

RULES AND CRITERIA

FOR APPLICATION TO A QUALIFICATION SYSTEM WITH SUBJECT:

Purchasing European Union Allowances for Phase III of the European Union Emissions Trading System

UPDATES AND REVISIONS

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1. QUALIFICATION SYSTEM – SUBJECT, PURPOSE AND PRINCIPLES

The present qualification system is created for the purpose of making a preliminary selection of Contractors to perform business activities with subject: **Purchasing European Union Allowances (EUAs) for Phase III of the European Union Emissions Trading System (EU ETS)**.

The interested parties shall prepare and submit requests for participation under the terms provided for in the present documentation and attach all required documents in compliance with the rules and criteria as stated in the advertisement for opening the qualification system published on the web page of the Bulgarian Public Procurement Agency.

A pre-selection committee shall review the requests of applicants for participation in the qualification system. The committee shall be appointed by the Contracting Authority who shall determine the committee members and reserve members at their discretion. The committee shall have an odd number of members (as per art. 103, Para. 1 of the Public Procurement Act), one of whom shall be a qualified lawyer. The rest of the members shall be persons with appropriate qualifications and practical experience.

All committee members shall attend committee meetings to review the submitted applications and draft a report on each reviewed application for participation in the qualification system. After completion of their work the committee shall put forward a recommendation to the Contracting Authority to either accept or reject an applicant's request for participation in the qualification system. By decision of the Contracting Authority applicants shall be notified of their accepted or rejected status with regard to participation in the qualification system, with sufficient substantiation in the case of rejection.

The term of the Qualification System is indefinite. The Contracting Authority reserves the right to update the selection criteria and rules. Persons accepted to the system shall be notified of such amendments accordingly and shall submit, by a specified deadline, the requisite evidence with regard to additional circumstances, if required. Should the nature of the amendment require it, all applicants accepted to the system shall be subject to further re-evaluation of compliance with changes in the circumstances.

The Contracting Authority shall enter the details of approved applicants in the online supplier profile and shall maintain a Register of Qualified Companies to include all approved applicants in the qualification system.

The Contracting Authority, according to their specific needs, shall announce the opening of public procurement procedures within the system, by which they approve an invitation for participation. A company accepted to the qualification system shall receive a resolution and an invitation to participate in negotiation procedures by means of a preliminary invitation letter, with the Contractor being selected using lowest price award criteria.

Price negotiation shall be effected by way of e-tendering in line with all the requirements and conditions of participation in the tender, attached to the notice of invitation to tender.

2. SELECTION CRITERIA. REQUIREMENTS TO APPLICANTS

In order to be accepted to the current qualification system (QS) all stakeholders must show compliance with the requirements for applicants' private means and selection criteria with reference to:

- capability to conduct professional activity;
- economic and financial standing;
- technical and professional qualifications.

The application for participation shall comprise a completed European Single Procurement Document /ESPD/ form signed with qualified electronic signature and provided on optical drive and documents showing compliance with specified requirements. The online ESPD form can be found on the internet address: <https://ec.europa.eu/tools/espd/filter?lang=en>

A European Single Procurement Document /ESPD/ shall be completed about the applicant in line with the requirements of the Bulgarian Public Procurement Act and the participation criteria of the Contracting Authority, and when applicable – an ESPD about each one of the participants in the cluster which is not a legal person; about each contractor and each person whose resources will be engaged in project execution.

A power of attorney in the name of the signatory – such shall be submitted where the application has not been signed by the person managing and representing the participant in line with their current registration, but by an explicitly designated authorised representative.

In the case of cluster participants – a copy of the cluster partnership agreement, and where the contract does not specify the person representing the partners in the cluster – a further document signed by the persons in the cluster and designating the representative. The cluster partnership agreement should also specify the proportional participation of persons in the execution of the works subject of the purchase order. In the case of cluster participants, with the cluster not being a legal person: the required documents shall be submitted for every natural or legal person in the cluster; documents evidencing qualification and experience shall be submitted solely for participants through whom clusters show compliance with selection criteria.

Submission of ESPD in electronic form:

- The applicant shall submit an “espd-response.pdf” file signed with an electronic signature on an optical drive. In this case, the applicant has to import the “espd-request.xml” file into the EC system for the eESPD - <https://ec.europa.eu/tools/espd/filter?lang=en> , to fill in the online eESPD form, export the created eESPD as "espd-response.pdf", sign it with an electronic signature and save the file on optical drive which must be attached to the application for participation.

- The applicant can indicate a hyperlink where he has published an electronically signed ESPD for the specific tender (provided electronic access to the ESPD, prepared and signed electronically). In this case, the document must be provided with a time stamp that certifies that ESPD is signed and accessible through a hyperlink to which the applicant refers before the deadline for receipt of applications. The time verification service presents a time stamp on each imported file, after which the file can be exported and published on the Internet, including on the tenderer's website.

1. Private Means of Applicants

1.1. An applicant for acceptance to the Qualification System can be any Bulgarian or foreign natural or legal person or their clusters, as well as any other formation, entitled to conduct supply services in accordance with the legislation of the country where they have established their business.

1.2. Every applicant for acceptance to the Qualification System shall be represented by the person who is their lawful representative or by a person they have explicitly authorized.

2. SELECTION CRITERIA FOR JOINING THE QUALIFICATION SYSTEM

2.1. Experience on the global carbon market

The applicant shall be able to demonstrate at least **3-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 enterprises and other industrial companies and installations covered by the European Union Emission Trading System (*ESPD section: Part IV: Selection Criteria - C. Technical and professional ability – Educational and professional qualifications*).

2.2. Experience of the applicant's team

The applicant shall provide evidence with respect to the adequate experience of the team that will manage and perform carbon allowances trading on the global carbon market. At least two senior management members employed on full-time basis should have **at least 3 years of relevant experience** on the international carbon market. The applicant shall submit a short resumé of at least two dedicated members of the applicant's senior management team (*ESPD section: Part IV: Selection Criteria - C. Technical and professional ability – Educational and professional qualifications*).

2.3. Financial capabilities

2.3.1 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 trading of EUAs totaling at least **EUR 40 million** per annum during each of the last 3 years (**Specific Yearly Turnover**) (*ESPD section: Part IV: Selection Criteria - B. Economic and financial standing – Specific yearly turnover; Specific average turnover*).

2.3.2 The financial capability of the applicant shall be certified with **an investment grade credit rating**, ascertained by an international credit rating organization. The rating can be issued for the contractor, or for its parent company, or for any publicly traded financial instruments issued by the contractor or by its parent company. Alternatively, the applicant is expected to have a professional indemnity insurance or any other security arrangement in form and substance acceptable to the Contracting Authority. (*ESPD section: Part IV: Selection Criteria - B. Economic and financial standing – Other economic or financial requirements*). The applicant should submit its latest audited financial statements.

In order to carry out a check for the existence of possible inconsistencies, a comprehensive and detailed analysis shall be made of the information contained in the public registers for applicants' obligations to the state and municipalities, as well as to insurance institutes. The existence of such inconsistencies can have a significant effect on assessing economic and financial reliability and is in the worst case grounds for excluding the company from the qualification.

The Solvency Assessment of consortiums, temporary clusters of companies and other associated forms shall be made separately for each company.

Should critical factors arise during the assessment phase, provisions can be made for conducting a regular check (as a rule, once a year) of the degree of the company's economic and financial reliability.

3. DECLARING PERSONAL SITUATION AND COMPLIANCE WITH SELECTION CRITERIA

3.1. Upon submission of the application for joining the Qualification System, the applicant shall declare lack of grounds for exclusion and compliance with selection criteria by submitting a European Single Procurement Document (ESPD).

3.2. After the applicant has stated that they will be using the capacity of third parties to prove compliance with selection criteria or that they will use contractors, the applicant shall submit a separate ESPD for each one of these entities.

3.3. The Contracting Authority may require at any one time that the applicants submit all or part of the documents evidencing the information specified in the ESPD, where it is required for the lawful conduct of the procedure.

3.4. Prior to signing a contract for a specific public procurement order under the Qualification System, the Contracting Authority shall require that the participant, selected as Contractor, submits current documents certifying the lack of grounds for exclusion from the procedure. Documents shall be submitted for contractors and third parties accordingly, if there are such.

3.5. Where the applicant refers to the capacity of third parties, irrespective of the legal relations between them, as for the criteria evaluating economic and financial standing, technical capacities and professional competence, the applicant shall prove that he will make use of their resources by submitting documents for the obligations taken on from the third parties. As regards professional competence criteria, participants can refer to the capacity of third parties only if the persons whose education, qualification and experience help to prove compliance with the requirements of the Contracting Authority will participate in the execution of the part of the public procurement which requires this capacity. Third parties shall comply with relevant selection criteria for the evidencing of which the applicant shall refer to their capacity plus there should not be any grounds for exclusion from the procedure.

3.6. Where the applicant is a cluster of natural and/or legal persons, compliance with selection criteria can be proven via the capacity of third parties by fulfilling the provisions under i.3.5.

3.7. In the case of participation of clusters which are not legal persons, compliance with selection criteria shall be proven by the cluster participant, and not by every single one of the entities comprising it, save for the respective registration, submission of a certificate or another requirement essential for execution of the procurement order, in accordance with the provisions of a regulatory or administrative act and in line with the proportional participation of persons in execution of the activities, as provided for in the cluster agreement. Documents concerning the respective selection criteria shall be submitted only for those participants in the cluster through whom the cluster proves compliance with the selection criteria including minimum requirements for the economic and financial standing, technical and professional capacities.

3.8. Where the applicant intends to use sub-contractors for the execution of the procurement order, sub-contractors shall comply with respective selection criteria in accordance with the type and share of the procurement order they are going to execute, and there should not be any grounds for them to be excluded from the procedure.

3.9. Where the applicant in the procedure is a Bulgarian natural or legal person or their clusters or a foreign natural or legal person or their clusters and makes a submission of documents contained in the tender in a foreign language, Bulgarian translations of these documents shall also be submitted.

3.10. Where for some of the required documents it has been specified that they can be submitted via a "certified copy", such a copy shall be considered the wet-stamped document bearing the signature of the person representing the applicant made in their own hand in blue colour under the certification "True copy of the original".

4. SUBMISSION AND REVIEW OF APPLICATIONS FOR PARTICIPATION

4.1. Submission of applications for participation

Business entities can submit their applications for participation in the qualification procedure at any one time, the Qualification System has no fixed currency. Applications shall contain a completed ESPD signed with electronic signature for the applicant in line with the ESPD form, and where it is applicable also for the participants in the cluster, the sub-contractors or third parties whose resources will be engaged and all documents in compliance with the requirements for technical capacities, economic and financial standing and qualification, as specified in the documentation for participation to prove compliance of the applicant with selection criteria. The electronically signed ESPD shall be submitted on optical drive.

Applications shall be sent in a sealed non-transparent envelope labelled: Application for acceptance to the qualification system with subject: **Purchasing European Union Greenhouse Emission Allowances (EUAs) for Phase 3 of the European Trading System, ref. No113-141-16**, and shall mandatorily bear the name of the applicant, their exact address, contact person, telephone number and e-mail for correspondence.

The envelope containing the application documents shall be forwarded to the following address:

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

Each application received shall be given an incoming number in the register of the Procurement Department.

4.2. Review of applications

The received applications for participation shall be submitted to the committee for review and evaluation. The committee shall open the applications in the order of their submission and check the application form and the submitted evidence in line with the requirements listed in the advertisement and the documentation of the Contracting Authority. The applicant shall provide the necessary data and documents as required at the time of application. The committee shall make a detailed list of missing documents or established inconsistencies, shall specify precisely the type of the documents which should be presented additionally and shall set a deadline for their submission. The deadline cannot exceed 5 days from the date of receipt of the report. After expiration of this deadline, the committee shall check the documents for compliance, including compliance of later submissions with selection criteria as set by the Contracting Authority.

4.3. Comprehensive analysis and decision for qualification

After having established compliance of documents submitted by the applicant with all necessary qualification requirements, the Committee shall draft a report by virtue of which to recommend to the Contracting Authority to approve or reject the acceptance of the applicant to the qualification system.

4.4. Communicating the evaluation results to the applicant company

The decision of the Contracting Authority for approval or rejection of the acceptance of the applicant company to the qualification system shall be announced in writing within 15 days from the date of the resolution. The Contracting Authority shall issue their resolution within a 6-month period with effect from the date of registering the application for participation in the Supplier Qualification System.

4.5. Control of the necessary requirements and register update

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

The data contained in the register shall be subject to constant control and subsequent update of information, as established at the time of the qualification phase. The performance of the applicant during the execution of the contract shall be monitored also through a procedure for evaluation of suppliers (Vendor rating).

On the basis of the results from that check the Qualification Committee shall propose to the Contracting Authority that they make a decision to suspend the participation of an applicant who is no longer compliant with the stated criteria in the pre-selection procedure. The committee shall inform the applicant at least 15 days prior to termination date substantiating their decision.

5. METHODOLOGY OF AWARDING QUALIFICATION

5.1 Qualification and Currency

The currency of the Qualification System is indefinite. Every approved qualification of a contractor shall be awarded for 3 years. After expiry of the qualification validity the applicant can submit an application for renewal of their qualification.

5.2. Re-assessment of the qualification

In the event that any major changes such as alterations in the company structure, property status, for instance, as well as in case of notifications from relevant authorities concerning the existence of insolvency and liquidation proceedings, as well as in the event of managing contracts or repudiation of awarded contracts on the part of an approved applicant reported by the supplier evaluation system (vendor rating), a qualification review procedure shall be initiated. The Procurement Department and/ or the interested departments shall prepare reports to submit to the Qualification Committee for review and proposal to the Contracting Authority to take action accordingly.

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 Procurement Department shall check all necessary requirements with the possible participation of interested departments. The Procurement Department shall make a recommendation for transfer (or not) of the qualification to the Qualification Committee.

The transfer of the qualification shall become effective from the date the resolution of the Contracting Authority is issued.

5.4. Temporary suspension or termination of the qualification

The qualification can be suspended or terminated upon arising of events as described in i.5.2. or as a result from implementing the supplier evaluation system (vendor rating).

Such circumstances shall be made public by the Procurement Department or by the various interested departments.

The qualification shall be suspended for a period of 6 months starting from the date of the Contracting Authority's resolution or for the period during which the conditions in substantiation of that decision exist. After this period has expired, the Procurement Department in conjunction with the interested departments shall review the circumstances, which have necessitated the suspension and prepare a special report containing a well-founded proposal as to:

- Reinstatement of the qualification of the company previously excluded from the register;
- Extension of the suspension period;
- Measures for termination of the qualification;

In the case of termination of the qualification, as well as where a participant has been deemed not eligible for qualifying, the participant cannot resubmit their own application to be accepted to a succeeding qualification process until 1 year has passed from the date of the Contracting Authority's decision or while the conditions necessitating those measures are still existent.

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

The qualification can be suspended or invalidated in the event 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;
- inaccurate declarations as regards the requirements and prescribed conditions for qualification;
- inconsistencies during the public procurement award procedure;
- contract termination due to default or negligence or breach of contract;
- liquidation of a company;
- lack of communication to ContourGlobal in the event of significant changes in the submitted information;
- the qualification shall be subject to review under the following circumstances: change of the property state, restructuring, merging, division, concession;

The Contracting Authority can debar a participant from the qualification system if the participant is no longer compliant with the stated criteria. The Contracting Authority shall be obliged to inform the applicant accordingly at least 15 days prior to exclusion and provide a substantiation of their decision.

An applicant whose acceptance to the QS has been rejected or a participant who has been debarred from the system on the grounds as stated in Contracting Authority's resolution, may re-apply yet again by submitting the required documents of circumstances evidencing relevant competency. The evaluation of applicants at various stages shall be made in line with the pre-selection procedure.

6. GENERAL REQUIREMENTS FOR PUBLIC PROCUREMENT SUBJECT TO AWARDED THROUGH THE QUALIFICATION SYSTEM

1. Throughout the term of the present QS for contractors the Contracting Authority shall, in line with their specific needs, approve separate public procurement orders within the system.
2. The separate public procurement orders within the scope of the QS shall be awarded through a negotiation procedure initiated by an invite for participation in line with the Bulgarian Public Procurement Act.
3. When awarding public procurement orders within the QS the Contracting Authority shall approve by way of a resolution an invitation for submission of quotations or participation in negotiations. Both the resolution and the invitation shall be sent to the persons entered into the system within a 7-day period from issuance of the resolution.

4. The Contracting Authority shall specify any information concerning e-tendering and the award criteria in the invitation for submission of quotations. While conducting award procedures under the qualification system the Contracting Authority shall use **the lowest price award criteria**.

5. Documentation to be presented by the applicant, selected for contractor of a specific public procurement order within the Qualification System upon signing the Public Procurement Contract.

5.1. Documents in line with Art. 58 of the Bulgarian Public Procurement Act:

5.1.1. re the circumstances as per Art. 54, Para. 1, i. 1 – **a conviction status certificate**;

5.1.2. re the circumstance as per Art. 54, Para. 1, i. 3 – **a certificate from the revenue authorities and a certificate from the municipality of the official location** of the Contracting Authority and the applicant or participant;

5.1.3. re the circumstance as per Art.54, Para. 1, i. 6 – **a certificate from the authorities of Executive Agency Chief Labour Inspectorate**.

5.3. **A certified copy of a tax registration certificate and BULSTAT registration or equivalent documents** in accordance with the legislation of the country where the cluster has been established (submitted where the selected contractor is an impersonal cluster of natural and/or legal persons).

6. Where the certificate under i. 5.2.3. contains information about an effective penal ruling or a court order as regards a violation as per Art. 54, Para. 1, i. 6 of the Bulgarian Public Procurement Act, the participant shall submit a self-declaration that the violation has not been committed during the execution of a public procurement contract.

7. Where the participant, selected for a contractor, is a foreign entity, they shall submit the relevant document under i. 5.2., issued by a competent authority, in line with the legislation of the country where the participant has established their business.

8. In the cases of i.7 where the respective country does not issue documents as regards the specified circumstances or where the documents do not cover all circumstances, the participant shall submit a declaration, if such a declaration is relevant in law as per the legislation of the respective country. Where the declaration is not relevant in law, the participant shall submit an official application to a competent authority in the respective state.

All actions of the Contracting Authority toward the applicants shall be in writing, unless stated otherwise by law or in the present documentation. The resolutions of the Contracting Authority, of which he is obliged to inform them, shall be delivered in person against a signature or sent by registered mail with a postal receipt or by fax or by e-mail.

The addresses and fax numbers stated in the application of each applicant shall be considered their current contact details. Should the address or fax number be changed with the Contracting Authority not having been informed thereof, the correspondence shall be deemed sent.

With regard to conducting a pre-selection procedure and any issues which are not covered by the current regulation the Bulgarian Public Procurement Act and relevant subordinate legislation shall apply.

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 QS, 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.

The Contracting Authority shall set a requirement for protection of classified information upon providing information to applicants or participants in the course of procedures as well as upon signing the public procurement contract.