

Red flags in Termoelectrica's procurement monitoring process

S.A. "Termoelectrica" is a contracting entity that carries out a large number of procurement procedures in the MTender system, pursuant to Law 74/2020 on procurement in the energy, water, transportation, and postal services sectors. The analysis of several procurement procedures, based on the information available in the MTender system, highlights some risk indicators in the procurements carried out by S.A. "Termoelectrica". Among them, the most frequent are requirements in the tender documentation referring to outdated Russian standards, restrictive specifications, acceptance of irrelevant quality confirmation documents, acceptance of non-conforming offers, as well as unjustified cancellation of procurement procedures.

Requirement for Goods to Comply with Canceled Standards:

S.A. "Termoelectrica" continues to use canceled GOST standards as reference standards in the RM. In the procurement procedure for chemical reagents for water treatment, No. ocds-b3wdp1-MD-1701842666292, reference is made to GOST standards or equivalent. Checking the shop.standard.md page reveals these GOST standards are canceled. Although the phrase "or equivalent" is usually added to the requirement, this does not guarantee the existence of equivalent national or European/international standards. Thus, the goods offered usually come from post-Soviet countries and less often from EU countries. Goods that comply with current EU or international standards might be more expensive and, although of higher quality, may not fit within the financial limits set by the contracting entity. The situation is similar in the procurement of chemical reagents No. ocds-b3wdp1-MD-1708352879206 and the procurement of filtration materials for 2024, No. ocds-b3wdp1-MD-1707392059259.

Titlu Denumirea pozitiilor in loturi.	Intrebare primita 27.02.2024 / 12:17
Descriere Cum trebuie ca ofertantii sa ghideasca pozitiile din loturi daca Dvs folositi ceva general in denumire pentru toate loturile? Dupa cantitate? Pe urma cum o sa fie facuta evaluarea daca cineva nu va ghici lotul corect? Va faceti singuri probleme pe loc drept la o achizitie cu valoarea de 3 milioane lei... pe faceti de lucru la ANSC si pe urma se anuleaza licitatia, si hai iar din nou... Plus la aceasta GOST nu mai e valabil in RM de citiva ani, da Dvs tot cereti GOST...	
↳ Denumirea pozitiilor in loturi.	27.02.2024 / 13:49
Buna ziua, subiectul invocat nu face parte din clarificari.	

In the procurement of pipeline elements No. ocds-b3wdp1-MD-1709013652676, an economic operator expressed dissatisfaction with the use of canceled standards in the 'clarifications' section. The contracting entity's response did not provide any clarification but merely acknowledged the request for clarification.

Application/Admission of Model Quality Certificates:

One erroneous requirement in the tender documentation used by S.A. Termoelectrica concerns quality certificates. In the invitation to tender for the procurement of steel pipes for 2023 (repeated), No. ocds-b3wdp1-MD-1676453884151, there is the requirement "Quality certificate/Certificate of conformity/Test report (or the document confirming the quality of the goods put up for tender),"

indicating that the entity equates two documents with different roles and values. The economic operator is free to choose between either document when submitting a tender. There has been a practice of submitting 'model' quality certificates or certificates for previously delivered batches as proof that the tenderer will submit similar certificates for other batches to be produced. In the aforementioned tender procedure, 'Metalica Zuev' Ltd. protested the winning bid submitted by 'MIRZAGHITOV & Co' Ltd., which included such a certificate labeled "ОБРАЗЕЦ" (translation: pattern). The protest filed by 'Metalica Zuev' Ltd. was rejected by ANSC because the winning bidder also submitted certificates of conformity for the proposed goods. However, we do not consider it good practice for the contracting entity to equate certificates that do not serve the same purpose.

Quality certificates are required when submitting bids, as they are issued only upon production of the goods. In this case, the winning bidder also submitted certificates of conformity in addition to quality certificates. The requirement was indicated by a slash in the tender notice, so the challenge was rejected. However, we admit that in other similar situations, economic operators could submit only quality certificates for previous lots, which the contracting entity might accept, creating risks for the contracting entity.

Restrictive Specifications:

A procurement procedure of S.A. "Termoelectrica", in which we noticed several restrictive specifications, refers to the procurement of chemical reagents necessary for the stabilization and maintenance of the chemical regime of water and steam in medium pressure power equipment, No. ocds-b3wdp1-MD-1708352879206.

The contracting entity aimed to purchase 7,000 kg of an amine-based corrosion process inhibitor with an estimated value of 2 million lei (~113,339 USD), excluding VAT, according to the indicated parameters.

bunuri/servicii:					
Nr. d/o	Cod CPV	Denumirea bunurilor/ serviciilor/ lucrărilor	Cantitate/ Unitate de măsură	Descrierea achiziției	Valoarea estimată, fără TVA (pentru fiecare lot în parte)
Achiziționarea reagenților chimici necesari pentru stabilizarea și menținerea regimului chimic al apei și aburului la utilajul energetic de presiune medie					
Lot 1	24962000-5	Inhibitor al procesului de coroziune pe bază de amine	7000 kg	<u>Conform cerintelor Caietului de Sarcini</u> Aspectul exterior - Soluție incoloră sau galben deschisă Densitatea (20°C), g/cm ³ - 0,96 – 1,10 Solubilitatea în apă - Solubil în orice proporții pH-ul, nu mai puțin de - 13,0 pH-ul soluției de 1 %, nu mai puțin de - 11,0 Conținutul sumar al aminei/-lor cu rol de neutralizare, % - 25,0 – 30,0 Conținutul aminei pelicologene, %, (Z) N 9 octadecenilpropan 1,3 diamină - 2,5 – 5,0	2 000 000
Valoarea estimativă totală, lei fără TVA					2 000 000

From point 16 of the contract notice, it appears that the contracting entity reserves the right not to purchase the entire quantity but only on an as-needed, pre-order basis. Additionally, out of the total quantity, 2,000 kg of reagents will be used in the testing process on the Beneficiary's energy

equipment for a minimum of 4 weeks after the contract is signed. The testing procedure shall conclude with a quality control report executed by the laboratory of the Purchaser's Chemical Service. If the report finds that the delivered goods are not provided with the required documents, do not pass the quality and quantity control - chemical analysis in the laboratory - then the product is returned, and the contract is terminated. The forms do not sufficiently clarify whether the mentioned conditions are cumulative or if it is enough for any one of them to be fulfilled.

Read more by following the link revizia.md.

The project [Increasing the Integrity of Public Procurement](#) is implemented by the Institute for Development and Social Initiatives (IDIS) Viitorul, in partnership with the American organization Partnership for Transparency. The project aims to support public procurement reforms in Moldova that will increase transparency and fairness in public procurement by empowering citizens to hold relevant institutions accountable.

[IDIS Viitorul](#) is an independent think tank established in 1993 that combines social, political and economic research with strong advocacy components. The institution conducts applied monitoring research in several areas: economics, social policy, EU policies, regional development, and security and foreign policy risks.

[Partnership for Transparency](#) (PTF) is based in Washington, DC and its mission is to promote innovative civil society-led approaches to improving governance, increasing transparency, promoting the rule of law, and reducing corruption in developing and emerging countries. Since 2000, PTF has supported over 250 projects aimed at promoting NGO involvement in decisions, processes, and laws that enforce transparency and accountability in public procurement.