**INSTRUCTIONS FOR TENDERERS**

for awarding of a public procurement contract under Chapter Twenty-Six of the Public Procurement Act (PPA) with the subject of:

**“Selection of a real estate brokerage firm for the sale of a real property (residence), located in the city of Ottawa, Canada, on behalf of DM-Ottawa”.**

І. DESCRIPTION OF THE SUBJECT OF THE PUBLIC PROCUREMENT CONTRACT

**1. Object** of the public procurement is the provision of a service within the meaning of Art. 3, paragraph 1, item 3 of the Public Procurement Act (PPA).

**2. Subject and description of the public procurement:** The subject of this public procurement is:

“Selection of a real estate brokerage firm for the sale of a real property (residence), located in the city of Ottawa, Canada, on behalf of DM-Ottawa”.

**3. Award criterion**

The award criterion is **“the lowest price”**.

**4. Period and place of performance of the procurement contract**

The period of completion of the procurement is up to 12 months from entering into the public procurement contract.

Place of performance of the service: the address of the real estate – 190 Lansdowne Road, Rockcliffe Park, Province of Ontario, Canada

**5. Term of validity of the tenders:** Until 05/03/2020 year.

**6. Total estimated value –** Thetotal estimated procurement value is up to ***75,780 Canadian Dollars (Seventy five thousand seven hundred and eighty Canadian dollars) excluding VAT.***

***!!!Each tenderer shall make a visual examination of the real property on any business day from ... to ...h, following submission of an application for visual examination according to standard form at the e-mail address of the contact person, indicated in this contract notice. Bilateral records shall be drawn up* *in regard to the visual examinations performed.***

A visual examination of the property is mandatory and such may be performed upon prior written request in a standard form to the contracting authority, not later than a day prior to the specified deadline for the submission of tenders.

**7. Funding –** The funds for fulfillment of the procurement shall be provided by funds from the own budget of the Embassy of the Republic of Bulgaria in the city of Ottawa, Canada.

**8. Price and manner of payment**

The price shall be paid by the CONTRACTING AUTHORITY within 30 (thirty) days from signing of a takeover certificate for the provided service and after receiving of the invoice issued by the CONTRACTOR.

II. REQUIREMENTS TO TENDERERS

1. **General**

**1.1.** Any Bulgarian or foreign natural person or legal entity, or any combination thereof, as well as any other entity entitled to carry out services subject of this procurement, may participate in this public procurement procedure under the law of the country in which it is established.

**1.2.** If the participant is a combination, which is not registered as a separate legal entity, it shall submit a copy of a document showing the legal grounds for establishing the combination, as well as the following information of the specific public procurement procedure:

* + the rights and obligations of the participants in the combination;
  + the allocation of responsibility among the members of the combination;
  + the activities to be performed by each member of the combination;
  + designating a partner to represent the combination for the purposes of the public procurement.

No changes are allowed in the composition of the combination after the deadline for submission of tenders.

**1.3.** The participant in the public procurement procedure shall state in its tender whether it will use subcontractors for the performance of the contract. If any subcontractor(s) is/are to be used, Art. 66 of PPA shall apply. The participant shall indicate the subcontractor and the part of the procurement, which will be awarded to him/her. Where a participant intends to use subcontractors, relevant selection criteria shall apply to them, depending on the type and part of the procurement contract, which they will perform. Pursuant to Art. 66, paragraph 1, the second sentence of PPA, the participant should submit in its tender evidence of the obligations undertaken by the subcontractors, which should unequivocally express the agreement thereof to participate as subcontractors in the performance of the public procurement contract. Subcontractors should have no relatedness with any other participant, and shall fulfil the relevant selection criteria depending on the type and part of the procurement they will perform, and there should be no grounds for their exclusion from the procedure.

**1.4.** The tenderer may rely on the capacity of third parties, regardless of the legal relation between them, with regard to criteria relating to technical ability and professional competence.

**1.4.1.** The third parties must meet the relevant selection criteria, for the proving of which the tenderer relies on their capacities, and there should be no grounds for their exclusion from the procedure.

**1.4.2.** Where the participant relies on the capacities of third parties, the said participant should be in a position to prove that it will have at its disposal the resources of the said third parties by producing documents of the obligations assumed by the third parties, as well as a Statement of Commitment in free text, completed and undersigned by the respective third party/parties

**2. Conditions for tenderers’ eligibility**

**2.1.** The circumstances set out in Article 54, paragraph 1 of PPA shall be absent in respect of the tenderers, and prohibited from taking part in the public procurement award procedure shall be a tenderer:

1. who has been convicted by an enforceable sentence for a criminal offence referred to in Article 108a, Articles 159a through 159d, Article 172, Article 192a, Articles 194 through 217, Articles 219 trough 252, Articles 253 through 260, Articles 301 trough 307, Articles 321, 321a and Articles 352 through 353f of the Criminal Code;

2.who has been convicted by a sentence currently in force for a criminal offence similar to those referred to in item 1 in another Member State or in a third country;

3. who has any obligations for taxes and mandatory social security contributions within the meaning of Article 162, paragraph 2, item 1 of the Tax and Social Insurance Procedure Code and interest thereon, to the State or to the municipality where the contracting authority and the participant or the tenderer have their registered offices, or any similar obligations, under the law of the State where the participant or the tenderer is established, proven by an instrument in force, issued by any competent authority;

4. unequal treatment is present in the cases referred to in Article 44, paragraph 5 herein;

5. who is found:

a) to have produced a document with false content, related to attesting the absence of grounds for exclusion or fulfilment of the selection criteria;

b) who has failed to provide information required in connection with attesting the absence of grounds for exclusion or the fulfilment of the selection criteria;

6. No infringement of Article 61, paragraph 1, Article 62, paragraphs 1 or 3, Article 63, paragraphs 1 or 2, Article 118, Article 128, Article 228, paragraph 3, Article 245 and Articles 301 through 305 of the Labour Code or of Article 13, paragraph 1 of the Labour Migration and Labour Mobility Act, or of similar obligations, stipulated by an instrument of a competent authority pursuant to the legislation of the State where the participant or tenderer is established, was found by an enforceable penal decree or by a court decision;

7. who is in a conflict of interest that cannot be remedied.

* **The tenderers shall attest the absence of the circumstances under Article 54, paragraph 1 of PPA with a declaration according to standard forms No. 3 and No. 4**

*Important! The grounds pursuant to Article 54, paragraph 1, items 1, 2, and 7 shall refer to the persons, who represent the participant or the tenderer and the members of its management or supervisory bodies according to the register in which the tenderer or candidate, if any, is entered, or the documents certifying its legal personality. When the composition of these bodies includes a legal person, the grounds shall refer to the natural persons who represent it according to the register, in which the legal person is entered, if any, or the documents attesting to its legal personality. Where the tenderer is represented by multiple persons, the declaration of the circumstances under Article 54, paragraph 1, items 3–6 of PPA shall be signed by the person who is competent to represent the tenderer individually.*

**2.2.** Other grounds for exclusion:

**2.2.1.** A tenderer in respect whereof the circumstances under Article 3, item 8 apply, in conjunction with Article 5, paragraph 1, item 3 of the Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions, the Persons Controlled Thereby and Their Beneficial Owners Act, unless the conditions of Article 4 of the Act are not in place.

* **To attest to this circumstance the tenderer shall submit a declaration in Standard form No. 5.**

**2.2.2.** A tenderer who does not meet the defined selection criteria or fails to fulfil another condition specified in the public procurement documentation.

**2.2.3.** A tenderer who has submitted a tender which does not meet the conditions of the procurement announced in advance.

**2.2.4.** A tenderer who, after invitation by the Contracting Authority and within the deadline defined therein, fails to extend the validity of the tender or submits a tender with shorter validity.

**2.2.5.** A tenderer whose Price Proposal exceeds the estimated public procurement value.

**2.2.6.** A tenderer who has not submitted within the deadline the justification referred to in Article 72(1) PPA and whose tender has been rejected in accordance with Article 72(3)–(5) PPA;

**2.3.** The tenderers should accurately adhere to the conditions announced by the Contracting Authority.

1. **Criteria for selection of participants**

**Having qualification to practice a professional activity:**

**1.** Every participant shall have a permit or membership in a certain organization to provide the respective services in accordance with the legislation of the state, in which the candidate or tenderer is established – Registration in the respective professional or branch register (permissions, license, active membership in the respective legitimate branch organization, which regulate the functioning of the real estate brokerage firm companies etc.), which must legitimate the right of the potential tenderer to engage in activities similar to the subject of the procurement to be awarded – a license valid for the Province of Ontario, Canada, issued by the Real Estate Council of Ontario for the provision of realtor services for the sale of real properties. The license must be issued to a realtor or to an organization under the direction of a realtor.

**To attest this requirement, the tenderer shall submit** a Declaration in free text to certify that the tenderer holds a valid license to engage in real estate brokerage services for the sale of real properties.

Upon request by the Contracting Authority, in pursuance of Article 67, paragraph 5 or paragraph 6 of PPA, the tenderer should be in a position to provide a copy, certified by it, of a valid license for engaging in realtor activity for the sale of real properties, issued by the Real Estate Council of Ontario to a realtor or to an organization under the direction of a realtor.

**Upon signing of the contract, the participant shall submit a copy of a License**, permit, or membership in an organisation for performance of the respective service in accordance with the legislation of the State of establishment of the participant.

**Requirements to the technical ability and professional competence for performance of the public procurement contract**

**1.** Any participant should have completed, in the 3 (three) years prior to the date of submission of the tender, at least two activities that are identical or similar to the subject and volume of this public procurement.

*“Identical or similar” to the subject of this order shall be understood to mean:*

**“activities related to sale of real properties, each of a value not less than 1,684,000 Canadian Dollars”**

**To certify compliance with this requirement, the participant shall submit** alist of services with subject and volume identical or similar to the subject and volume of the public procurement.

**Upon signing of the contract, the participant selected as a contractor shall submit a list**  of services with subject and volume identical or similar to the subject and volume of the public procurement within the most recent 3 (three) years, as of the date of submission of the tender, also stating the volume, values, dates and beneficiaries, together with evidence of their performance.

III. REQUIREMENT TO THE TENDERS AND THE REQUIRED DOCUMENTS

1. **Requirements to the preparation and submission of tenders**

**1. Tender preparation:**

**1.1.** When preparing their tenders, the tenderers shall follow strictly the requirements of the Contracting Authority.

**1.2.** The responsibility for accurately following the instructions shall lie entirely with the participants.

**1.3.** The submission of a tender obliges the tenderer to fully accept all the requirements and conditions specified in this documentation, subject to the PPA and the PPA Implementing Rules.

**1.4.** Until expiry of the deadline for submission of tenders, each tenderer in the procedure may amend, supplement or withdraw its/his tender.

**1.5.** A person participating in a combination or as a subcontractor of another participant may not submit an independent tender.

**1.6.** Tenders may not be submitted with alternatives.

**1.7.** The standard forms included in the Tender Documentation and the terms and conditions described therein shall be mandatory for all tenderers. Participants’ tenders must be fully compliant with those standard forms.

**1.8.** The tender shall be signed by the person who represents the tenderer or by duly authorised person/s, and the Power of Attorney by the representative of the company shall be attached to the tender.

1. **Requirements to the contents of the tender:**

Tenderers should enclose the following in the tender:

**2.1. An inventory of the submitted documents** – signed and stamped by the tenderer – in free text;

**2.2. Application to participate in the tender, including:**

2.2.1. Administrative details of the tenderer – Standard Form No. 1

2.2.2. Upon submission of the tender, the tenderer shall state compliance with the selection criteria by submitting a Reference List of services performed in the recent three years from the date of submission of the tender, their subject-matter and scope being identical or similar to the subject-matter and scope of the public procurement – Standard Form No. 6.

2.2.3. Where the tenderer is a combination, which is not a separate legal entity, it shall submit a copy of a document for establishing the combination, as well as the following information in relation to the specific public procurement procedure:

* + the rights and obligations of the participants in the combination;
  + the allocation of responsibility among the members of the combination;
  + the activities to be performed by each member of the combination;
  + designating a partner to represent the combination for the purposes of the public procurement.

**2.3. Technical proposal for implementation of the public procurement in accordance with Standard Form No. 7,** in conformity with the Technical specification of the contracting authority, containing a proposal for implementation of the procurement contract, a declaration of consent with the clauses of the enclosed draft contract, declaration for the period of validity of the tender and a declaration that obligations relating to tax and social insurance, environmental protection, employment protection and labour conditions, and enclosures have been complied with in the preparation of the tender.

2.3.1. Authorization document where the person submitting the tender is not the legal representative of the tenderer – where applicable;

2.3.2. Any other information at the tenderer’s discretion (*where applicable*).

* 1. **Price proposal, as per *Standard form No. 8***

In the event of discrepancies between the total price in numbers and in words, the price in words shall be taken into account.

The contract price shall include all costs related to the high quality performance of the service of the type and scope as described.

**2.5. Declaration of the absence of the circumstances under Art. 54, paragraph 1, items 1, 2 and 7 of PPA (Standard form No. 3).** The declaration of the absence of circumstances under Article 54, paragraph 1, items 1, 2 and 7 of PPA shall be signed by the persons under Art. 40 of the PPA Implementing Rules.

**2.6.** Declaration of the circumstances under Article 54, paragraph 1, items 3–6 of PPA (Standard form No. 4); Where the tenderer is represented by more than one person. The declarations shall be signed by the person, who is authorised to represent it independently;

**2.7.** Declaration concerning all obligated persons within the meaning of Article 54, paragraph 2 of the PPA, as per standard form No. 2,:

**2.8.** Declaration under Article 3, item 8 and Article 4 of the Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions, the Persons Controlled Thereby and their Beneficial Owners Act (Standard form No. 5);

**2.9.** Declaration under Art. 66, paragraph 1 of the Public Procurement Act (Sample form No. 10)

**2.10.** Declaration of agreement to participate as a subcontractor (Standard form No. 9) – where applicable.

**2.11.** Declaration concerning visual examination of the property (Standard form No. 11)

**2.12** Request for visual examination of the property (Standard form No. 12)

**2.13**. Declaration in free text certifying that the tenderer holds a valid license to engage in real estate brokerage activities for sale of real estate.

Direct, full, unlimited and free access is provided to the whole documentation on the website: https: …………………………………….

**3. Place and deadline for the submission of tenders**

**3.1.** The tender shall be submitted in person by the tenderer or by a representative authorized thereby, by post or other courier service, by registered consignment with acknowledgement of receipt, at the address below: 325 Stewart Street, Ottawa, ON K1N 6KS, Canada

A tenderer shall be obliged to ensure the receipt of the tender at the indicated location and within the term indicated in the notice. The risks of delay or loss of the tender shall be with the tenderer. Costs of submission of the tender shall be on the account of the tenderer. The contracting authority shall not commit itself to cooperate for receipt of the tender at the address and within the term set by it.

**3.2.** The period for submission of tenders is specified in the tender notice.

**3.3.** The tenders received shall be recorded in the incoming register, and their incoming Ref. No., date and time of their receipt shall be marked on the envelopes and a document shall be issued to this effect to the tender bearer.

**IMPORTANT! Tenders, which are submitted after the expiry of the deadline for receipt, in an unsealed packaging or in a packaging whereof the integrity is compromised, shall not be accepted.**

IV. EXAMINATION, EVALUATION AND RANKING OF THE TENDERS

*Opening, considering, and assessing the tenders*

* 1. **Opening of the tenders:**

1.1. The contracting authority shall issue an order designating an odd number of persons to examine and assess the tenders received. The Commission shall open the received tenders at a public session, where representatives of the tenderers may attend the procedure.

1.2. The Commission will start its work at the time and date specified in the tender notice at the following address: 325 Stewart Street, Ottawa, ON K1N 6KS, Canada, as it will open the tenders in the order of their receipt and will announce price proposals of the tenderers.

1.3. The Commission shall draw up a record on the examination and assessment of the tenders and on the ranking of the tenderers. The Commission shall rank the tenderers on the basis of the award criterion of the lowest price. Tenders shall be ranked in descending order.

The record shall be submitted to the contracting authority for endorsement, whereafter the said record shall be sent to the tenderers and published on the buyer profile on the same day.

**V. SIGNING THE CONTRACT**

**1.** The contract for implementation of public procurement shall be entered into with the tenderer selected as Contractor of the public procurement, in pursuance of Articles 194 and 195 in connection with Article 112 of PPA.

**2.** In the case of refusal of the tenderer ranked first to enter into a contract, the contracting authority may enter into a contract with the next ranked tenderer.

**3.** The Contracting Authority shall send the tenderer the approved record of the results of consideration, assessment and ranking of the tenders and it will publish the same in the buyer’s profile on the website of the Ministry of Foreign Affairs. The information exchange may be by post, by courier, by fax or by electronic means under the terms and procedure established by the Electronic Document and Electronic Signature Act, or by a combination of those means.

**4.** Before concluding a contract, the tenderer selected as a contractor shall provide up-to-date documents certifying the absence of the grounds for exclusion and the compliance with the selection criteria. Any such documents shall be also required for the subcontractors and the third parties, if any.

5. Upon signing of the contract the selected contractor shall submit a guarantee, whereby to secure the execution of the contract, in the amount of 3% of the value of the contract, excluding VAT.

The guarantee shall be provided in one of the following forms:

1. a cash deposit;

2. a bank guarantee;

3. an insurance securing performance by covering the liability of the contractor.

**VI. TERMS AND CONDITIONS FOR OBTAINING CLARIFICATIONS RELATING TO THE TENDER DOCUMENTATION**

1. **General instructions – clarifications**

**1.1.** Each tenderer may request in writing any clarifications concerning the public procurement from the Contracting Authority. The requests for clarification should be made within 3 (three) days prior to expiry of the term for receiving of tenders.

**1.2.** On the next business day, at the latest, the Contracting Authority shall publish clarifications in writing on the terms and conditions of the public procurement at the official internet address of the Ministry of Foreign Affairs, in the section "Buyer’s Profile”.

The provisions of the Public Procurement Act and its Implementing Regulations shall apply to all matters not provided for herein.

**VII. APPENDICES:**

**1. Standard form No. 1** – Administrative information regarding the tenderer;

**2. Standard Form No. 2** – Declaration under Article 54, Paragraph 2 of the PPA;

**3. Standard Form No. 3** – Declaration concerning the circumstances under Article 54, Paragraph 1, Items 1, 2 and 7 of the PPA;

**4. Standard form No. 4** – Declaration of absence of the circumstances under Article 54, paragraph 1, sub-paragraphs 3–6 of the PPA;

**5. Standard Form No. 5** – Declaration under Article 3, item 8 and Article 4 of the Economic and Financial Relations with Companies Registered in Preferential Tax Regime Jurisdictions, the Persons Controlled Thereby and their Beneficial Owners Act – standard form;

**6. Standard form No. 6** – List of the services with subject and scope, similar to the subject and scope of the public procurement, provided by the tenderer during the last three years prior to the date of submission of the tender;

**7. Standard Form No. 7** – Technical proposal for the execution of the public procurement contract;

**8**. **Standard form No. 8** – Price proposal;

**9. Standard Form No. 9** – Declaration of consent for participation as subcontractor;

**10. Standard Form No. 10** – Declaration under Art. 66, paragraph 1 of the Public Procurement Act;

**11. Sample Form No. 11 – Declaration concerning visual examination of the property;**

**12. Sample Form No. 12 –** Application concerning visual examination of the property;

**13. Standard Form No. 13** – Draft Contract.

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**TECHNICAL SPECIFICATION**

**Description of the real property:**

The address of the property, subject of sale is as follows: 190 Lansdowne Road, Rockcliffe Park, Province of Ontario, Canada

The real estate consists of a land lot covering area of 3200 sq.m, at two levels on the lake bank and a building with floor area of 280 sq.m and useful floor area of 626 sq.m, including:

* Ground floor – anteroom, corridor, sauna, laundry room, bathroom with a toilet, kitchenette, boiler room, three storerooms and a roofed terrace;
* 1st floor – anteroom, lobby with a staircase to the second floor, living room, dining room, kitchen, two bedrooms, roofed terrace, corridors with a staircase to the ground floor, bathroom with a toilet;
* 2nd floor – anteroom, corridors, four bedrooms, two bathrooms with toilets, separate toilet, staircase to the loft;
* 3rd floor – loft, which, after a suitable refurbishment may be used as a room with about 200 sq.m area.
* There is a car garage at the house, with two parking spaces;
* The house has at its disposal a septic tank with volume of about 12 cu.m; heating is gas-fired. Water supply is from the water mains.

**Requirements in regard to the realtor services:**

The public procurement for provision of realtor services shall be deemed fulfilled in case of successful sale of the real property – after execution of a final sale-and-purchase contract, after the final transfer of the title over the real property to the buyer, approved by Decision of the Council of Ministers of the Republic of Bulgaria, after the Contracting Authoritywould have received the entire amount of the agreed sale price of the real property and after the final acceptance of the performance under the Contract in accordance with its clauses.

In addition to its technical proposal the Tenderer must describe in detail:

1. The approach and methods of advertising and offering the real property, including analysis of the condition of the property, photographing of the real property for the purposes of its promotion and initial presentation to potential buyers; organizing and conducting of viewings of the property by potential buyers; posting of the notice of sale of the property on several websites for sale of real properties, organizing the process of negotiations with potential buyers and of the work with the competent bodies, including drawing up of the required documents and templates for carrying out the sale, as well as the methods of their presentation and signing, etc.; the specifics of the entire process of performance of the procurement must be described in a logical sequence;
2. Market analysis of the area by location of the real property to be sold.

The contractor should organize the visual examination and should report the results and feedback from the buyers on a regular basis.

The Contractor must maintain liaison with the local authorities on issues, related to the sale of the property and bringing it into conformity with the requirements of the local legislation, which need to be fulfilled prior to the transfer of the title of ownership.

The commission rate, proposed by the tenderer and representing its entire remuneration for the realtor services provided, in the event of a successful completion of the sale of the real property, may not exceed 4.5% (four point five per cent) of the sale price of the property, specified in the sale-and-purchase contract, excluding any taxes and charges and excluding any tax on the sale of the real property.