for payment in line with the regulations governing foreign currency transactions in the Republic of Serbia, and the agreements on avoiding double taxation.

9.2 The delivery deadlines

The delivery deadline is one of the elements of the contract which is subject to negotiation. The Contracting Authority proposes the following deadlines:

The delivery of the software tool for a particular year is 15 calendar days from the date of release of the new software version for that year.

9.3 Validity of the Bid

The bid must be valid for a period of no less than 60 days from the date of the bid opening procedure. Once the validity period of the bid expires, the Contracting Authority may request in written form that the bidder extends the validity period of the bid. A bidder that accepts the request to extend the validity period of the bid cannot alter his bid.

(10) BID PRICE

The Bidder expresses the prices in the bid in either RSD or EUR, without and with value added tax payable in the Republic of Serbia. In case that the Bidder is appointed with a tax representative in the Republic of Serbia, it shall be obliged to fill in the amounts with and without VAT, in the Forms VI-1 and VI-2. If the Bidder is not appointed with a tax representative in the Republic of Serbia, it shall fill-in only the amounts without VAT, in the Forms VI-1 and VI-2 while the amounts with VAT are not filled-in.

The price must include all costs associated with contract performance of the subject public procurement i.e. all applicable fees for the license, expenses, all taxes, duties, contributions, levies and charges, relating to the subject of the public procurement payable outside of the Contracting authority's country.

The price excludes any taxes and duties which are payable inside Republic of Serbia and which shall be borne by the Contracting authority.

The price is one of the elements of the contract which is subject to negotiation. After negotiations, the price shall be fixed and cannot be altered during the contract validity period.

If a bid contains an unusually low price, Article 92 of the Public Procurement Law shall be applied.

(11) SECURITY INSTRUMENTS FOR CONTRACT PERFORMANCE OF THE BIDDER

Performance Guarantee

The selected Bidder shall, within 20 days following the date of Contract coming into force, submit to the Contracting Authority the Performance Bond issued by its Bank, with the following clauses: unconditional and payable on first demand. The Performance Bond shall be issued in the amount of 5,00% of the total Contract value without VAT and shall be valid at least 30 days after the expiry of the Contract validity period. The submitted bank guarantee may not include additional payment conditions, shorter deadlines than those

specified by the Contracting authority or a lesser sum than that specified by the Contracting authority.

If during the term of the contract changes are made in respect of the deadlines for the execution of contractual obligations, the validity of the performance bond must be extended.

(12) PROTECTION OF CONFIDENTIAL DATA PROVIDED BY THE CONTRACTING AUTHORITY TO THE BIDDERS INCLUDING SUBCONTRACTORS

Subject public procurement does not contain confidential data that the Contracting authority makes available to the Bidder.

(13) MANNER OF OBTAINING TECHNICAL DOCUMENTS AND PLANS IE ITS CERTAIN ELEMENTS

Not applicable.

(14) ADDITIONAL INFORMATION, EXPLANATIONS AND COMMUNICATION

The communication in the public procurement procedure shall be performed in writing, i.e. by post, via electronic mail or facsimile, all in compliance with Article 20 of the Public Procurement Law.

Persons interested in the public procurement may request, in writing, from the Contracting Authority additional information or clarifications regarding the preparation of the Bid, and they can point out any observed deficiencies and irregularities in the Tender Documents to the Contracting Authority, not later than five days prior to the expiry of the Bid submission deadline, via electronic mail to: tender@smatsa.rs, on working days (Monday – Friday) from 08:30 to 16:30. The request for clarification received after the aforementioned time or during weekend/non-working day shall be registered as if it was received on the first following working day. All requests for additional information, clarifications and communication must be marked with the designation and the reference number of the public procurement that the request refers to, eg. "Request for additional information about PP 150/D/19."

The Contracting Authority shall, within 3 days following the receipt of the request, publish the requested information on the Public Procurement Portal (<http://portal.ujn.gov.rs>) as well as on its website (www.smatsa.rs). **The Bidders are recommended to follow all notices, clarifications and alterations published on the mentioned web pages.** Requesting additional information and clarifications by telephone is not allowed.

(15) ADDITIONAL EXPLANATIONS FOLLOWING BID OPENING

The Contracting authority may request additional information from a bidder, which will help him through the course of examining, evaluating and comparing bids, and it may also conduct control (inspection) of bidder or its subcontractor.

If the Contracting authority determines that additional information are needed or that it needs to conduct control (inspection) of bidder or its subcontractor, than the Bidder will be given adequate deadline to act in accordance with Contracting authority's request or the facilitates to the Contracting authority to conduct control (inspection) of bidder or its subcontractor.

The Contracting authority may - subject to the bidder's consent - correct arithmetic errors observed in the course of examining the bid, the bid opening procedure. If there is a difference between the unit price and the total price, the unit price will be considered correct. If the bidder does not give consent to correction of arithmetic errors, the Contracting authority will reject the bid as unacceptable.

(16) INTELLECTUAL PROPERTY

Patent royalties, as well as the responsibility for breach of intellectual property rights of third parties, shall be borne by the Bidder.

(17) SUBMITTING A REQUEST FOR PROTECTION OF RIGHTS

A request for protection of rights can be submitted by parties named in Article 148 of the Public Procurement Law, in accordance with stipulations of the Public Procurement Law which regulate the protection of rights procedure (articles 148-159 of the Public Procurement Law).

The request for the protection of rights shall be submitted to the Contracting Authority, and one copy of the request for the protection of rights shall simultaneously be submitted to the Republic Commission. The request for the protection of rights is submitted directly, via electronic mail to the following e-mail address: tender@smatsa.rs or by registered mail with the return receipt, on working days (Monday – Friday) from 08:00 AM to 4:00 PM. The request for the protection of rights which is received after the stated time limit or during weekend/non-working day shall be considered as received on first, next working day.

The request for the protection of rights may be filed during the entire public procurement procedure, against any action of the Contracting Authority, unless otherwise prescribed by the Law. The Contracting Authority shall inform all participants in the public procurement procedure about the filed request for the protection of rights, i.e. shall post the notice about the filed request on the Public Procurement Portal (<http://portal.ujn.gov.rs>) and on its website (www.smatsa.rs), not later than 2 days from the day of receipt of the request.

17.1 – Deadline for submission of the Request for Protection of Rights

In a case where a request for protection of rights is submitted to dispute the type of procedure or the contents of the Invitation to Tender or the Tender Documents, the request shall be deemed timely if it is received by the Contracting authority at least seven days prior to expiry of the deadline, regardless of the manner in which it is delivered and if the claimant of the request pointed out to the Contracting Authority some eventual deficiencies and irregularities, as per Article 63, paragraph 2 and Contracting Authority fails to act accordingly.

A request for the protection of rights which is challenging the activities of the Contracting Authority undertaken before expiry of the bid submission deadline and after the time limit from the previous paragraph shall be considered timely if submitted not later than the time limit for the submission of Bids.

Following the decision on Contract award or the decision on cancelling the public procurement procedure, the deadline for filing a request for the protection of rights shall be 10 days following the day of posting the subject decision on the Public Procurement Portal.

Request for the protection of rights cannot challenge activities of contracting authority performed in public procurement procedure if the claimant knew or could know the reasons for its submission before the expiry of time limit for submission of request under Article 149, point 3 and 4 of the Public Procurement Law, and the claimant did not submit it before the expiry of that time limit.

Where in the same public procurement procedure was filed another request for the protection of rights by the same claimant, the second request cannot challenge the activities of contracting authority which the claimant knew or could know during the submission of the previous request.

17.2 Obligatory elements of the Request for the protection of rights

In accordance with Article 151 of the Public Procurement Law, Request for the protection of rights shall contain following elements:

- 1) name and address of claimant and contact person;
- 2) name and address of contracting authority;
- 3) information on public procurement that is the subject of the request, or on decision of the contracting authority;

- 4) violations of legislation regulating public procurement procedure;
- 5) facts and evidence substantiating the violations;
- 6) proof of paid tax;
- 7) claimant's signature.

17.3 Tax for the protection of rights

The claimant must remit payment for taxes to the Budget of Serbia, in the amount of 60.000 RSD.

17.4 Instructions for tax payment from the Republic of Serbia

Claimant is obliged to pay a tax in the amount prescribed in point 17.3 to the specified account of budget of Republic of Serbia. As proof of paid tax, the following will be accepted:

1) Proof of paid tax which contains the following elements:

- (1) is issued by the bank and has the stamp of the bank;
 - (2) presents evidence that the fee is paid, meaning the confirmation must contain the information that the payment order, i.e. wire transfer order has been completed as well as date on which it has been completed.
 - (3) the amount of the tax;
 - (4) the budget account no. 840-30678845-06;
 - (5) payment code: 153 or 253;
 - (6) reference no.: PP 150/D/19
 - (7) the purpose of the payment: request for protection of rights tax; SERBIA AND MONTENEGRO AIR TRAFFIC SERVICES SMATSA LLC; PP 150/D/19;
 - (8) recipient: Budget of Republic of Serbia;
 - (9) name of the claimant submitting the request for protection of rights to which payment refers;
 - (10) contains signature of the authorized person from the bank;
- 2) The first copy of the payment order verified by signature of the authorized person and stamp of the bank or post office, containing all other elements of proof of completed payment of the tax as stated in the previous point 1).
- 3) Confirmation issued by Republic of Serbia, Ministry of Finance, Treasury, verified by signature of the authorized person and stamp containing all the elements of proof of completed payment of the tax as stated in the previous point 1), except those stated under (1) and (10) for claimants that have open account within consolidated Treasury account, managed by Treasury (beneficiaries of budget, beneficiaries of the assets of organizations for compulsory social security and beneficiaries of other public assets);
- 4) Confirmation issued by National Bank of Serbia, containing all the elements of proof of completed payment of the tax as stated under previous point 1), for claimants (banks and other subjects) that have an account with National Bank of Serbia in accordance with the law and other regulations.

17.5 Instructions for tax payment from abroad

Hereby we inform you that taxes for submitting the requests for protection of rights can be paid from abroad to the foreign currency account of Ministry of Finance – Treasury

NAME AND ADDRESS OF THE BANK: National bank of Serbia (NBS) 11000 Belgrade, 17 Nemanjina St. Serbia

SWIFT CODE: NBSRRSBGXXX

NAME AND ADDRESS OF THE INSTITUTION: Ministry of Finance Treasury 7-9 Pop Lukina St. 11000 Belgrade

IBAN: RS 35908500103019323073

REMARK: It is also necessary to state the following payment information - "details of the payment" (FIELD 70: DETAILS OF PAYMENT): – PP 127D17.

The detailed instruction for the payment of the fee as well as examples of correctly filled in payment forms or payment transfer forms could be found on the following e-mail address: <http://www.ujn.gov.rs/ci/uputstvo-o-uplati-republicke-administrativne-takse.html>

(18) NOTICE TO THE BIDDERS THAT THE USE OF SEALS IS NOT OBLIGATORY FOR BID PREPARATION

Bidders are informed that the use of the seal is not obligatory when preparing a bid.

(19) CONTRACTING

The Contracting Authority shall sign a Public Procurement Contract in the form of the harmonized Model of the Contract during negotiating procedure, and deliver it for signing to the Bidder to whom the Contract is awarded, within a period of eight days from the date of expiry of the deadline for filing a request for the protection of rights.

(20) BID ELIMINATION

The Contracting authority is expected to review all documents, carefully study all instructions, forms, terms and the technical part of the Tender Documents, and act accordingly. The Contracting authority shall eliminate a bid, if:

- 1) it is untimely;
- 2) contains major omissions, i.e.:
 - a. it fails to prove that he meets all mandatory requirements for participation in the procurement procedure;
 - b. it fails to prove that he meets all additional requirements;
 - c. the bidder failed to submit the requested means of security (where applicable);
 - d. the offered bid validity period is shorter than that prescribed by law;
 - e. it contains other omissions which make it impossible to ascertain the actual contents of the bid, or make it impossible to compare the bid with others;
- 3) it does not comply with the technical specifications;
- 4) it limits The Contracting authority's rights;
- 5) it sets conditions that limit The Contracting authority's rights;
- 6) it limits obligations of the bidder.
- 7) it exceeds the estimated value of the public procurement.