

# Monitor the procurement of the photovoltaic system by S. A. „RED-Nord” and identify red flags

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S.A. "Rețelele Electrice de Distribuție Nord" (RED-Nord) is a contracting entity that carries out a large number of procurement procedures in the online electronic procurement system SIA RSAP Mtender, in the basis of Law 74/2020 on procurement in the energy, water, transport and postal services sectors. Analyzing the procurement procedure for the purchase of the photovoltaic system by RED-Nord, in the basis of the information available in the Mtender system, several red flags can be highlighted. These include: unclear conditions and even discrepancies between the tender specifications and the contract notice, which mislead economic operators wishing to participate in the public procurement procedure.

On 16.01.2023, RED-Nord carried out a procedure for the procurement of a photovoltaic system consisting of two photovoltaic power plants, with the purpose of fulfilling the function of supplying electricity from alternative sources and reducing the expenses for own consumption at the headquarters in mun. Bălți, str. St. Cel Mare, 180 "A", (<https://mtender.md/Home/TenderInfo/ocds-b3wdp1-MD-1673886942648>), with the estimated value of 5,800,000.00 MDL excluding VAT. The type of the procurement procedure is an open tender, which was conducted by applying electronic tender. The award criterion used is "Lowest price".

In the course of the procedure, economic operators raised several inquiries of clarification. One of the uncertainties concerned the deadline for carrying out the works. In the announcement of participation point 16, it is mentioned that the term is maximum 2 months, while in the tender specifications, point 9, subpoint 9.2, it is specified that „Termenul de livrare, instalare și punere în funcțiune (inclusiv darea în exploatare): maximum 3 luni din data semnării contractului de achiziție”. This point misled an economic operator who on 20.01.2023 asked for clarification on the subject. In the reply received the entity stated that the execution period is 3 months (90 days), excluding from the calculation the receipt by the beneficiary of the construction authorization (20 days).



The economic operator, in the clarification given, specified that the contracting entity should take into account that subpoint 4.1.1 of the specifications specifies that the winning economic operator must obtain a technical expert's opinion on the resistance of the buildings on which the photovoltaic panels will be installed and a town planning certificate. Likewise, it must also take into account point 10.1, which is related to the commissioning with the National Agency for Energy Regulation and the commissioning of the photovoltaic system. Although the urban planning certificate will be obtained by the contracting entity, a certain period of time is needed to carry out the requested requirements, and the economic agent specifies - the 3 months deadline is difficult to frame.

Subiectul clarificării:	Termenul de executie
Clarificarea solicitată:	Termenul de executie solicitat e 2 luni sau 3 luni? in Anuntul de participare e indicat 2 luni, in caietul de sarcini 3? care e termenul solicitat. Tineti cont rugam ca se ia in considerare Expertiza acoperisului, executie proiect, obtinere certificat urbanis, darea in exploatare, inclusiv cu ANRE, etc. Deci termenul de 3 luni inca eu un termen cam dificil de incadrat
25.01.2023 16:59 Răspuns la clarificare: Termenul de executare este de 3 luni (90 zile), cu excluderea din calcul primirii de catre beneficiar a autorizatiei de constructie (20 zile).	

Another aspect that needed to be clarified concerned the technical expertise of the roofs of the RED-Nord headquarters, on which the photovoltaic panels will be installed. An economic agent asked for clarification on the fact that if it is found that the buildings will not support the weight of the photovoltaic panels and the supports for mounting the photovoltaic panels, will the tender be canceled? The Contracting Entity's response was that if this is found to be the case, RED-North will bear all costs for reinforcing the roofs. If this cannot be carried out, the contract will be terminated and the tenderer will be reimbursed for the costs of the roof survey.

Thus, if it is found that the roofs will not support the weight of the photovoltaic panels, strengthening them will require a period of time, which was not taken into account when the deadline for the contract was set. This is also not specified in any of the documents, which raises questions about the preparation of the documentation by the contracting entity. Thus, taking into account that this situation may occur, but also taking into account other tasks that the economic operator has to fulfill, the risk that the economic operator will not meet the deadline for completion of the works and termination of the contract is significantly increased.



It is recommended that RED-Nord carry out the necessary expertise in good time to reduce the risk of termination of the contract and to enable the economic operators to meet the deadline, given that some economic operators consider the deadline to be limited.

Data publicării:	17.01.2023 11:08
Subiectul clarificării:	Aviz de expertiză tehnică a rezistenței
Clarificarea solicitată:	Daca in urma efectuării expertizei acoperișilor clădirilor din incinta sediului central al S.A."RED-Nord" mun. Bălți se va constata ca cladirile nu vor suporta sarcina (greutatea panourilor fotovoltaice si a suporturilor pentru montarea panourilor fotovoltaice), licitatia se va anula?

20.01.2023 13:20

Răspuns la clarificare: SA RED-Nord va suporta cheltuielile la efectuarea expertizei tehnice a acoperișilor și dacă se va constata, că acoperișii clădirilor nu vor suporta sarcina necesara, SA RED-Nord va suporta cheltuielile necesare pentru întărirea acoperișilor la nivelul necesar. În cazul imposibilității efectuării acestuia contractul va fi reziliat, iar ofertantului I se restituie cheltuielile de expertiza acoperișului.

## Unclear conditions in the tender documentation

Another red flag on the given procurement procedure are the unclear conditions and requirements in the tender documentation. Thus, according to point 12, of the tender specifications, a copy of the latest statistical report No. 5-C confirmed by the signature and stamp of the Bidder is required. Thus, on 20.01.2023, an economic agent sought clarification on the purpose of requesting the given report and suggested that it may be erroneous in expression. The Contracting Authority's response was issued on 25.01.2023, specifying that the report request is excluded. Thus, it was an error eliminated by clarifications, which demonstrates the importance of publishing clarifications in the electronic system, but also the fact that through clarifications, economic operators contribute to improving the tender documentation.

Data publicării:	20.01.2023 12:27
Subiectul clarificării:	Copia ultimului raport statistic nr. 5-C confirmat prin semnătura și ștampila Ofertantului ?
Clarificarea solicitată:	Buna ziua. Care e scopul solicitarii raport statistic nr. 5-C? Raportul dat poate e eronat ca expresie, poate e vorba de raport financiar anual. ???

25.01.2023 16:59

Răspuns la clarificare: Cererea de prezentare a raportului este exclusa.



Also, another red flag is identified in sub-section 5.1, where one of the requirements is that, "The manufacturer of the photovoltaic panels must be approved and entered in the database: <https://techselector.com/moldova-en/>", which indicates the need for the manufacturer of photovoltaic panels to be recognized and registered in a certain database, as specified on the mentioned webpage. However, it is important to emphasize that this website does not appear to be an official source of approval or registration of PV panel manufacturers.

Titlu Omologarea	Întrebare primită 25.01.2023 / 13:54
Descriere La ce exact se refera expresia "Producătorul panourilor fotovoltaice să fie omologat și introdus în baza de date: <a href="https://techselector.com/moldova-en/">https://techselector.com/moldova-en/</a> ", ținând cont că site-ul la care se face trimitere nu reprezintă o omologare sau o bază de date ci doar o platformă de a conecta cumpărătorul cu vânzătorul. Va rog să confirmați dacă certificarea CE a produselor cu prezentarea respectivelor declarații de conformitate este suficientă?	
↳ Omologarea	26.01.2023 / 11:07
AC nu exclude solicitarea finanțării organizațiilor financiare, inclusiv internaționale (BERD, etc), la care este solicitată omologarea menționată. În așa mod doar certificarea CE nu este suficientă.	























Apparently, it is just a platform for connecting between buyers and sellers, simply put - an online shop. Thus taking this into account, on 25.01.2023, an economic agent inquired whether the CE certificates (certificate of conformity) are sufficient to demonstrate that the photovoltaic panels in turn all technical qualities to be installed. The contracting entity replied that „CE certification alone is not sufficient”. Thus, in the framework of the given requirement the main question mark is: why did the contracting entity refer to a website which is not related to the requested requirement?

## Challenging the results of the contract award procedure

Despite the fact that, in the tender documentation, there are several unclear, have participated 11 (<https://mtender.md/Home/TenderInfo/ocds-b3wdp1-MD-1673886942648>).

The winning bid was submitted by the company HABSEV GRUP, with a final offer of 3,150,000.00 MDL, excluding VAT. As a result of the electronic auction, the HABSEV GRUP's offer was reduced by 27% from the initial amount submitted and outbid the economic operator who initially gave the lowest price .



 HABSEV GRUP	 Documente ofertă	3,150,000.00 MDL	Învingător
 BIService&CO	 Documente ofertă	3,278,000.00 MDL	Respins
 METNOX	 Documente ofertă	3,608,164.99 MDL	Respins
 BTS PRO	 Documente ofertă	3,608,165.00 MDL	Respins
 ARSCOM	 Documente ofertă	3,612,000.00 MDL	Respins
 ALUM SISTEM	 Documente ofertă	3,788,166.33 MDL	Respins
 COMPASS	 Documente ofertă	4,029,405.42 MDL	Respins
 Solar Era Grup	 Documente ofertă	4,145,403.90 MDL	Respins
 SRL Zepto	 Documente ofertă	4,580,000.00 MDL	Respins
 Atractiv Invest	 Documente ofertă	4,666,666.00 MDL	Respins
 Luceand Prim	 Documente ofertă	4,800,000.00 MDL	Respins

Thus, on the result of the procedure, on 06.03.2023, a protest was filed with the ANSC (<https://mtender.md/Home/TenderInfo/ocds-b3wdp1-MD-1673886942648>), by the company METNOX SRL. In order to examine the protest, the ANSC organized and held on 22.03.2023, at 15:15, an open meeting attended by representatives of the protestor, the contracting entity and the economic operator designated as the winner.

„METNOX” SRL has contested the decision to award the contract to the economic operator „Habsev-Grup” SRL, because the latter submitted a non-compliant tender. According to point 8 of the tender notice, two photovoltaic systems P=150 KW were required. Examining the tender, it was found that the winning company offered only one set, making the tender non-compliant. If the contesting firm had applied the same principle, their bid would have had a lower price.

At the same time, the economic operator mentioned that the technical bid for 1 unit is also not compliant as the inverter model offered cannot be identified (SUN-50K-G) to verify the technical specification with the one offered. It also states that the SUN-50K-G03 model offered does not correspond to



nominal efficiency: minimum 98.5%, as this parameter in the proposed inverter is 98.7% maximum and not minimum, and according to Euro Efficiency it is 98%, which again does not correspond. It also mentioned that the tenderer, Habsev-Grup " Ltd., did not submit the mandatory document DUAE.

*În continuare, urmează de menționat nici oferta tehnică pentru 1 unitate nu este conformă, or modelul de invertor ofertat nu poate fi identificat SUN-50K-G pentru a fi verificată specificația tehnică cu ce ofertată.*

*Totodată, dacă este să verificăm specificația pentru care a anexat broșura și să presupunem că modelul SUN-50K-G03 este cel ofertat, constatăm că acesta nu corespunde Eficienței în regim nominal:: minim 98,5%, or la acest parametru acesta este în mărime de 98,7 maximal și nu minimal, iar conform Euro Efficiency este de 98%, ceea ce iarăși nu corespunde. Nu în ultimul rând ținem să menționăm că ofertantul Habsev-Grup SRL nu a depus documentul de baza DUAE.*

### **Arguments of the contracting entity:**

RED-Nord informs the ANSC that the arguments put forward by the complainant for the annulment of the decision to award the contract to "Habsev Grup" SRL, on the grounds that its offer was non-compliant, cannot be accepted for several reasons. RED-Nord has indicated în the tender documentation that it intends to purchase a photovoltaic system, which constitutes ONE LOT consisting of two photovoltaic power plants. The fact that the photovoltaic system is composed of two photovoltaic power plants is also expressly mentioned în the contract notice in point 8. The fact that it is a single lot is also mentioned in point 14 of the contract notice. Taking into account these legal rules, the contracting authority concludes that the economic operator "Habsev Grup" SRL, when preparing the tender, strictly complied with the conditions that RED-Nord indicated in the tender documentation.

*Faptul că este vorba de un singur lot se menționează și la pct.14 din Anunțul de participare, după cum urmează: „14. În cazul în care contractul este împărțit pe loturi, un operator economic poate depune oferta (se va selecta): 1) pentru un singur lot”.*

*- în conformitate cu prevederile art.55 alin.(1) din Legea Nr.74 din 21.05.2020, „Ofertantul are obligația de a elabora oferta în conformitate cu prevederile documentației de atribuire”.*

*Ținând cont de aceste norme legale conchidem că, operatorului economic „Habsev Grup” SRL, la elaborarea ofertei, a respectat cu strictețe condițiile pe care S.A. „RED-Nord” le-a indicat în documentația de atribuire.*



Regarding the claim of the contestant that the inverter proposed in the offer by the economic operator "Habsev Grup" SRL cannot be identified in order to verify the technical specification with the one offered, RED-Nord informs that a simple search in google.md for the respective good, gives reference to several electronic addresses, where the necessary technical information can be verified, such as, for example: <https://spares.ru/SUN-50K-G03/>. Also, all the documentation specified in the specification is attached to the electronic tender submitted by the economic operator "Habsev Grup" Ltd.

In relation to the complainant's allegation that the inverter proposed by the economic operator 'Habsev Grup' SRL 'does not correspond to the efficiency in nominal mode', it should be noted that the efficiency of an inverter indicates how much DC (direct current) power is converted into AC (alternating current) power. Some of the power may be lost as heat and also some standby power is consumed to keep the inverter in energized mode.

The maximum efficiency indicates the performance of the inverter at the optimal power output (i.e. at rated power), shows the maximum point for a given inverter and can be used as a criterion of its quality. From analyzing the data sheets of the products that are on the market of the Republic of Moldova, it can be seen that the lower the rated power of inverters, the lower their efficiency. As a result of the above, we realize that when establishing the criterion for evaluating the efficiency of inverters, the operating mode of the inverters with rated power was taken into account. In other words, in the operating regime of the inverter at rated power and the conversion efficiency of DC in AC is maximum.

In regard to the claim of the challenger that the bidder "Habsev Grup" SRL did not submit the basic document DUAЕ, RED-Nord notes that this was not requested in the tender documentation. Moreover, Law No. 74 of 21.05.2020 does not establish the obligation for economic operators to submit the document mentioned by the contestant.

In view of the above, RED-Nord does not accept the objections mentioned in the contestation submitted by SRL "METNOX", considers them as unfounded and respectfully requests ANSC to reject the contestation submitted by SRL "METNOX".



*Având în vedere cele expuse mai sus, S.A. „RED-Nord” nu acceptă obiecțiile menționate în contestația depusă de către SRL „METNOX”, le consideră ca fiind nefondate și afirmă că rezultatele licitației deschise privind procedura de achiziție № ocds-b3wdp1-MD-1673886942648-PN-1673886942648, privind achiziționarea sistemului fotovoltaic sunt corecte, transparente și în conformitate cu prevederile legislației în vigoare din domeniu.*

*În consecință, S.A. „RED-Nord” solicită respectuos ANSC să respingă contestația depusă de către SRL „METNOX” ca fiind nefondată.*

### **The point of view of the economic operator designated winner:**

The objection submitted by SRL 'Metnox' to the requirement of the contracting authority to purchase two 150 kW photovoltaic systems, as stated in the call for tenders, point 8, does not correspond to the requirement specified by the contracting authority. According to the tender notice, a set of two photovoltaic systems, interconnected to function as a whole întreg.

Point 2 of the contestation submitted by the respondent, concerning the SUN-50KG03 inverter, the respondent has încorrected the terms: nominal with minimal. According to the DEX of the Romanian language, the term nominal înmeans - Power (or value) nominal = power for which a certain technical system was designed. În the present case, the nominal value of the inverters submitted by SRL "Habsev Grup" is 98.7%, i.e. it corresponds to the requirement of the contracting authority of 98.5%. The maximum efficiency of the inverters is the rated power of the inverters.

The respondent also specified that the DUAЕ form was not submitted. According to para. 20 of the contract notice, para. 12 of the specifications, this form is not în the list of required documents. În conclusion, we request the rejection of the appeal submitted by SRL "Metnox" as unfounded, as the economic operator submitted the appeal in bad faith wishing to delay the execution of this project.

### **Assessment of the National Agency for Dispute Settlement:**

The appeal no. 02/152/23 dated 06.03.2023, filed by "METNOX" SRL, on the results of the sectoral procurement procedure (<https://mtender.md/Home/TenderInfo/ocds-b3wdp1-MD-1673886942648>), on "Purchase of photovoltaic system", initiated by RED-Nord, is rejected as unîgrounded.



03D-187-23

03.04.2023 / 18:32

În vigoare

*Contestație respinsă, Constația neîntemeiată*

Elements of Complaint

RP 1.3. Respingerea ofertei contestatorului ca neconformă, întrucât oferta tehnică nu corespunde tuturor cerințelor/condițiilor stabilite în documentația de atribuire

URL

<https://elo.ansc.md/DownloadDocs/DownloadFileServlet?id=72755>

Activat  
Accesat

## Recommendations:

- Elaboration by the contracting entity/working group of the tender documentation in a clear and concise manner to reduce vagueness among participants wishing to participate in the procurement procedure;
- Early technical analysis of the objects where technical works are to be carried out, in order to allow economic operators to more easily focus within the established deadlines, to minimize the risk of delays in the execution of the contract or even, its termination;
  - Setting a reasonable time limit for the execution of the works (including installation and erection) so that economic operators are able to comply with all the necessary conditions and do the work to the required quality without being under time pressure;
- Establishment by the contracting entity of clear requirements for mandatory quality and/or conformity certificates to provide greater clarity on what the participating economic operator has to do;
- Preparation and training of quality staff in the drafting of the tender documentation in order to avoid discrepancies between the tender specifications and the contract notice.

