

**DOCUMENTATION****FOR PARTICIPATION IN THE SUPPLIER QUALIFICATION SYSTEM WITH SUBJECT:****Supply of European Union Allowances for Phase III of the European Union Emissions Trading System****UPDATES AND REVISIONS**

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## 1 PURPOSE OF THE DOCUMENT AND FIELD OF APPLICATION

The Present documentation sets the criteria and methods which are to be met during the selection of contractors for participation in Supplier Qualification System (SQS) with subject: **Supply of European Union Allowances (EUAs) for Phase III of the European Union Emissions Trading System (EU ETS)**.

The Supplier Qualification System contains impartial criteria and rules for verification of necessary competencies and qualification of candidates for participation in public procurement negotiated procedures with prior announcement for delivery as per specification. The Supplier Qualification System is valid for an indefinite term. Each year an announcement for the qualification system shall be published in Bulgarian Public Procurement Agency as well as on the “Contracting Authority’s webbased profile”. The Contracting Authority reserves the right to update the criteria and the selection rules. The participants qualified in this system shall be duly notified about the changes and they shall, within a predefined term, submit the necessary evidence for conformity, if applicable. In case the type of the change requires it, all qualified participants already included in the system shall be subject to an additional evaluation of conformity with the updated conditions.

Candidates shall be qualified for the period of three years starting from the date of Contracting Authority’s Resolution for approval and qualification in the system.

Procurement department in ContourGlobal Maritsa East 3 TPP enters information about approved companies in a “Register of the qualified companies”, centralized and organized into commercial groups, and including all participants included in the Supplier Qualification System. The qualified participants shall receive an invitation for submission of technical and price offers for Contracting Authority’s negotiation procedures for awarding of public procurement contracts with the same subject, as per the requirements of art. 105, para 11 from the Bulgarian Public Procurement Act.

Procurement department shall be responsible for the preparation, interpretation and update of the present document.

The process of qualification as per the present procedure strives to guarantee the required level of functionality and quality of execution of the supplies and to guarantee selection of participants meeting the technical and financial capabilities required for execution of Purchase Orders and contracts with reference to the subject of the qualification system.

## 2 DEFINITIONS AND ABBREVIATIONS

**Register of the qualified companies (Register):** list of approved candidates included in the Supplier Qualification System with Resolution of the Contracting Authority.

**List of candidates:** list of the companies which have submitted applications for participation in the Supplier Qualification System and take part in the qualification procedure.

**Contracting Authority:** ContourGlobal Maritsa East 3 AD Bulgaria represented by the Executive director or an authorized person as per art.8, para 2 from the Public Procurement Act.

**Qualification commission (Commission):** a collective body appointed with an Order by the Contracting Authority that performs the review and evaluation of the application for participation of each candidate and puts forward a recommendation to the Contracting Authority to take the respective decisions. **The Contracting Authority shall define the commission members at its own discretion.** The Commission shall consist of an odd number of members, at least 5, one of whom must be a qualified lawyer. The rest of the members shall be persons with appropriate qualifications and experience, representatives of Procurement, Commercial, Finance

and Accounting Departments. The Commission members shall keep confidential the circumstances, which they have become aware of with relation to their work in the Commission. The Commission meetings shall be held with participation of all members. The submitted applications shall be reviewed and evaluated jointly. The Commission shall draw up a report on each application considered for participation in the qualification system, it shall check the stated circumstances, and at its discretion may require additional information and evidence about the circumstances stated by the applicant. The Commission puts forward a recommendation to the Contracting Authority to take the respective decisions to enter or to refuse to include a candidate into the SQS.

**Participant:** entrepreneur, supplier of commodities or services, legal entity, including craft guild, trade cooperative companies, temporary clusters of companies, consortium, company organizations and European Groups with Economic Interest (GEIE), included in the Supplier Qualification System to participate in negotiation procedures for awarding of public procurement contracts.

**Trade/qualification groups:** Trade categories, subject to the qualification system/qualification procedure.

**Validity:** Evidence of possession of the required qualities of technical, legal and financial character.

**Qualification/preliminary selection:** all actions related to the collection, review and evaluation of information, registration and presentation of the result from qualifications to the candidates.

**Requirements for qualification:** The process for inclusion of each candidate in the SQS takes into account the evaluation of legal, economic, financial, organizational, managerial, technical and operational criteria.

Technical requirements related to quality management and organization of the business, which the candidates shall meet in order to be qualified are detailed in item 3.2.1. The legal requirements are defined in item 3.2.2. and the economic and financial criteria are listed under item 3.2.3.

**Application for qualification:** application form filled out as per the provided template (Appendix 1) submitted along with all required documents.

**Evaluating departments:** Procurement, Commercial, Accounting and Legal departments.

**Contract:** A written contract against a consideration, based on the general terms of the standard frame agreements approved by one of the following entities: ISDA, IETA or EFET concluded within the frame of the qualification system by and between a participant, selected as a contractor through a selective procedure based on predefined criteria and/or electronic auction and ContourGlobal Maritsa East 3 Director with subject **Supply of EUAs for Phase III of the EU ETS**.

**Electronic auction:** A price negotiation process including a proprietary electronic platform used to achieve improved quotations initiated after the initial overall evaluation of the quotations.

**Normative base:**

- Directive 2014/ 25/ EU of the European parliament and the Council from February, 26, 2014 on procurement by entities operating in the water, energy, transport and postal services sectors
- Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC
- Commission Regulation (EU) No 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community
- Bulgarian Public Procurement Act
- Internal regulations for awarding of public orders
- ContourGlobal Anti-Corruption Policy
- ContourGlobal Supplier Code of of Conduct
- ContourGlobal Supplier Guide to UNGC principles

### **3 QUALIFICATION REQUIREMENTS FOR THE CANDIDATES**

#### **3.1 Technical Requirements**

##### **3.1.1 Experience on the global carbon market**

The applicant shall be able to demonstrate at least 5-year experience on the global carbon market. The applicant shall have access to proven market liquidity, have a large number of active market contractors, including end users such as industrial companies and installations covered by National Allocation Plans of EU countries.

##### **3.1.2 Proven trading record in EUAs**

The applicant shall have a proven track record in supplying large volumes of EUAs. The applicant shall be able to demonstrate that they have entered into agreements for at least 100 million carbon allowances (including CER/ERU/EUA) per annum during each of the last three years.

##### **3.1.3 Experience of the candidate's team**

The applicant should provide evidence with respect to the adequate experience of the team that would manage and execute the trades on the global carbon market. At least two senior management members employed on full-time basis should have at least 5 years of relevant experience on the international carbon market. The candidate should submit a short resume of at least two dedicated members of the candidate's senior management team.

##### **3.1.4 Origin of the carbon allowances**

The applicant should be able to give sufficient comfort to the Contracting Authority over the origin of EUAs by means of providing full supporting documentation of their origin, legitimacy, and compliance value. In particular, it needs to warrant the Contracting Authority that any EUAs it sells are eligible compliance instruments and will be accepted by the EU register.

##### **3.1.5 Financial capabilities**

The financial capability of the potential contractors (or of its parent company) shall be certified with an available investment credit rating, ascertained by an international credit rating organization. In case the candidate lacks investment grade credit rating, they are expected to have a professional indemnity insurance in form and substance acceptable to CGME3, or any other security arrangement acceptable for the Contracting Authority, in order to guarantee the EUAs sold to CGME3 and as per point 3.1.4 above, and should be able to settle emissions transactions through a platform that does not require prepayment or pre-delivery and does not expose the Contracting Authority to any counterparty risk. The candidate should submit its audited financial statements for the last three years.

The candidate should provide details on the above five requirements in a narrative form attaching specific documents as per the list in Appendix 1.

## 3.2 Legal requirements

### 3.2.1 Contract

The participants will be required to enter into a frame agreement based on the general terms of the standard agreements approved by one of the following entities: ISDA, IETA or EFET.

**3.2.2** Candidates, for which one of the following circumstances is present, shall not be included in the Supplier Qualification System as per the requirements of art. 47 from the Bulgarian Public Procurement Law:

1. are convicted with a verdict that has come into effect, unless rehabilitated, for:
  - a) crime against the financial, tax or insurance system, including money laundering, under art. 253-260 from the Penal code;
  - b) bribe under art. 301-307 from the Penal code;
  - c) participation in an organized criminal group under art. 321 and 321a from the Penal code;
  - d) crime against property under art. 194-217 from the Penal code;
  - e) crime against economy under art.219-252 from the Penal code;
2. are declared insolvent;
3. are in liquidation proceedings or in a similar procedure according to the national laws and subordinate legislation;
4. have obligations as referred to in art. 162, para 2, item 1 of the Tax-Insurance Procedure Code to the State and a municipality, established by an effective act of a competent body and for which installments or extension of the obligations are not allowed, or tax obligations or obligations regarding social insurance payments as per the legislation of the country in which the applicant or the participant is settled.
5. are in instituted bankruptcy proceedings, or have settled out of court with the creditors as referred to in art.740 from the Commerce Act. In case the candidate or the participant is a foreign entity - he is in a similar procedure as per the national laws and subordinate legislation, including when his activity is under court order, or the candidate or participant has suspended his activity;
6. are deprived of the right to exercise particular profession or activity according to the legislation of the country where the violation has been done;
7. are guilty of nonperformance of contractual obligations under a public procurement contract, proved by the Contracting Authority by court decision entered into force;
8. are convicted by an effective sentence for criminal offence unless rehabilitated for a crime under art. 136 of the Penal Code, connected to the health and safety conditions of labor, as well as for criminal offence under art. 172 of the Penal Code against labor rights of employees;
9. are convicted by an effective sentence for criminal offence under art. 313 of the Penal Code related to the conduct of public procurement award procedures;
10. are related party to the Contracting Authority or its employees on leading positions within his organization;
11. have concluded a contract with a person under art. 21 or art. 22 of the Law on Prevention and Disclosure of Conflict of Interests.

When the Candidate has declared the participation of subcontractors, the above requirements shall apply to them as well.

In case of merging of companies (consortium, temporary clusters etc.) the evaluation is performed according to requirements applicable not only to the cumulative body but also to the separate participating companies. As to the separate companies, the different requirements shall apply as per their role in the cumulative body.

Upon submission of the application for participation the candidate shall certify by a single declaration the absence of the circumstances under section 3.2.2 above, signed by the persons representing the candidate. The declaration shall contain also information about the public registers where the stated particulars are registered, or about the competent authority which, according to the legislation of the state, where the applicant or the participant is based, is obliged to provide information about these particulars ex-officio to the Contracting Authority.

Upon signing a public procurement contract the participant selected for a contractor shall be obliged to present documents by the respective competent bodies in order to certify the absence of the circumstances under section 3.2.2 above, except for the cases where the legislation of the state, where they are based, provides for the registration of any of these circumstances in a public register free of charge or their provision to the contracting authority free of charge.

Documents proving the presence/ absence of the above stated legal requirements:

- a) Declaration for absence of circumstances under art. 47, para 1, 2, 5 and 9 from the Public Procurement Act by the candidate and, if applicable, by the planned in the application subcontractors, signed by candidate's representatives. There should be information on public registers, in which the circumstances are stated or on the competent authority obliged to release officially the information about these circumstances.
- b) Declaration by the Contractor regarding the use of subcontractor/s, percentage of the subcontractor's participation and the type of activities they will exercise.
- c) Declaration of no connection with other participants/candidates under art. 55, para 7 and lack of circumstances under art. 8, para 8, item 2 of the Public Procurement Act.

### **3.2.3 Requirements for economic and financial status**

In order to perform a check for any irregularities, a detailed analysis is performed of the obligations to the state and municipality as well as to insurance institutes. The presence of such irregularities is of great importance during the evaluation of the economic and financial reliability and represents, at worst, a reason for the company's exclusion from the qualification.

The assessment of the solvency of consortiums, temporary clusters of companies and other associated forms is performed separately for each company.

In case the company is registered in another country, the corresponding normative and operative base is taken into account.

The documents, certificates and replacing declarations, if not in Bulgarian, shall be accompanied by a translation in Bulgarian, corresponding to the original text.

If during the evaluation phase some critical issues emerge a periodical check of the degree of economic-financial reliability of the company will be performed (as a rule once per year).

Candidates must complete and sign an application for participation in the SQS according to the templates of appendix 1 and declarations appended to the present documentation describing all attached documents proving the technical capability, economic and financial standing and legal compliance of the candidate.

If issued in a language different from Bulgarian, all the documents, certificates and declarations submitted as part of the application package shall be accompanied by a translation in Bulgarian as per the original text.



## 4 PHASES OF THE PRELIMINARY SELECTION PROCESS

### 4.1 Definition of requirements to candidates

The detailed requirements described in section 3 from the present document are prepared as follows: Technical requirements by the Procurement and Commercial departments; Economic and Financial requirements - by Finance department in cooperation with the Procurement department. Legal requirements - by the Legal department.

The requirements to the candidates are based on objective criteria and rules and can be changed by the Contracting Authority if necessary. The update of those criteria and rules shall be communicated to the entities included in the Supplier Qualification System.

### 4.2 Submission of applications for participation by the candidates

The companies can request to be allowed to participate in qualification procedure at any time, within the period of validity of the Supplier Qualification System, by submitting an application. In addition to submitting the application form, the candidates shall present also all documents in conformity with the requirements for technical capacity, economic and financial status and qualification as well as legal standing specified in the documentation for participation.

The Applications and accompanying documents that evidence the qualifications of the candidates shall be sent in a sealed envelope signed: **Application for participation in the qualification system with subject: Supply of European Union Allowances (EUAs)**, stating the name of the candidate, address, contact person's name, telephone and email for correspondence.

The envelope with the documents shall be addressed to:

ContourGlobal Maritsa East 3 AD  
48 Sytniakovo Blvd., fl. 9  
1505 Sofia, Bulgaria  
Attention: Liliya Chobanova

### 4.3 Review of the applications

Each submitted application is registered with an incoming number by the Commercial department of ContourGlobal Maritsa East 3 AD. The received applications for participation are submitted to the commission for review and evaluation. The commission opens the applications as per the order of their submission and checks the application form and the submitted evidence in accordance with the requirements listed herein. The candidate shall provide the necessary data and documents required under section 3 above in order to be eligible for inclusion in the system. The commission shall inform the candidates whether the provided documentation is in compliance with the above listed requirements by sending a protocol with conclusions regarding the presence and exactness of the submitted documents. In case some of required documents have not been presented, the Commission shall list the missing items or the nonconformities found in detail, shall point out the type of the documents which shall be additionally presented and shall give a deadline for their submission. The deadline shall not be longer than 5 days starting from the date of protocol receipt. After deadline has expired, the commission shall check the conformity of the documents, including the additionally presented ones, with the selection requirements set by the Contracting Authority.



The commission can, at any time, check the data submitted by the candidate, require clarification or additional evidence.

#### **4.4 Comprehensive analysis and decision for qualification**

After ensuring all submitted documentation is compliant with the above listed qualification requirements, the Commission shall prepare a protocol recommending to the Contracting Authority to include or to reject inclusion of the candidate in the Supplier Qualification System. The Contracting authority shall take the relevant decision whether to include or not the candidate in the Supplier Qualification System, as the reason for rejection must always be stated.

#### **4.5 Timerframe of review of applications and informing candidates about the result**

The Contracting Authority shall issue its resolution within 6-month period effective from the date of registering the application for participation in the Supplier Qualification System. If more than 4 months are necessary to issue a resolution, the Contracting Authority shall inform the candidate within 2-month period after registering the application for the reasons and the end date on which the resolution shall be issued.

All decisions taken by the Contracting authority regarding the qualification (for example, inclusion, rejection, temporary suspension, etc), accompanied by the relevant motivation shall be communicated to the interested company by the Procurement department in writing, within 15 days from the date when the decision was taken.

#### **4.6 Electronic tender**

An electronic tender, utilizing a ContourGlobal proprietary platform, can be carried out for the negotiation of the price offers of the participants included in the SQS. The rules for performance of the electronic tender are to be provided to the candidates included in the SQS along with the invitation for offers submission.

#### **4.7 Control of the necessary requirements and register update**

The Procurement department shall be responsible for the management and update of the Register. The Register shall be available to all ContourGlobal departments/ companies and, upon request, Procurement department shall provide access to the list to other Contracting Authorities.

The data in the register shall be subject to constant control and subsequent update. In all cases, the qualified companies shall be subject to constant monitoring which ensures their continuous conformity with the requirements set during the qualification phase. For that reason ContourGlobal can request relevant documentation from the companies at any time (financial position and performance, etc.)

On the basis of the results from that check the Qualification commission shall:

- provide the Contracting authority with recommendations regarding measures for termination/ annulment of the Qualified company. The committee informs the candidate at least 15 days prior to termination/annulment, being properly motivated.
- perform an evaluation and offer the inclusion of candidates with temporary suspended participation in the preliminary selection system.

## **5 QUALIFICATION PARAMETERS**

### **5.1 Qualification and duration**

The Supplier Qualification System has an indefinite period of validity. Each approved qualification for preliminary selection of a vendor has a validity of 3 years. After the term of qualification has expired, the candidate can submit an application for renewal of the qualification.

### **5.2 Review of the qualification**

In the event that any major changes such as modifications in the company structure, property status, for example, as well as in case of signals by the relevant authorities under the contract for the presence of insolvency and liquidation proceedings, a qualification review procedure shall be initiated. The Procurement department and/ or the interested departments shall prepare reports to be submitted to the commission for qualification review and proposal to the Contracting authority for undertaking of relevant measures, for example: transfer/ termination/ annulment of the qualification.

### **5.3 Transfer of the qualification**

The qualification can be transferred from one company to another only in case of extraordinary company operations, related to succession between the companies, that concerns only qualified companies. After receiving an application for transfer from the interested company, together with the necessary documentation, the Commission shall check all necessary requirements and shall make a recommendation for transfer (or not) of the qualification to the Contracting Authority. The transfer of the qualification shall enter into force from the date after the resolution of the Contracting Authority is issued.

### **5.4 Temporary suspension or termination of the qualification**

The qualification can be suspended or terminated under extraordinary circumstance, described in item 5.5.

The signal for such circumstances shall be communicated by the Commercial department or by the interested departments.

The suspension of the qualification shall be valid for 6 months starting from the date when the Contracting authority's decision is taken or for the time of duration of the conditions which have substantiated that decision. After that period has expired, the commission shall review the circumstances, which have led to suspension and prepare a special report containing a motivated proposal as to:

- Renewal of the qualification of the company, excluded from the register;
- Extension of the suspension period;
- Measures for termination of the qualification;

In case the qualification is terminated, as well as when an ineptness of participant been established, the participant cannot resubmit its own candidacy for a new qualification process before 1 year has passed from the date of the Contracting authority's decision or until the conditions leading to those measures are still present.

### **5.5 Conditions for termination, suspension, annulment and review of the qualification**

The qualification can be suspended or annulled in case in case of occurrence of one or more of the following events:

- economic and financial unreliability of the company ;
- technical and management unreliability of the company ;
- conflict of interests;

- false declarations regarding the requirements and the prescribed conditions for qualification;
- irregularities during the procedure for awarding of public procurement contract;
- irregularities in the execution of the contracts, with regard to the provision of the goods and/or services or violation of the terms for execution or warranty;
- termination of a contracts due to default or negligence;
- liquidation of a company;
- lack of communication towards ContourGlobal in case of significant changes in the submitted information;
- the qualification is subject to review in the cases of: change of the property state, restructuring, merging, division, concession;

The Contracting Authority can suspend a participant from the qualification system if the same is no longer compliant with the announced criteria. The Contracting Authority shall be obliged to inform the candidate about this at least 15 days prior to suspension with a motivated explanation.

Candidate, which inclusion in the SQS has been rejected or participant that has been suspended from the system, due to the motives stated in Contracting Authority's resolution, may reapply again by submitting required documents for circumstances evidencing relevant competency. The evaluation of the newly submitted evidence shall be performed according to the general supplier qualification process detailed in the present document.

## **6 GENERAL TERMS FOR THE ORDERS TO BE AWARDED THROUGH A SQS**

All actions of the Contracting Authority towards the candidates shall be in writing, unless the legislation or the current documentation requires otherwise. All official documents issued by the Contracting Authority shall be received in person against signature by the candidates/participant or shall be sent by Commercial department via registered mail with acknowledgement for receipt or by fax or e-mail.

Valid are considered the addresses and the fax numbers given in the application form. In case the address or the fax number have changed and the Contracting Authority has not been notified, the correspondence shall be considered delivered.

In connection with the procedure for supplier qualification and for any matter, not described here, shall be applied the Bulgarian Public Procurement Act and all related legislation.

No candidate has the right to contact in any way the commission. Every attempt to do so shall be considered interference in the work of the commission and all legal measures will be taken. Any violation of the instructions given in this documentation or any attempt by the candidate to influence the selection procedure shall lead to all legal measures applied against him, including rejection of the candidate.

The type of procedure used by the Contracting Authority for awarding of public procurement contract shall be negotiated procedure with prior announcement whereby the participant, included in the Supplier Qualification System, shall receive an invitation for participation and a technical specification with a bill of quantity for submission of an offer.

The Contracting Authority selects which participants to be invited applying one of the following methods:

- all approved candidates, following the order of their inclusion into the SQS;
- In case of delivery with expected amount below the threshold for initiation of public procurement procedure, a minimum three of the approved candidates shall be invited;

When conducting public procurement procedures for awarding contract under the SQS, the Contracting Authority shall apply the lowest negotiated price criterion. For the negotiation of price offers it is possible to hold an electronic tender. Detailed information about the order of implementation shall be submitted to the candidates along with the invitation.

The participant shall be obliged not to disclose, announce, allow the disclosure, announcement, publishing or unauthorized use in any way, directly or indirectly, of any information obtained in connection with the application process and with the participation in the SQS, connected with the status and the activity of the Contracting Authority, its clients and suppliers, including but not limited to any information representing a trade secret for the Contracting Authority, as well as technical, economical or financial information, data about prices, projects, deals and contracts that the Contracting Authority has concluded, is concluding or is planning to conclude, as well as information about trademarks, patents, licenses and know-how, business plans data and advertising strategies, as well as all other confidential data related to the Contracting Authority. Disclosure and announcement of information is allowed only if it is explicitly permitted by law, a written consent has been received by the Contracting Authority or if it originates from the very nature of the document containing the information.