

A. INSTRUCTIONS TO TENDERERS

**Project Title: Western Balkans Investment Framework (WBIF)
Infrastructure Project Facility Technical Assistance 8 (IPF8)**

**Subproject: WB19-SRB-TRA-03 Orient/East-Med Corridor: Serbia -
North Macedonia CX Rail Interconnection, Niš - Preševo - Border
Between the Two States Section**

Reference code: 2210/23/GO

**Contract title: Serbia Niš-Preševo Rail Project, Geotechnical
investigations and Elaborates for Preliminary Design Studies**

**Contracting Authority: COWI A/S on behalf of IPF8 Consortium (COWI
IPF)**

Contract Nature: Global Price

When submitting their tenders, tenderers must follow all instructions, forms, terms of reference, contract provisions and specifications contained in this tender dossier. Failure to submit a tender containing all the required information and documentation within the deadline specified may lead to the rejection of the tender.

When submitting their tenders, tenderers should not include any personal data beyond the information required in this tender dossier.

These instructions set out the rules for submitting, selecting and implementing contracts financed under this call for tenders, in conformity with the EIB's Corporate & Technical Assistance Procurement Guide (available on the internet at this address: <https://www.eib.org/en/publications/eib-s-corporate-and-technical-assistance-procurement-guide>).

1. Services to be provided

Preparation of Elaborate of geotechnical investigations as part of preliminary design for reconstruction of Nis to Presevo railway line, section Brestovac to Presevo (border to Republic of North Macedonia), in compliance with the Law on Planning and Construction. Services will be divided into three sub-sections includes: Subsection A: Brestovac – Grdelica (cca34 km), Subsection B: Grdelica – Vladicin Han (cca 32 km), Subsection C: Vladicin Han - State border with North Macedonia (Tabanovce) (cca 67km), and separate orders to commence will be issued for each section. Works will include site survey and execution of trial pits and boreholes, sampling and other site investigation works, laboratory testing and preparation of geotechnical elaborates in compliance with the national legislation.

The services required by the Contracting Authority (COWI IPF) are described in detail in the Terms of Reference. They are set out in the Part B of this tender dossier.

Content of the tender dossier:

- A. Instructions to tenderers
- B. Terms of reference
- C. Declarations and other templates:
 - I. Tender submission form including Tenderer's Declaration
 - II. Organisation and methodology with References and CV of Head of investigation (to be submitted by the tenderer using the template provided) Statement of Exclusivity and Availability
 - III. Administrative compliance grid

- IV. Evaluation grid
 - V. Legal entity form
 - VI. Financial identification form
 - VII. Financial offer template and schedule of rates
 - VIII. Consent letter to use personal data
 - IX. Declaration on Honour
- D. Draft Service Provision Agreement

Please note that the FIDIC Sub-Consultancy Agreement General Conditions (Edition 2017) are subject to licenses and can be purchased at: <https://fidic.org/books/sub-consultancy-agreement-2nd-edition-2017>

Overall duration of the services is 18 months.

Field and Laboratory Services per section:

- Section A 5 months
- Section B 5 Months after receipt of instruction to commence.
- Section C 5 months

Submission elaborates for Preliminary Design:

- Separate Geotechnical investigation reports (Elaborate in compliance with Law on planning and Construction and subsequent bylaws) for each sub-section (A, B and C): two months after completion of Field and Laboratory Services for each section
- Final report which will be cumulative report on all sections with the view to submitting this to the State Revision Committee: one month after completion of section C report

Type of procedure: Open procedure in accordance with article 2.15.1 of EIB's Corporate & Technical Assistance Procurement Guide

2. Nature of contract

Global price

3. Timetable

	DATE	TIME*
Site visit (if any)	Not applicable	Not applicable
Information meeting (if any)	Not applicable	Not applicable
Deadline for requesting clarification from COWI IPF	01/08/2023	23:59 CET
Last date for COWI IPF to issue clarification	04/08/2023	23:59 CET
Deadline for receipt of tenders by COWI IPF	09/08/2023	17:00 CET
Interviews (if any)	Not applicable	Not applicable

Completion date for evaluating technical offers	August 2023**	-
Notification of award	August/ September 2023**	-
Contract signature	August/ September 2023**	-
Start date	August/ September 2023**	-

* All times are in the time zone of the country of COWI IPF (Central European Time).

**Provisional date

4. Participation and subcontracting

a) Participation is open to interested legal and natural persons – participating either individually or in a grouping (consortium) of tenderers. Participation is open to economic operators originating from - eligible countries under IPA II.

b) No more than one tender can be submitted by a natural or legal person, whatever the form of participation (as an individual legal entity or as leader or member of a consortium submitting a tender). In the event that a natural or legal person submits more than one tender, all tenders in which that person has participated will be excluded.

c) Natural or legal persons are not entitled to participate in this tender procedure or be awarded a contract if they are in any of the exclusion situations stipulated under Article 57 of European Parliament and Council Directive 2014/24/EU, or if they are target of a sanction or restrictive measure* imposed or administered by the European Union†, or the United States of America

Tenderers shall be excluded from this tender procedure if any of the mandatory exclusion grounds for rejection apply.

Tenderers may be excluded from this tender procedure if any of the discretionary grounds for exclusion apply.

Tenderers shall be excluded from this tender procedure if they have been recorded in the Early Detection and Exclusion System of the EC.

d) Subcontracting is allowed to a maximum limit of 49% of the contract value. If the tenderer intends to subcontract one or more parts of the contracted services, this must be clearly stated in the Organisation and Methodology and the Tender submission form.

e) Even though subcontracting is allowed, the tenderer must intend to provide the majority of the services itself except for the tasks entrusted to experts either as natural persons or single-member companies. In this respect, note that the individual experts recruited for the project as key or non-key experts are not regarded as sub-contractors.

f) Subcontractors cannot be in any of the exclusion situations stipulated under Article 57

* Being “the target of a sanction or restrictive measure” means the economic operator (i) being listed on a sanctions list, or (ii) being (directly or indirectly) 50% or more (individually or on aggregate basis) owned or controlled by, or acting on behalf of or at the direction of, a person or entity listed on, any sanctions lists, or (iii) being located or resident in, or organised or incorporated under the laws of a Sanctioned Country, or owned or controlled by, or acting on behalf or at the direction of such a person or entity. A “Sanctioned Country” shall mean a country or territory that is, or whose government is, at any time, the target of comprehensive country or territory-wide sanction or restrictive measure imposed or administered by the competent authorities described in this subsection (h)

† Pursuant to Chapter 2 of Title V of the Treaty on European Union or Article 215 of the Treaty on the Functioning of the European Union, either autonomously or pursuant to the sanctions decided by the United Nations Security Council on the basis of Article 41 of the UN Charter.

of European Parliament and Council Directive 2014/24/EU or target of a sanction or restrictive measure imposed or administered by the European Union or United States of America.

g) Whenever requested by COWI IPF, the successful tenderer/contractor shall submit a declaration from the intended subcontractor that it is not in one of the exclusion situations. In the event of doubt, upon request of COWI IPF, the successful tenderer/contractor shall provide documentary evidence that the subcontractor is not in a situation of exclusion.

h) If the offer includes subcontracting, it is recommended that the contractual arrangements between the tenderer and its subcontractors include mediation, according to national and international practices, as a method of dispute resolution.

5. Selection criteria

The following selection criteria will be applied to the tenderers. In the case of tenders submitted by a consortium, these selection criteria will be applied to the consortium as a whole, if not specified otherwise. For each selection criterion, documentary evidence must be provided.

- I. **Economic and financial capacity of tenderer** (based on section 3 of the tender submission form). In case the tenderer (*leader or any of the members of the consortium*) is a public body, equivalent information should be provided.

The annual turnover (if the tenderer is an individual legal entity) or the average annual turnover (if the tenderer is a consortium) of the tenderer must be at least EUR 1.000.000 for each of the last 2 years for which accounts are closed.

Note to tenderers: *In the tender form, please make sure to specify the actual financial year(s) for which the data is provided.*

- II. **Professional capacity of the tenderer**

The following conditions must be fulfilled by the tenderer or any one member of the consortium (in case of applications submitted by a consortium):

The number of the permanent staff of the tenderer (individual legal entity or consortium overall) currently working in fields related to this contract (as they are described in item 1 above), must be at least 7 for each of the last 3 years (2020, 2021 and 2022)

The tenderer (individual legal entity or consortium overall) must meet the following requirement:

- Demonstrate access to 4 drilling rigs for boreholes.
- Demonstrate access to 2 penetrometers

- III. **Technical capacity of the tenderer**

The tenderer (individual legal entity or consortium altogether) has successfully completed, during the last five (5) years (up to the deadline for the receipt of applications indicated in the Contract Notice), at least three (3) projects on the field of linear transport infrastructure (railway or road) of a minimum value of €300,000 excluding VAT and should demonstrate that it had a participation of minimum 50% in each of the project(s) brought as reference. Projects presented as references must consist of a single contract (including addenda), have been completed during the last five (5) years (up to the deadline for the receipt of applications indicated in the Contract Notice).

If the contract was implemented by a consortium, only the amount of the tenderer's own contribution to the contract shall be stated and taken into consideration.

Where the assignments referenced have been implemented by consortia comprising two or more of the members now associated as a consortium for this tender procedure, their individual percentages shall be cumulated, so that the application is assessed on

the basis of the tenderer consortium as a whole.

The above selection criteria (after further request for clarification by COWI IPF if required) shall be considered as Pass-Fail criteria.

6. Award criteria

The best price-quality ratio is established by weighing technical quality against price on a 70/30 basis (technical ability: 70%, price: 30%).

7. Content of tenders

Offers, all correspondence and documents related to the tender exchanged between the tenderer and COWI IPF must be written in English. The language of the procedure is English.

Supporting documents and printed literature furnished by the tenderer may be in another language, provided they are **accompanied by a translation into the language of the procedure**. For the purposes of interpreting the tender, the language of the procedure has precedence.

The **tender must comprise a Technical offer and a Financial offer**, which must be **submitted in separate PDF files by** electronic media (see section 11 below). Failure to fulfil the requirements in sections 7.1 and 7.2 will constitute an irregularity and may result in rejection of the tender. Failure to fulfil the requirements in section 11 will constitute an irregularity and shall result in rejection of the tender.

7.1. Technical offer

The Technical offer must include the following documents, structured in 2 separate PFD files as follows:

- (1) **PDF FILE Tender submission form** (see Part C of this tender dossier) including:
 - a) **A signed declaration** from each legal entity identified in the tender submission form, using the format attached to the tender submission form.
 - b) **A signed Declaration of honour on exclusion and selection criteria** from each legal entity identified in the tender submission form, using the provided form (see part C of this tender dossier).
 - c) **The legal entity file and supporting documents to be provided for** (in case of consortium, these documents should be provided by all the members).
 - d) **A completed financial identification form** to indicate the bank account into which payments should be made if the tender is successful.
 - e) **Duly authorised signature: an official document** (statutes, power of attorney, notary statement, etc.) proving that the person who signs on behalf of the company AND/OR joint venture/consortium is duly authorised to do so. **Please highlight in your offer the document and the place in the respective document where this authorisation is mentioned.**
 - f) A completed Consent letter to use personal data (in the provided form, see part C of this tender dossier).
 - g) **Documentary evidence of the selection criteria** in section 5 (as defined in Article 4.3.5 EIB's Corporate & Technical Assistance Procurement Guide).
 - h) Documentary proof or statements may be in scanned copies. The originals must be available to send to COWI IPF upon request.
- (2) **PDF FILE Organisation and methodology with References and CV of Head of investigation** (will become Appendix 2 to the contract), to be drawn up by the tenderer using the provided instructions in the provided format (see part C of this tender dossier). Must be provided in English only. No other language will be accepted.

Tenderers are reminded that the provision of false information in this tender

procedure may lead to the rejection of their tender and to their exclusion from this tender procedure.

7.2. Financial offer

The financial offer must be presented as an amount in Euro and must be submitted using the template Financial Offer attached in the tender dossier (see part C of this tender dossier) and be protected by a password.

Tenderers are reminded that the maximum budget available for this contract, as stated in the contract notice, is EUR 540,000 excluding VAT. Payments under this contract will be made in the currency of the tender: EUR.

Payments will be made in Euro into the bank account notified by the Tenderer to COWI IPF.

8. Variant solutions

Tenderers **are not** authorised to tender for a variant in addition to this tender.

9. Period during which tenders are binding

Tenderers are bound by their tenders for 180 days after the deadline for submitting tenders. COWI IPF may ask the tenderers to extend the period for a specific number of days, as deemed necessary.

10. Additional information before the deadline for submitting tenders

Tenderers may submit questions in writing **by the deadline specified in section 3 above** exclusively via the email: office@wbif-ipf8.eu

COWI IPF has no obligation to provide clarification to requests transmitted after this date.

COWI IPF will publish its replies at the same URL link where the tender documents can be accessed as specified in the Contract Notice **by the deadline specified in section 3 above**. Any tenderer seeking to arrange individual meetings with COWI IPF and/or the Beneficiary or any other public entity associated with the project concerning this contract during the tender period may be excluded from the tender procedure.

No information meeting and no site visit shall be organised by COWI IPF. However, it is expected that the Tenderer is familiar with the conditions of the site and access conditions.

11. Submission of tenders

Tenders must be submitted electronically in line with the following instructions:

Before the deadline mentioned in section 3 "Timetable", tenderers must submit their full tender in three (3) separate PDF files, two (2) for the Technical Offer and one (1) for the Financial Offer by sending an email to office@wbif-ipf8.eu.

The Financial offer must be submitted in PDF format and must be protected by a password. COWI IPF will request the password to open the file only after completion of the evaluation of the technical offers, and only to those tenderers whose technical offers achieved a score of 80 points or more (see section 15.3 and 15.4 below). It is the responsibility of the tenderer to ensure that the file is duly protected, and that the password is valid. In case the file cannot be open, the tenderers will not be able to resubmit a new file.

The administrative documents (forms and declarations) may be signed electronically. An original (certified) copy of the documents will be requested from the awarded tenderer prior to the contract signature.

Submissions larger than 15 MB (megabytes) may be transferred by recognised methods for transfer of large files. However, the Tender Submission letter must be submitted by email to office@wbif-ipf8.eu, informing COWI IPF of the method of transfer.

Tenderers must request a delivery receipt and a read receipt of their message and keep the latter as a proof.

COWI-IPF shall confirm receipt of the submission by email, informing the tenderer that the submission has been received.

Tenders submitted by any other means will not be considered.

Any infringement of these rules (e.g. unprotected files or references to price in the technical offer) constitutes an irregularity which will lead to rejection of the tender.

12. Amending or withdrawing tenders

Tenderers may amend or withdraw their tenders by written notification prior to the deadline for submitting tenders. Tenders may not be amended after this deadline.

Any such notification of amendment or withdrawal must be prepared and submitted in accordance with section 11. The PDF file must be marked 'Amendment' or 'Withdrawal' – as appropriate.

13. Costs for preparing tenders

Costs incurred by the tenderer in preparing and submitting the tender are non-reimbursable. All such costs must be borne by the tenderer.

14. Ownership of tenders

COWI IPF retains ownership of all tenders received under this tendering procedure. Consequently, tenderers do not have the right to have their tenders returned to them.

15. Evaluation of tenders

15.1. Administrative compliance

The administrative compliance will be checked based on the administrative compliance grid (see part C of this tender dossier).

Tenderers are reminded that non-compliance with the requirements set in section 7 may result in rejection of the tender.

Non-provision of the Organisation and methodology (or any part of) in the provided format in part C of this tender dossier may lead to rejection of the tender.

15.2. Compliance with the selection criteria

The compliance of the tenderers with the requirements of the selection criteria (see section 5 of these Instructions to tenderers) will be analysed at the beginning of the evaluation process. **Non-compliance will lead to the rejection of the tender.**

15.3. Evaluation of technical offers

For the offers submitted by tenderers fulfilling the selection criteria, the quality of each technical offer will be evaluated in accordance with the award criteria and the associated weighting as detailed in the evaluation grid included in Part C of this tender dossier. No other award criteria will be used.

Only offers that achieve a score of 80 or more are declared 'technically accepted'. Any tender falling short of the 80-points threshold will be automatically rejected.

Out of the tenders reaching the 80-point threshold, the best technical offer is awarded 100 points. The others receive points calculated using the following formula:

Technical score = (final score of the technical offer in question/final score of the best technical offer) x 100.

15.4. Evaluation of financial offers

Upon completion of the technical evaluation, COWI IPF will request the password of the financial offers for tenders that were not eliminated during the technical evaluation and will

be opened (i.e. those with an average score of 80 points or more). **Tenders exceeding the maximum budget available for the contract are unacceptable and will be eliminated.** Tenderers are not invited to participate in the opening of financial offers.

The tender with the lowest price receives 100 points. The others are awarded points by means of the following formula:

Financial score = (lowest price/ price of the tender being considered) x 100.

Any arithmetical errors are corrected without penalty to the tenderer such that, if there is a discrepancy between a unit rate and the total amount derived from multiplying the unit rate by the corresponding quantity, the rate as quoted must prevail, unless the opinion of the Evaluation Committee contains an obvious error in the unit rate, in which event the total amount as quoted must prevail and the unit rate must be corrected.

16. Choice of selected tenderer

The best price-quality ratio is established by weighing technical quality against price on a 70/30 basis.

This is done by adding:

- the technical scores awarded to the technical offers multiplied by 0.70 and
- the financial scores awarded to the financial offers multiplied by 0.30

17. Confidentiality

The entire evaluation procedure is confidential. The Evaluation Committee's decisions are collective, and its deliberations are held in closed session. The members of the Evaluation Committee are bound to secrecy. The evaluation reports and written records, in particular, are confidential and may not be communicated neither to the tenderers nor to any party other than COWI IPF, the European Commission, the European Anti-Fraud Office and the European Court of Auditors.

18. Ethics clauses / Corruptive practices

- a) Any attempt by a tenderer to obtain confidential information, enter into unlawful agreements with competitors or influence the Evaluation Committee or COWI IPF during the process of examining, clarifying, evaluating and comparing tenders will lead to the rejection of its tender and may result in administrative penalties.
- b) The tenderer must not be affected by any conflict of interest and must have no equivalent relation in that respect with other tenderers or parties involved in the current assignment.
- c) COWI IPF reserves the right to suspend or cancel project financing if corrupt practices of any kind are discovered at any stage of the award process or during the execution of a contract. For the purposes of this provision, 'corrupt practices' are 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 contract or execution of a contract already concluded with COWI IPF.
- d) Tenders will be rejected, or contracts terminated if it emerges that the award or execution of a contract has given rise to unusual commercial expenses. Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a payee who is not clearly identified or commissions paid to a company which has every appearance of being a front company.
- e) COWI IPF reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to substantial errors, irregularities or fraud. If substantial errors, irregularities or fraud are discovered after the award of the Contract, COWI IPF may refrain from concluding the Contract.

19. Signature of contract

19.1 Notification of award

The successful tenderer will be informed in writing that its tender has been accepted.

Before COWI IPF signs the contract with the successful tenderer, the latter must provide the additional information and documentary evidence listed below.

Documentary proof or statements required under the law of the country in which the company (or each of the companies for consortia) is effectively established, to show that it is not in any of the exclusion situations stipulated under Article 57 of European Parliament and Council Directive 2014/24/EU. This evidence, documents or statements must be dated, no more than one year before the date of submission of the tender. In addition, a statement must be furnished stating that the situations described in these documents have not changed since then.

If the nature of your entity is such that it cannot fall into the exclusion situations and/or cannot provide the documents indicated above (for instance, national public administrations and international organisations), please provide a declaration explaining this situation.

COWI IPF may waive the obligation of any tenderer to submit the documentary evidence referred to above if such evidence has already been submitted for the purposes of another procurement procedure, provided that the issue date of the documents does not exceed one year and that they are still valid. In this case, the tenderer must declare on his/her honour that the documentary evidence has already been provided in a previous procurement procedure and confirm that his/her situation has not changed.

If the documentary evidence submitted is not written into the language of the procedure, a translation into this language must be attached. Documentary proof or statements may be in scanned copy. The originals must be available to send to COWI IPF upon request.

If the successful tenderer fails to provide the documentary evidence listed above within 15 calendar days following the notification of award or if the successful tenderer is found to have provided false information, the award will be considered null and void. In such a case, COWI IPF may award the tender to another tenderer or cancel the tender procedure.

19.2 Signature of the contract(s)

Within 30 days of receipt of the contract, the selected tenderer shall sign and date the contract and return it to COWI IPF.

Failure of the selected tenderer to comply with this requirement may constitute grounds for annulling the decision to award the contract. In this event, COWI IPF may award the tender to another tenderer or cancel the tender procedure.

The other tenderers will, at the same time as the notification of award is submitted, be informed by email that their tenders were not retained, including an indication of the relative weaknesses of their tender by way of a comparative table of the scores for the winning tender and their specific unsuccessful tender.

The second best tenderer is informed of the notification of award to the successful tenderer with the reservation of the possibility to receive a notification of award in case of inability to sign the contract with the first ranked tenderer. The validity of the offer of the second-best tenderer will be kept. The second tenderer may refuse the award of the contract if, when receiving a notification of award, the validity of their tender has expired.

COWI IPF will furthermore, at the same time, also inform the remaining unsuccessful tenderers by email and the consequence of these emails will be that the validity of their offers must not be retained.

The corresponding contract award notice will be published on the website <http://ted.europa.eu/TED/main/HomePage.do>.

19.3 Cancellation of the tender procedure

In the event of cancellation of the tender procedure, COWI IPF will notify tenderers of the cancellation. If the tender procedure is cancelled before the PDF file of any tender has been opened, the unopened PDF files password protected will be returned to the tenderers.

Cancellation may also occur, for example, where:

- the tender procedure has been unsuccessful, i.e., no suitable, qualitatively or financially acceptable tender has been received or there is no valid response at all;
- there are fundamental changes to the economic or technical data of the project;
- exceptional circumstances or force majeure render normal performance of the contract impossible;
- all technically acceptable tenders exceed the financial resources available;
- there have been substantial errors, irregularities or frauds in the procedure, in particular if they have prevented fair competition;
- the award is not in compliance with sound financial management, i.e. does not respect the principles of economy, efficiency and effectiveness (e.g. the price proposed by the tenderer to whom the contract is to be awarded is objectively disproportionate with regard to the price of the market).

In no event shall COWI IPF be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a tender procedure, even if COWI IPF has been advised of the possibility of damages. The publication of a contract notice does not commit COWI IPF to implement the programme or project announced.

20. Privacy Notice

During a Public Procurement procedure COWI IPF may get access to certain personal data (information related to an identified or identifiable natural person). A Privacy Notice is available at <https://www.cowi.com/privacy>; it provides information about the collection and use of personal data.

21. Additional information

- This tender procedure is launched with a “suspension clause”. This entails that the award of the contract is subject to approval from EU to undertake this assignment as additional scope.
The tenderers interested in participating in this tender procedure must be fully aware that in no event shall COWI IPF be liable for any damages whatsoever including, without limitation, damages for loss of profits / costs incurred by the applicant in preparing and submitting his tender, in any way connected with the cancellation of the tender procedure on the ground of the “suspension clause” even if COWI IPF has been advised of the possibility of damages.
As such, by submitting their tenders, the service providers accept in full the use of the “suspension clause” in this tender procedure as well as its possible consequences.
- The Service Provider is expected to quote the price net of VAT but inclusive of all other taxes.
- Any dispute concerning this procurement procedure conducted by COWI IPF would fall under the jurisdiction of the European Court of Justice.