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**Reference number:** MP-SUB/17/09/12/02

**Contracting Authority:** Public company for passenger transport in the urban and suburban traffic  
Subotica-trans Subotica  
**Address:** Segedinski put 84, 24000 Subotica  
**Project title:** Development of an integrated public transport system in the Subotica-Szeged region  
**Project Manager:** Tibor Fazekas  
**Subject of tender:** Supply of equipment for e-ticketing and its devices  
**Reference number:** HU-SRB/1002/112/141-8

**SUBJECT: Response on Clarifications regarding submitted issues dated 18.09.2012.**

*Dear Sirs,*  
*please find our comments on your clarification below.*

Regarding delivered issues related to the clarification of the tender documentation You will find below the answers to disputed items.

1. On document ANNEX II + III : TECHNICAL SPECIFICATIONS + TECHNICAL OFFER it's written "The offer must be clear enough to allow the evaluators to make an easy comparison between the requested specifications and the offered specifications.", but at same document in the table for item number 5. Server with software license and item number 6. Software there is no any technical specification. Server and software are the most expensive items on this tender and there is no way to make a comparison between tender participants if there is no detailed technical specification similar to items 1. to 4. So please, note us technical specification for items 5. and 6.

**In the described technical specification of the equipment, in accordance with Article 39 of Law on Public Procurement of the Republic of Serbia is not possible to specify any particular trade mark, patent or type, specific origin or production of equipment.**

**Therefore it is not possible to indicate the manufacturer, type or trademarks of server vendors or accompanying software, or its exact characteristics that could be interpreted as an allegation of the type of equipment.**

**If any of the trademarks, or types of patents, manufacturers etc. would be specified, in that case, allegations must be accompanied by the comment "or equivalent", which again gives**

bidders the opportunity to choose from a technical equivalent which will be noted in the offer, and such indication would not yield precise guidelines to bidders.

Accordingly, bidders remains to estimate which equipment (server, the accompanying software, etc..) will work the best and with highest quality within their system and offer, while the expert team of Contracting authority during evaluation of tenderer offers will take into account all the technical characteristics of the proposed system.

Source: Law on Public Procurement of the Republic of Serbia

\* Korišćenje tehničkih specifikacija

Član 39.

Naručilac ne može da koristi niti da se poziva na tehničke specifikacije koje označavaju dobra, usluge ili radove određene proizvodnje, izvora ili gradnje, ako bi takvim označavanjem mogao dati prednost određenom ponuđaču ili bi mogao neopravdano eliminisati ostale.

Naručilac ne može da u konkursnu dokumentaciju uključi bilo koju odredbu koja bi za posledicu imala davanje prednosti ili eliminaciju pojedinih ponuđača, na način iz stava 1. ovog člana, osim ako takva specifikacija nije opravdana sa stanovišta predmeta ugovora.

Naručilac ne može u konkursnoj dokumentaciji da naznači bilo koji pojedinačni robni znak, patent ili tip, niti posebno poreklo ili proizvodnju.

Kada naručilac ne može u konkursnoj dokumentaciji da opiše predmet ugovora na način da specifikacije budu dovoljno razumljive ponuđačima, navođenje elemenata poput robnog znaka, patenta, tipa ili proizvođača mora biti praćeno rečima „ili ekvivalentno”.

*Comment PENTA: We think you are not well understood our question. In fact we have not demanded you to specify the manufacturer or trademark, but to specify the minimum technical characteristics that offered equipment must meet, such as the specifications you have provided on Item No.1, Item No.2 or as you specify the characteristics of desktop computers under Item No.4*

*Comment PENTA: If it is true what you say above, then the current tender documentation is invalid because you in Item No. 3 expressly requested delivery for:*

**Item name: Desktop computer for connectiong 8 monitors Quantity: 1**

**Minimum requirements:**

Processor **AMD X3** 445

Memory 6GB DDR3

**AMD 970** panel sa 4x PCI-Express port

4x **Radeon HD 5450** 512MB with one VGA, DVI and HDMI output

MidiTower 420W, hard disc 500 Mb, operative system

MidiTower 420W, hard disc 500 Mb, operative system **WIN 7 Pro 64bit**, DVD RW, wireless keyboard, wireless mouse

*and where words marked in red indicate precisely the manufacuter (AMD) and trademarks (Radeom Win 7 Pro 64 bit).*

2. On the same document for item 8. Displays for buses there is next specification:

"- Cable compatibility with the existing BusLogic Concentrate and BL GPS/GPRS modem through RS485 communication and DL protocol,

- Wireless compatibility with the BusLogic Terminal through 433 MHz RF".

Because BusLogic DL communication protocol and cable pinout is not commonly accepted standard or an open platform for communication between electronic e-ticketing equipment in vehicles and because it is not public available, please send us DL communication protocol and cable pinout compatibility specification so that all potential participants in the tender can equally participate in this process in order not to favor a particular bidder as manufacturer of equipment which has exclusive access to the required specification.

**Public company for passenger transport in the urban and suburban traffic Subotica-trans as Contracting authority is not able to deliver to all tenderers, participating in above mentioned public procurement, communication protocols for equipment that is already working within their systems of public transport, but only to bidder that is selected as the most appropriate which will with adequate contract commit to keeping the data that is stored (updated) in the system and available are precisely through these protocols.**

**In this way, contracting authority not only protect the confidentiality of information relating to its business, but also the safety of its passengers and employees.**

**In any case, the bidder whose bid is rated as the best and commit to keeping the confidential information will have at their disposal all of these communication protocols.**

*Comment PENTA: if such documentation is not generally available in this case, we refer to the above-cited Article 39 of Law on Public Procurement of the Republic of Serbia which prohibits the use of any particular trade mark, patent or type, specific origin or production of equipment but you still specified next:*

**Item name: Displays for buses      Quantity: 30**

**Minimum requirements:**

.....

Cable compatibility with the existing **BusLogic Concentrate** and **BL GPS/GPRS** modem through RS485 communication and **DL protocol**

Wireless compatibility with the **BusLogic Terminal** through 433 MHz RF

.....

*where words marked in red indicate precisely the manufacuter (DL=D-Logic) and trademarks (BusLogic) all according to source from WEB page: <http://www.d-logic.net/index.php/en/ticketing-a-electronic-monitoring> and this items is not marked "**or equivalent**", which directly favorise the preferred bidder.*

3. By Article 36 of ANNEX I : GENERAL CONDITIONS the Contracting Authority may terminate the contract in any of the following cases: item 36.1.f: the Contractor has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata; item 36.1.g: the Contractor has been guilty of grave professional misconduct proven by any means which the Contracting Authority can justify; item 36.1.h the Contractor has been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the European Union's financial interests. Because in the content of the tender

specification we did not find an indication that bidders must submit a certificate from the competent court on the criminal record of responsible person or company, we are interested in whether such a document must be included to the bid or you will be required to be submitted later?

**A certificate from the competent court on the criminal record of responsible person or company doesn't need to be included within tender offer but could be requested upon signed contract. In the document TENDER FORM FOR A SUPPLY CONTRACT, item 9.7. is described provision of additional documents upon signing of the Contract.**

**\* TENDER FORM FOR A SUPPLY CONTRACT**

**7. TENDERER'S DECLARATION(S)**

9. We are not in any of the situations excluding us from participating in contracts which are listed in section 2.3.3 of the Practical Guide to contract procedure for EU external actions. In the event that our tender is successful, we undertake, if required, to provide the proof usual under the law of the country in which we are established that we do not fall into these exclusion situations. The date on the evidence or documents provided will be no earlier than 1 year before the date of submission of the tender and, in addition, we will provide a statement that our situation has not altered in the period which has elapsed since the evidence in question was drawn up.

We also undertake, if required, to provide evidence of the financial and economic standing and the technical and professional capacity according to the selection criteria for this call for tender specified in the procurement notice, point 16. The documentary proofs required are listed in Section 2.4.11 of the Practical Guide.

We also understand that if we fail to provide the proof/evidence required, within 15 calendar days after receiving the notification of award, or if the information provided is proved false, the award may be considered null and void.

*Comment PENTA: clearly*

***Conclusion:** at the end, we believe that this tender documentation is still not well enough to be made in a uniform manner to all bidders could be evaluated according to the required specifications, and that this tender documentation stating the name of the manufacturer and trademarks without labeling the words "or equivalent" so on this way it disabled transparent market competition in this procurement procedure.*

*Therefore, we ask you to correct technical specification in accordance with current legislation and therefore extend the deadline for submission of bids.*

*Otherwise, we will have been deprived of our rights and we will start the appeals process in front of Republička komisija za zaštitu prava u postupcima javnih nabavki.*

*Pula, 18.09.2012.*

*with regards,  
PENTA d.o.o.*



The logo for PENTA d.o.o. PULA features the word "PENTA" in a stylized, bold, blue font with horizontal lines. Below it, "d.o.o." and "PULA" are written in a smaller font. A blue ink signature is written over the logo.