

## **Tender 10/2022**

**To be carried out through an international consultant, analysis of the existing competitive procedures in public transportation in Israel and abroad**

*The wording is translated into English - for the convenience of the bidders*

*Insofar as there is a contradiction between the wording of the English version and that of the Hebrew version, the wording of the Hebrew version shall prevail!!!*

**Ministry of Transport and Road Safety**

**August 2022**

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## Chapter A: Introduction and threshold conditions

The Ministry of Transport and Road Safety (Hereinafter: "**The Ministry**" or "**Ministry of Transport**"), hereby proposes to submit bids for an analysis of existing competitive procedures in public bus transportation in Israel and around the world. As part of the work, the winner will be required to undergo several stages of analysis and recommendations: In the first stage, analyze the current situation in Israel including the existing regulatory situation; carry out a review of competitive procedures for operating public bus transportation in the OECD countries; collect materials, hold meetings with various parties in the Authority and the Public Transport Administration as well as in other auxiliary unit, including Public Transport Operators and local authorities. In the second stage, perform an analysis of existing alternatives in the existing regulatory situation and a recommendation to change or update existing alternatives in the current regulatory situation and recommendations for alternatives, while changing the regulatory situation. In the third stage, formulate a recommendation for an operative plan to implement the preferred alternative, including deriving the meanings from the implementation of the preferred alternative for the National Public Transport Authority (Hereinafter: "**The Authority**" or "**The Ministry**" or "**Ministry of Transport**"), all as detailed in the documents of this Request (Hereinafter: "**The Request**").

### 1. Introduction

- 1.1. The Ministry of Transport is the regulator of transportation in the State of Israel, including public transport, on all levels. As part of its role, the Ministry is responsible, inter alia, on the licensing of the public transport service lines and on promoting plans for the development of the industry, through competitive procedures which it publishes. Any competitive procedure, including several service lines grouped together into a line cluster, when for the most part, these lines operate from the same geographical area.
- 1.2. The National Public Transport Authority approved a five-year strategic plan within the framework of which significant service additions are planned in public transportation, in order to transfer travelers from the private car to the public transport. Some of the service additions are reflected in competitive procedures for operating bus service lines, in various clusters in Israel. The main goal of the competitive procedures is to establish a competitive infrastructure in order to constantly improve the level of service for the traveling public.
- 1.3. Public bus transportation (on service lines) in the State of Israel is currently operated by 20 different operators (excluding 7 operators in East Jerusalem), employing about 16 thousand drivers, most of them are unionized by labor unions. In the framework of the above, the Ministry promotes work processes and infrastructure development that will ensure the full and proper operation of public transportation all over the State of Israel.

- 1.4. As part of the implementation of the reform in the public transportation industry that began in early 2000, competitive procedures have been published for the operation of public bus service lines. In the published procedures, there have been changes, starting with the procedures in which the operating risks were transferred to the bidder and until the last published procedures, in which the redemption risks were transferred to the state, whereas the operator is required to specify whether he offers royalties or requests an additional payment above the operating cost established in the competitive procedure, in order to operate the cluster. The current competitive procedures in public transportation allow bidders to compete for their share of the market as part of operating a service cluster/s for 10 years. The competition mechanisms in the competitive procedures are based on scoring the financial bid and scoring quality components. The competitive procedures provide bidders with a baseline map for execution, with the possibility of future service additions; various technological requirements regarding validation and payment and providing information to the public, with strict requirements for meeting the level of service and agreed compensation mechanisms. The economic mechanisms are based on a dictated operating cost and various incentives, which mainly concern the picking up of passengers.
- 1.5. As part of this Request and as detailed below, the Ministry is interested in contracting with an international consultant for the issue of competitive procedures to obtain a license to operate public transportation service lines, for the purpose of performing an analysis of existing competitive procedures in public transportation in Israel and around the world, formulation and recommendation of possible alternatives in order to improve the format of transportation procedures in the industry, for the purpose of continuous improvement of the service to the public traveling in public transportation.

## 2. Definitions

2.1.	"Stakeholder in a Corporation"	As defined in the <i>Securities Law, 5728-1968</i> .
2.2.	"The Ministry" / "The Customer"	Ministry of Transport and Road Safety.
2.3.	"The Work Supervisor", "The Supervisor"	Administrative division senior planning and measuring or whoever is appointed on its behalf for this purpose.
2.4.	"The Tender" / "The Request"	Tender No.10/2022 for the analysis of the existing competitive procedures in public transportation in Israel and around the world.
2.5.	"Public Transport Administrations"	Adalya Economic Consultants Ltd. and Dana Engineering Ltd., by virtue of their role as public transport administrations.

2.6.	"The Bid"	The set of documents, certificates, affidavits and all material submitted by the Bidders in this Request.
2.7.	"The Ministry"	Commissioner of Traffic as defined in Section 384 of the <i>Traffic Regulations, 5721-1961</i> , or someone on his behalf, as appointed from time to time for a certain matter or for certain types of matters.
2.8.	"Tender Committee" or "The Committee"	The special Tender Committee for granting licenses to operate bus service lines, which was appointed for the purpose of preparing tenders for the public transport competition and selecting the winner thereof.
2.9.	"Public Transport Operator" or "Operator"	Holds a service line license in accordance with regulation 385, 386 of the <i>Traffic Regulations 5721-1961</i> .

### 3. Summary of request deadlines

	<u>Date</u>	<u>Time</u>
3.1. Publication of the Request	15.8.2022	---
3.2. Deadline for sending clarification questions	8.9.2022	Till 16:00
3.3. Deadline for submitting Bids	26.10.2022	From 09:00 till 12:00

The Tender Committee may, for reasons to be recorded, extend one or more of the fixed deadlines in the Request.

### 4. Threshold conditions for participation in the Request

The conditions listed below are preconditions that bind all Bidders. A Bid that does not comply with all the conditions listed below will not be considered and will be rejected outright.

#### 4.1. The Bidder

4.1.1. The Bidder is any person or entity registered in Israel or abroad which is able to provide an international consultant, who meets all the conditions specified in section 4.2 below.

4.1.2. Holds all the required approvals according to the *Public Bodies (Transactions) Law, 5736-1976*, including the absence of convictions for offenses according to the *Foreign Workers Law, 5751-1991* and according to the *Minimum Wage Law, 5747-1987* as well as an affidavit verified by an attorney regarding the employment of employees with disabilities according to the *Public Bodies (Transactions) Law (Amendment No. 11 and Temporary Order), 5776-2016* and the *Equal Rights For Persons With Disabilities Law, 5758-1998*.

Insofar that the Bidder is an entity registered abroad, similar documents will be submitted from the country where he is registered. Any document from a competent authority, whose origin is outside of Israel, which the Bidder attaches to his Request, will also be approved by a consultant or in the usual way for international document approval in accordance with the Hague Convention (Cancellation of Authentication of Public Foreign Documents), which was signed on 5.10.1961, that is, by way of an apostille. It will be possible to submit an original document with an electronic apostille stamp attached to the original document, which was also issued electronically. The electronic apostille will be approved as long as it contains the following details: The country of origin of the public foreign document, the identity of the signer of the document, his position, the identity of the issuing authority (authority stamp), the identity of the authority issuing the apostille, place of issue, identity of the issuer, serial number of the apostille stamp and the signature of the issuer. The document will be translated into Hebrew and the translation will be certified by a notary as a certified copy of the original.

- 4.1.3. At the time of submitting the Bids, the "going concern" comment is not pending against the Bidder. In this regard, it shall be clarified that the corporation that submitted its Bid as mentioned above is not under substantial legal proceedings (including bankruptcy proceedings, receivership, liquidation, freezing of proceedings) or procedures that would cast doubt on the corporation's ability to perform the services that are the subject of this Request.
- 4.1.4. The Bid will be submitted by one legal entity, and it is the only one that will meet all the threshold conditions of the Request.
- 4.1.5. The Bidder is not related, directly or indirectly, to one of the companies managing the administration according to the 14/19 Tender published by the Ministry, that is, Adalya Economic Consultants Ltd. and Dana Engineering Ltd. and/or related companies thereto. Regarding a "Related Company", according to its meaning in the *Securities Law, 1968-5778*.

#### 4.2. **The international consultant**

The Bidder will provide a team on his behalf, headed by an international expert in the field of public transportation in the OECD countries, who will perform the services, insofar that the Bidder wins the Request. The candidate's name, details and experience will be detailed in the Request, and he is required to comply with all the following conditions:

In this section, "**will perform the services**" - **will lead, manage all the stages of the work** detailed in this Tender and will sign the opinion to be submitted.

- 4.2.1. Holds at least a master's degree from an institution recognized by the Council for Higher Education or holds an academic master's degree as mentioned from abroad, recognized by the Department for the Evaluation of Academic Degrees or the relevant body for the approval of academic degrees in that country in one of the following subjects: Economics, Business Administration, Engineering, Public Policy, Mathematics, Law, Accounting or any other degree in the social or life sciences.
- 4.2.2. Has experience in at least two countries/authorities in OECD countries (excluding Israel) in writing and/or accompanying central and significant public transport bus tenders with an annual financial volume of not less than 80 million dollars (each) and/or publication of at least two applied studies in the field of bus tenders in public transport (which have undergone an academic peer review), for local, metropolitan or government authorities in the ten years preceding the date of submission of the Request.

4.3. **Israeli consultant/accompanying entity**

The Bidder will provide, on his behalf, a body or entity operating in Israel who will serve as an Israeli consultant/accompanying entity for the international consultant. The Israeli consultant/accompanying entity will accompany the Bidder in all stages of the work and will participate in all the meetings defined by the Work Supervisor.

4.4. **Notes on threshold conditions**

- 4.4.1. The Bid will be submitted by only one legal entity and all the required documents will be in the name of this entity only and will be held as of the date of submission of the Bids. This legal entity is the Bidder of the Request and the duties and appendices mentioned thereupon apply thereto.
- 4.4.2. In order to prove compliance with the threshold conditions, the Bidder must list all the required information in accordance with the appendices, as well as any other required document for the purpose of proving compliance with the threshold requirements.
- 4.4.3. The Bidder must detail in the Bid all the information necessary for the purpose of proving his compliance with the threshold requirements detailed in sections 4.2.1-4.2.3 above and also **attach to the Bid all the supporting and necessary documents thereto, including documents to prove education and previous experience**; this, regardless of whether or



not an explicit requirement for detail or attachment was included in the Request documents.

4.4.4. The international consultant will present details of at least two bus public transport tenders and/or applied studies in the field of bus public transport tenders that he wrote, led or took a central and significant part therein, as stated in section 4.2.2. It is hereby clarified that one tender and one study can be presented.

4.4.5. **The beginning and ending months** of all professional experience presented in the Request for the proposed consultant must be indicated.

4.4.6. The Committee may reject Bids that do not meet all the threshold conditions listed above. Notwithstanding the above, the Committee is entitled not to reject Bids if there is a scribal error or all the required certificates and/or details were not attached to it and all at its sole discretion. The Committee reserves the right to contact the Bidders, all or some of them, for the purpose of proving compliance with the threshold conditions and/or the conditions of this Request.

4.5. The Bidder will be entitled for the purpose of the work, but not obliged, additional professional staff members, who, in his opinion, will contribute to the execution of the work. These staff members can have complementary knowledge and experience to the international consultant and the Israeli consultant/accompanying entity. The professional experience of the staff members will be in one of the following areas: Economics, Law, Business Administration, Life Sciences, Game Theory, accompaniment and submission of public transport tenders. The Bidder will specify in his Bid the additional staff members, their professional experience and what their professional contribution to the work is.

## **Chapter B: Description of the Requested Work**

### **5. The Work and its scope**

The purpose of the Work is to examine the competitive procedures for operating public bus transportation services in Israel, with reference to the mechanisms established therein and the existing regulation, while focusing on the framework of the procedure, the competition component, incentives, fines, formulation and recommendation of possible alternatives in the light of improving passenger service as well as maintaining competitive tension in the public transportation industry for the purpose of continuous improvement of the service to the public traveling in public transportation.

## 5.1. **The stages of Work**

5.1.1. **Stage A** - Formulation and approval of the Work methodology - within 3 weeks from the date of the contract. As part of this stage, the consultant will formulate the Work methodology, the schedules and approve them with the representatives of the Ministry.

5.1.2. **Stage B** - Analysis of the current situation in Israel and in the OECD countries - Completion of this stage by the end of 3.5 months from the date of the contract. This stage will include the sub-stages below:

5.1.2.1. A global overview of the tendering method used in the bus public transport sector in relation to at least five OECD countries, of which three European countries based on official and reliable information sources of the countries presented, emphasizing the relationship between the tender mechanisms and the level of service, referring, inter alia, to the following aspects: The competition component of the Tender, incentives used in the Tender, agreed compensations for the Operator, how to score the procedure and score the quality of the procedure, the role of the driver and status, the limitations of the regulation under which the public transportation industry operates in the surveyed countries, fares and collection methods.

It shall be clarified that in the case where competitive procedures are not published, then the existing contract method must be analyzed in the manner stated above.

5.1.2.2. Analysis of the current situation in Israel, with reference to the level of service in the public bus transportation sector in Israel compared to the level of service in the world, with the necessary adjustments and the mapping of the factors affecting the level of service in Israel. In this framework, the consultant will review all the relevant materials and inter alia, strategic plans published by the Ministry, work plans, position papers, current competitive procedures and those published in the past, background materials on the various mechanisms in the proceedings, academic publications etc. In addition, the consultant will hold meetings with relevant parties at the Public Transport Authority, in public transport administrations and auxiliary units involved in the process of formulating and writing the competitive procedures, public transport operators and local authorities.

5.1.3. **Stage C** - Insights, conclusions and recommendations - Completion of this stage by the end of 5 months from the start of the contract.

5.1.3.1. Presentation of the findings of the analysis and the conclusions regarding the degree of compatibility between the tendering mechanisms that exist in the competitive procedures in Israel in the existing situation and the Authority's targets and objectives.

5.1.3.2. Forming recommendations for updating the competitive procedures with reference to the aforementioned analysis and the various components of the procedure, inter alia: The threshold conditions, the identity of the Bidder, the competition component and the scoring of the Bids, the incentive mechanisms etc. In this framework, an analysis of the advantages and disadvantages of each recommendation will be presented, referring to the regulatory framework under which the public transportation industry operates, costs in the economy or others, the complexity of the implementation, etc. Insofar that an alternative is proposed that includes updating the regulatory framework, it will be in addition to the alternative(s) referring to the existing regulatory framework.

5.1.4. **Stage D** - An operative plan for the implementation of the recommendations - Completion of this stage by the end of 6 months from the start date of the contract.

5.1.4.1. A summary product that includes an operative plan for the implementation of the recommendations, including budgetary, regulatory and other meanings.

5.2. At the end of each stage, an interim report detailing the work performed and its results will be submitted to the Ministry.

5.3. Insofar that a decision is made to exercise options in accordance with section 19.2 below, consulting hours will be required for tasks not specified in sections 5.1 and 5.2 and which are related to the content of the contract.

## **6. The manner of performing the Work**

6.1. The winner, through the international consultant and the Israeli consultant/accompanying entity who are proposed in his Bid as well as any other party on his behalf and the Israeli consultant in his Bid, will be required to perform the services and tasks detailed in section 5 above in accordance with the scope, frequency and schedule defined above and below and according to instructions from the Supervisor.

- 6.2. The international consultant and the Israeli consultant must be available to respond to the needs of the activity that is the subject of this Request, as required.
- 6.3. The international consultant and the Israeli consultant will be required to participate, either in face-to-face or video meetings, at any meeting defined by the Work Supervisor.
- 6.4. The winner undertakes that insofar as he wins, any employee who will be provided for the purpose of performing the services that is the subject of this Request has high professional skill and ability that will allow him to meet all the requirements that are the subject of this Request at the highest level.
- 6.5. It is hereby clarified that the winner must comply with all the provisions of the labor laws, the collective agreements and expansion orders that apply to the employees employed by him, and that winning this Tender does not form an employee-employer relationship between the Ministry and/or the State of Israel and the consultant, whether the international or the Israeli, and for some of those employed by them; and that the consultants alone will be responsible for any demand and/or claim filed by any of their employees in connection with their work in this Tender.
- 6.6. The Bidder undertakes to sign the consultant and the employees on his behalf for the execution of the Work on a Confidentiality Commitment Form, as detailed in **Appendix 16 to the Request**.
- 6.7. The winners will not engage in any other occupation which would impair their ability to provide the full services required according to this Request with efficiency, availability and the required quality. This condition will be a fundamental condition in the contract with the winner, and its violation will lead to the cancellation of the contract with the winner, at the discretion of the Supervisor. In addition, the winner, the international consultant and the Israeli consultant will not be allowed to engage, directly or indirectly, in providing services to Bidders in the competitive procedures for operating bus service lines in Israel during the year following the submission of the final report. For the avoidance of doubt, the limitations on the winner as stated in the section shall apply to everyone who was employed by the winner for the purpose of conducting this Tender.
- 6.8. Without detracting the foregoing, in the event of a break in the consultant's employment or contract, either by the winner or by the consultant himself, throughout the characterization stage, the Tender Committee will be entitled to the forfeiture of the performance guarantee, all or part thereof, subject to its discretion and according to the circumstances of the matter.

- 6.9. It is hereby clarified that the contract according to this Request does not detract from any right that the Ministry has according to law.

## Chapter C: Request Procedures

### 7. Criteria for examining the winning Bid

The Tender Committee will review the Bids as follows and in accordance with the stages below:

#### 7.1. First stage - threshold conditions

In the first stage all Bids received up to the deadline for Bid submission will be opened for the purpose of checking the Bidders' compliance with each of the professional preconditions for participation and the Bids will be examined for compliance with the threshold conditions as specified in section 4.1-4.3 above. A Bid that does not meet one or more of the threshold conditions - **will be rejected**.

#### 7.2. Second stage - quality rating (60 points)

Criterion	Maximum score	Remarks
<b>Number of countries/authorities with whom the international consultant worked, in writing or accompanying tenders for public transport in buses</b>	<b>24 points</b>	6 points for each country/authority with which he worked as a consultant in writing or accompanying public transport tenders (in the ten years preceding the submission of the Bid) beyond those submitted as proof of compliance with the threshold conditions.
<b>Financial scope of the tenders to which the international consultant consulted /accompanied</b>	<b>16 points</b>	4 points will be given for each public transport tender that the consultant accompanied/advised beyond those submitted as proof of compliance with the threshold conditions, which amounted to over USD 80 million a year.
<b>Publication of applied research in the field of public transport by the international consultant</b>	<b>5 points</b>	5 points for publication of research or applied work in one of the international journals in the public transport industry. It shall be clarified

		that only peer-reviewed publications will be scored.
<b>The experience of the Israeli consultant / accompanying entity</b>	<b>9 points</b>	3 points for any consulting work he has done over the past 10 years on the following topics (from 2011 inclusive): Accompanying the submission of bids for public transport tenders and / or analysis work of public transport tenders and/or publication of research in the field of public transport in a scientific journal which includes peer review.
<b>Additional staff members (as stated in section 4.5)</b>	<b>6 points</b>	2 points for each additional staff member with relevant experience in each of the areas detailed in section 4.5.
<b>Total</b>	<b>60 points</b>	

**7.3. Only Bidders who receive a quality score of 42 points or more will move on to the next stage of scoring the Bid.**

Bidders whose quality score is lower than 42 points will be disqualified.

**7.4. Third stage - Price Bid (40 points)**

At this stage the Bids of the Bidders who passed the quality scoring stage will be opened and will be declared qualified to perform the Work. Bidder who will quote the lowest amount among the Bids (Hereinafter: "**The Lowest Price Bid**") will receive a maximum score of 40 points.

Bidders who will be quoted in amounts higher than the Lowest Price Bid will receive a relative score, according to the formula below:

The price bid for testing the Bid of Bidder X will be calculated according to the following formula:

L – Lowest price bid (gets 40 full points).

E – Any other price bid

$$\text{Score for another bid} = \left[ \frac{L}{E} \times 40 \right]$$

#### 7.5. **Fourth stage - selection of a winner**

The winning Bid is the Bid that received the most points from the summation of the quality score and the price score.

The win is a conditional win and is subject to the submission of all the required documents and affidavits appearing in this document by the date to be determined, including a conflict-of-interest check, whenever such a need arises and the settlement or rejection of the Bid in respect thereof.

Failure to present all the documents as required may lead to the rejection of the Bid.

If there are two or more Bids which will receive the same weighted score and none of them is a female-controlled Bidder as stated in the section, or both identical Bids are submitted by a female-controlled Bidder, a lottery will be held to select the winner between the two Bidders with the same Bid. The lottery will be held in the presence of the Tender Committee members: The Tender Committee will prepare a list of Bidders participating in the lottery and a participation slip for each Bidder, on which the name and serial number will be written. Each participation note will be signed by the Committee members. The participation slips will be folded and put in the box. The Chairman of the Committee will pull out one participation slip from the box. A Bidder whose name appears on the slip will be declared the winner of the lottery. The Committee will record a protocol, which will document the course of the lottery and its results. The protocol will be signed by all Committee members.

#### 7.6. **The Tender Committee is entitled not to choose any Bid, at its sole and absolute discretion, for reasons to be recorded.**

### 8. **Powers of the Tenders Committee**

Without detracting from the scope of authority granted to the Tender Committee according to any law, the Tenders Committee is entitled to proceed with the Bids as follows:

- 8.1. **The Committee will reject a Bidder that does not meet the threshold conditions.** In checking the terms of the Request and the threshold conditions, the following instructions shall apply, inter alia: (1) The Committee shall be entitled, but not obliged, at its sole discretion and if it found that this was justified under the circumstances, to remove or waive any formality and broadly interpret any threshold requirement, while paying attention to its purpose and the relationship between it and the Work and the nature of the contract that is the subject of the Request; (2) The Committee will be entitled to allow the submission of additional material and documentation related to the need to prove the Bidder's compliance with the threshold conditions and/or the quality score, to confirm the submission of an omitted certificate etc., provided that the threshold conditions were met prior to the date of submission of the Bids of the Request. It shall be clarified for this matter,

that the Committee separates between the essential threshold conditions and the ways of proving it.

- 8.2. The Tender Committee may reject a partial, incomplete, conditional, qualified, erroneous Bid or based on incorrect assumptions or on a misunderstanding of the Request specification, unless the Tender Committee decided otherwise. The Committee's decision and its opinions, in relation to a Bid or several Bids, will be recorded in the protocol.
- 8.3. Notwithstanding the foregoing, the Tender Committee may decide, that non-compliance with the Request specification was a scribal error or an invoice error in the Bid, and to correct it. Such a correction will be made during the review of the Bids by the Tender Committee and will be recorded in the protocol.
- 8.4. Missing Bid: Failure to submit all the documents required to prove section 4 as well as the price bid or any other specified document that must be submitted by the time the Bid is submitted as required when submitting the Bid may, as mentioned, reject the Bid. Despite this, the Tender Committee may not reject a Bid, to which not all the certificates and/or details as detailed above were attached, all at its sole discretion. Failure to submit any other document required by this document required to be submitted by the Bidder or the conditional winner until the date determined by the Supervisor, may also lead to the rejection of the Bid.
- 8.5. The Tender Committee may contact all or some of the Bidders and even to summon them for the purpose of getting an impression and clarifying details regarding their written or oral Bids, including receiving approvals and/or documents and/or additional recommendations and any other details as may be required for the purpose of examining and evaluating the Bids, at any stage and at its sole discretion.
- 8.6. The Bidders will deliver to the Committee all the requested data and documents, on the date set by the Committee in its Request. The Bidders' response will be attached to the Bid and will be considered an integral part thereof.
- 8.7. Qualified Bid: A Bidder is not entitled to include any reservation in his Bid, including in relation to the terms of the Request and the terms of the contract. If a reservation, omission, addition, deletion was included in the Bid or in any of the accompanying documents, or any other change (Hereinafter: "**The Reservations**"), the Committee may act, at its sole discretion, in any of the ways listed below:
  - 8.7.1. Reject the Bidder's Bid at any stage of the Request stages.



- 8.7.2. Ignore the Reservations, in whole or in part, as if they were not written at all;
  - 8.7.3. See the Reservations, all or part thereof, as constituting only a technical defect which does not violate the principle of equality;
  - 8.7.4. Require the Bidder to correct the Reservations, in whole or in part, provided that it will not be amended to change the price bid;
  - 8.7.5. Negotiate with the Bidders, as relevant as it may be and/or amend and modify the Request documents or any part thereof, provided that the amendment will apply to all Bidders, and allow Bidders to resubmit their bid or any part thereof.
- 8.8. The Committee will decide, at its sole discretion, if to act or refrain from acting in accordance with one of the options mentioned above, all or some thereof, and without being obliged to make any compromises between the aforementioned methods of operation. It is hereby clarified that the Committee will have sole discretion to refer to different Reservations in the same Bid or different Bids in a different way.
- 8.9. If the Tender Committee chooses to contact the Bidder as mentioned above and the Bidder will refrain from implementing the Committee's decision, the Committee may, without detracting from its other rights, reject the Bid and/or ignore it and/or forfeit the guarantee, even if the same Bid was or could have been selected as the winning Bid.
- 8.10. Without detracting from the generality of the aforesaid, the Committee may permit correction and completion of details and information in the Bids as well as correcting any other defect as it deems appropriate and/or the Committee may waive requirements and/or conditions included in the Request documents.
- 8.11. Without detracting from the generality of the aforesaid, the Committee may contact any Bidder and even summon him during the examination and evaluation of the Bids, in order to get clarification regarding his Bid or to remove ambiguities that may arise during the examination of Bids, all subject to the Mandatory Tenders Law, the Regulations thereunder and the TAKAM Regulations.
- 8.12. The aforesaid does not oblige the Committee to allow any corrections or additions to the Bid, and that the adoption of a policy that allows the correction of defects of a certain type does not require the adoption of a policy that allows the correction of other types of defects or set a precedent.
- 8.13. Together with the aforesaid it is hereby emphasized, that a request for clarifications and/or approvals and/or documents and/or additional recommendations, insofar as it is done, will be done for the purpose of ascertaining the Bidder's compliance with the threshold conditions and/or

for the purpose of the qualitative scoring for participation in it only. The additional material submitted by the Bidder in response to the requests for clarification will not be considered for the purpose of examining the Bidder's compliance with the threshold conditions or scoring the quality of the Bid, which will be examined solely on the basis of the material initially attached to the Bidder's Bid at the time of its submission; Unless there is a clarification to verify information specified in the Bid and which was correct at the time of submitting the Bids, and accepting the clarification will not lead to a violation of the principles of equality and fair competition, according to the law and rulings.

- 8.14. The Tender Committee reserves the right to reject, at its discretion, the Bid of a Bidder with whom the Ministry has had a negative past experience due to a failure or a fundamental defect in its functioning.
- 8.15. The Tender Committee may reject a Bidder, if it finds out for any reason, that there is a genuine concern or other reasonable doubt that the Bidder is unable to perform the contract in accordance with the requirements of this Request.
- 8.16. In addition, the Committee reserves the right to reject a Bid due to a conflict of interest, as mentioned in section 32 below.
- 8.17. The Tender Committee reserves the right to reject a Bidder's Bid against whom a criminal investigation is underway and/or there was a criminal investigation against him and/or a judgment was given against him, in which he was found guilty or liable for the offenses attributed to him and/or a sentence was given against him and/or an indictment was filed against him in the 5 years preceding the submission of the Bid, provided that there is a concern from them that this will harm the performance of the work according to this Request by him and/or that he will not be able to properly perform the work within this Request and/or that he is not fit to perform the work, all in accordance with the sole discretion of the Tender Committee. "Bidder" for this matter - A corporation, including its manager and any stakeholder therein, including the project manager and the team members who will be nominated for the purpose of performing the work that is the subject of this Request. "Stakeholder" as defined in the *Companies Law, 5759- 1999*.
- 8.18. Notwithstanding the aforesaid in any other section of this document, it is hereby clarified that the Committee may not choose the lowest Bid, at its sole and absolute discretion; and this even if the Bidder met all the conditions of this Request and after he was given an opportunity to present his arguments. In addition, the Committee may not choose a winner at all; or cancel the Request for any reason (including on its own initiative); or publish a new request - all at the sole discretion of

the Committee.

- 8.19. The Tender Committee may cancel the Request, in whole or in part, or postpone it for budgetary, organizational reasons, or for any other reason at its sole and absolute discretion.
- 8.20. Announce second and third qualified as winners of this Request.
- 8.21. Nothing in this chapter is intended to detract from any existing right of the Ministry and/or to the Tender Committee according to the *Mandatory Tender Law, 5752-1992*, or the Regulations thereunder.
- 8.22. It shall be clarified that the winner of this Request has direct subordination and responsibility towards the Ministry, and he must fulfill any additional instruction as required by the Ministry. All materials, products, copyrights, data, documents, magnetic media and any other information that will be created or stored, will belong to the Ministry, and only the Ministry shall have the exclusive rights to all of these.
- 8.23. It shall also be clarified that the contract with the winner will be carried out in accordance with the Tender Committee's instructions and requires its prior written approval.

## **9. Clarifying questions**

- 9.1. A Bidder who has questions, comments and objections regarding the terms of the procedure or any reservations in relation to the procedure documents, all or part thereof, or wishes to receive all the answers to the clarification questions by direct delivery to the email to be provided by him (even without raising a clarification question) is welcome to contact via the email address: [alony@adalya.co.il](mailto:alony@adalya.co.il) until 8.9.2022 at 16:00 p.m.
- The application will include the name of the Bidder and the name of the applicant on his behalf, his email address, address and phone number.
- 9.2. A Bidder who does not provide his details by the date specified above will be considered to have waived his right to receive answers from the Ministry to the clarification questions.
- 9.3. The clarification questions will be submitted on a document in MS-WORD format in the Hebrew language in the following format **only**:

No.	Part of the Request (Chapter / Appendix)	Section / subsection to which the question refers	Question or clarification requested

- 9.4. Answers to the clarification questions will be summarized in one document to be sent to each applicant as mentioned in section 9 above, using the email address provided by him. In addition, it will be possible to download the file of answers to the clarification questions from the website of the Government Procurement Manager at: <https://mr.gov.il/ilgstorefront/he/search/?s=TENDER>
- 9.5. Only written answers and clarifications will bind the Ministry and will form part of the Request documents. These answers are part of the Request documents, and they bind the Bidders. The Ministry and the Committee do not undertake to answer every question. Any claim regarding a mistake and/or misunderstanding regarding any detail in the Request documents and its Appendices will not be accepted, after submitting the Bidder's Bid.
- 9.6. Any claim regarding a mistake and/or misunderstanding regarding any detail in the Request documents and its Appendices will not be accepted, after submitting the Bidder's Bid.

## **10. The date and address for submission of Bids**

- 10.1. The Bidders must deposit the Bids in the tender box at the Ministry of Transport, Bank Israel 5 St., Jerusalem, Generi Building 2, floor -1, until **the date specified in section 3.3 above**. Depositing the envelope in the tender box is the sole responsibility of the Bidders.
- 10.2. **A Bid that is not found in the tender box at the time specified above, will not be handled.**

## **Chapter D: The Bid**

**The Request documents and the Bid will be an integral part of the contract that will be signed between the Ministry and the winner.**

**The Bid must meet all the requirements listed in this document.**

## **11. Submission of a Bid**

- 11.1. The Bid including all its copies and the appendices and documents required therefor will be submitted in one sealed envelope (Hereinafter: "**The Bid Envelope**"), on the back of which a request number and name will be indicated ("**Request for bids to perform the analysis of the**

existing competitive procedures in public transportation in Israel and around the world") only, **without specifying the identity of the Bidder**. The Bid Envelope will include the following:

- 11.1.1. The Bid including all its appendices will be submitted in the Hebrew language **in one printed and signed copy**.
- 11.1.2. Any document or certificate from a competent authority, which the Bidder must attach to his Bid, must be in the original or a certified copy of the original certified by the authority that issued it, or a certified copy of the original certified by an attorney. Any document from a competent authority, whose origin is outside of Israel, which the Bidder attaches to his Request, will also be approved by a consultant or in the usual way for international document approval in accordance with the Hague Convention (Cancellation of Authentication of Public Foreign Documents), which was signed on 5.10.1961, that is, by way of an apostille. It will be possible to submit an original document with an electronic apostille stamp attached to the original document, which was also issued electronically. The electronic apostille will be approved as long as it contains the following details: The country of origin of the public foreign document, the identity of the signer of the document, his position, the identity of the issuing authority (authority stamp), the identity of the authority issuing the apostille, place of issue, identity of the issuer, serial number of the apostille stamp and the signature of the issuer. The document will be translated into Hebrew and the translation will be certified by a notary as a certified copy of the original.
- 11.1.3. Each page of the Bid shall be numbered.
- 11.1.4. The Bid will include all the Bid's documents, as detailed in section 12 below, **excluding the price bid** (section 11.1.4 below).
- 11.1.5. **The price bid will be attached to the Bid Envelope in a separate, sealed envelope, separately** from all other Bid documents.
- 11.1.6. Also, a Bidder may submit an **additional copy** of the Bid in addition to the above, where the information that the Bidder considers to be confidential information that constitutes a trade or professional secret that must not be disclosed to the other Bidders will be blacked out, **together with the letter of reasoning referring to all the items of information, which the Bidder considers "confidential information"**. This copy will be marked with the words **"Trade Secret"** (See section 0 below). The Tender Committee will examine the

Bids and decide according to its sole discretion whether it is indeed a trade secret. There is no obligation to submit a copy as mentioned. **If the Bidder refrains from submitting a copy as stated in this subsection, or alternatively, the Bidder submitted a blackened copy, without having the aforementioned letter of reasoning attached thereto, this will be considered as if the Bidder has announced that there is no confidential information in his Bid. It is hereby emphasized that by marking any information in the Bid as "trade secret", the Bidder will be considered to have expressly waived the right of review, insofar as he is entitled to it by law, to the corresponding information, in the Bids submitted by the other participants of the Request.**

- 11.2. **A Bidder may submit only one Bid to the Request, and he will not be a partner, directly or indirectly, at the Bid of another participant in this Request.** An interested party in the Bidder or any entity in which the Bidder has an interest will not submit a Bid by himself and will not be a partner or sub-contractor or sub-supplier in any way, more than just one Bid as mentioned. An office holder of the Bidder, an interested party or any entity in which the Bidder has an interest will not submit a Bid either by himself or as a partner in another Bid. Also, the aforementioned office holder will not offer himself for any position, including a subcontractor in any other Bid.
- 11.3. **A Bidder will not delete or correct or change the Request and/or a section of its sections and/or an appendix of its appendices.** The Tender Committee is entitled to consider any change, correction or addition that will be made, as the Bidder's reservation from the Request's conditions and to reject the Bid.
- 11.4. All Request documents are the property of the Ministry of Transport, and they are given to the Bidder for the purpose of submitting Bids only. The Bidder is not allowed to copy them, photograph them, transfer them to another, allow others to view or use them or in any part of them for any other purpose.
- 11.5. All costs involved in participating in the Request will be at the expense of the Bidder, regardless of the results of the Request. The very participation in the Request, as stated by the Bidder, constitutes the Bidder's knowledge that all the costs involved in participating in the Request are at his expense, and that he will not have any demand or claim for reimbursement or any other compensation from the Ministry for his costs as mentioned.
- 11.6. Without detracting from the generality of the foregoing, in case of cancellation of the Request, in whole or in part, for any reason, including cancellation by the Tender Committee for reasons related to the Ministry only and/or in case of correction of the Request documents and/or in case

of disqualification of Bidders or Bids for any reason, the Bidders will not be entitled to reimbursement of costs or any compensation or for payment of any kind related to the said cancellation, amendment or disqualification.

- 11.7. The submission of the Bid by the Bidder and his participation therein constitutes a declaration and confirmation that all the Request details and its documents, including their attachments, are known and familiar to him, and that they are accepted and agreed upon by him.

## **12. Documents to be attached to the Bid**

The Bid must meet all the requirements listed in this document, including attaching all the documents in the Bidder's possession that meet these requirements and at least all the following documents:

### **Documents related to the Bidder:**

- 12.1. Bidder's details form in the form attached as **Appendix C** to the Request.
- 12.2. Affidavit of submitting a Bid in the form attached as **Appendix D** to the Request.
- 12.3. Attorney's or Accountant's approval regarding incorporation and signature authorizations on behalf of the Bidder, their name and authority to bind the Bidder with your signature, in the version attached as **Appendix E** to the Request.
- 12.4. Documents showing that the Bidder is a legally registered corporation in Israel.
  - 12.4.1. All the documents required according to the *Public Bodies (Transactions) Law, 5736-1976*, including:
    - 12.4.1.1. A duly prepared affidavit on behalf of the Bidder's authorized signatories and verified by an attorney regarding the lack of convictions for offenses according to the *Foreign Workers Law, 5751-1991* and according to the *Minimum Wage Law, 5747-1987* in the version attached as **Appendix G** to the Request.
    - 12.4.1.2. An approval from a licensed official, accountant or tax consultant, stating that the Bidder:
      - 12.4.1.2.1. Manages the account books and the records which he must manage according to the *Income Tax Ordinance [New Version], 5721-1961*, and the *Value Added Tax Law, 5736-1975* or that he is exempt therefrom;

12.4.1.2.2. Usually reports his income to the assessing officer and the Value Added Tax Administrator on transactions that are taxed according to the Value Added Tax Law;

- 12.5. A duly prepared affidavit on behalf of the Bidder's authorized signatories and verified by an \ attorney regarding the employment of employees with disabilities in accordance with the *Public Bodies (Transactions) Law (Amendment No. 11 and Temporary Order)*, 5776-2016 and the *Equal Rights For Persons With Disabilities Law*, 5758-1998, in the version attached as **Appendix G** to the Request.
- 12.6. Confirmation by the Bidder's accountant regarding the absence of a "going concern" comment at the time of submission of Bids, in the form attached as **Appendix H** to the Request.
- 12.7. Attorney's approval or affidavit of the Bidder's authorized signatories, verified by an attorney, in the form of **Appendix I** to the Request, according to which the Bidder is not or are not under substantial legal proceedings (including bankruptcy proceedings, receivership, liquidation, freezing of proceedings) or procedures that, upon acceptance, may cast doubt on the corporation's ability or the ability of the individuals to perform the services that are the subject of this Request.
- 12.8. Attach an accountant's approval regarding which "The Bidder pays his employees a salary and provides them with social conditions in accordance with the provisions of each law (including the *Minimum Wage Law*, 5747-1987), collective agreement and expansion order as defined in the *Collective Agreements Law*, 5717-1957, insofar as they apply to the Bidder or his employees".
- 12.9. Affidavit regarding the absence of a criminal record on behalf of the Bidder in the form attached as **Appendix L** to the Request.
- 12.10. Approval and affidavit regarding a business controlled by a woman, as stated in **Appendix R** to the Request, as far as relevant.
- 12.11. Tender guarantee as stated in **Appendix V**.
- 12.12. In accordance with the TAKAM Regulation 7.12.5, the winner will be required to submit reports and invoices required for payment for his work, as part of a computerized system for transferring purchase orders from the government to suppliers and receiving performance reports and invoices from the suppliers to the government (Hereinafter: "**Supplier Portal**"), by paying attention to the TAKAM Regulations and the relevant instructions of the Accountant General.



The Bidder undertakes that, upon winning, he will sign a contract for the use of the Supplier Portal in the form of Appendix X to the Tender documents. Alternatively, he will produce an approval from the company responsible for regulating the supplier registration in the Supplier Portal as a supplier using the Supplier Portal. It shall be emphasized that the winner will bear all the costs associated with connecting to the government Supplier Portal.

**Documents related to the international consultant and the Israeli consultant/accompanying entity**

- 12.13. Detail about the experience of the proposed international consultant and the Israeli consultant/accompanying entity as stated in sections 4.2 and 4.3 above, in the version attached in **Appendix J** to the Request.
- 12.14. Curriculum vitae of the consultant, detailed by years.
- 12.15. Certificates attesting to professional education and training; including but not limited to - confirmation of a certificate attesting to at least a bachelor's degree from an institution recognized by the Council for Higher Education; or a confirmation/certificate attesting to an academic degree from abroad that is recognized by the Department for the Evaluation of Academic Degrees from Abroad in the Ministry of Education, as required by the threshold conditions. In addition, certificates attesting to professional qualifications must be attached.
- 12.16. Affidavit regarding the absence of a criminal record on behalf of the proposed consultant in the version attached as **Appendix L** to the Request.
- 12.17. Commitment letters signed by the proposed consultant and the Bidder's authorized signatories, according to which the consultant undertakes to commence the work within 7 days from the date of signing the Ministry's contract with the Bidder, in the form attached as **Appendix V** to the Request.

**Additional required documents as part of the Request:**

- 12.18. Affidavit and undertaking regarding the absence of conflict of interest on behalf of the Bidder and on behalf of the international consultant and the Israeli consultant/accompanying entity, includes a list of clients/projects for the purpose of examining the conflict-of-interest issue certified by an attorney, as specified in section 32 below, in the text attached as **Appendix O** and **Appendix P** to the Request.
- 12.19. Confidentiality undertaking on behalf of the Bidder and on behalf of the international

consultant and the Israeli consultant/accompanying entity, in the text attached as **Appendix O** and **Appendix P** to the Request (Only required to be submitted by the winner).

- 12.20. Affidavit regarding the lack of family/business ties of the proposed staff members with any of the employees of the Public Transport Administration of the Ministry as detailed in **Appendix U** to the Request.
- 12.21. Affidavit regarding the lack of assistance from the Ministry's employee or the Public Transport Administration in the preparation of the Bid, in the version attached in **Appendix R** to the Request.
- 12.22. A price bid as specified in section 13 below and in accordance with **Appendix B** to the Request. The price bid will be in a closed and separate envelope. On this envelope will be written "Price Bid". No reference will be given to the price bid anywhere else, except in a sealed envelope.
- 12.23. All Request documents, including the contract attached as **Appendix A** to the Request, all signed by the Bidder's authorized signatories and the Bidder's stamp.

### **General**

- 12.24. The Bidder will attach any other document required by this Request as well as any document that supports the Bidder's compliance with the threshold requirements and in his capacity to perform the service that is the subject of this Request.
- 12.25. The submission of the Bid will be done in accordance with the appendices to this Request. Any changes made to the Request documents or any reservation in relation thereto, either by addition in the body of the documents and either by cover letter or in any other way, will not be taken into account when discussing the Bid, as if they were not written and they may even cause the rejection of the Bid.
- 12.26. The Bidder must be careful and check his Bid and make sure that it is complete and includes all the documents supporting his compliance with the Request requirements, including the threshold conditions and for the purpose of providing a quality score as stated in this document, as well as the guarantee for the bid mentioned above as an integral part of his Bid to the Request.
- 12.27. Failure to submit all documents as required when submitting the Bid may reject the Bid;

and the Bidders' attention is directed to the Tender Committee's powers according to the terms of this Request.

### 13. The Price Bid

- 13.1. The Bidder's Price Bid (Hereinafter: "**The Price Bid**") will be submitted according to **Appendix B** to the Request documents and indicate **the total consideration required to perform the work**, as specified in section 5 above:

Do not condition and/or qualify the Price Bid. The Price Bid will be submitted in a **closed and separate envelope** from the rest of the Bid documents and will be attached to the Bid envelope as mentioned in section 11.1.5 above.

- 13.2. **The Price Bid will be the final amount which includes any payment that the Bidder must pay to the winner. The Price Bid will include all the expenses involved in performing the work**, including: The wages of the employees and the employer's expenses therefor, cell phones, personal expenses, parking, travel expenses (including accommodation, flights, allowance for daily expenses and any other expenses related to travel), cancellation of time due to travel, producing reports, editing and submitting them, purchase of computer equipment and software if required and their maintenance, database development, positioning vehicles for the purpose of performing the work, carrying out further training and education for employees on behalf of the Bidder, office rental expenses, insurance and any other related or additional expenses involved in the performance of work that is the subject of this Request.

The total rate to be paid to the winner includes the full coverage of the direct and indirect costs for his work. **The consideration specified in the Bid will be final and the winner will not be paid any additional payment beyond the consideration specified in his Bid.**

- 13.3. It is hereby clarified that the Price Bid refers to the content of the work detailed in Chapter B above and for adjustments (insofar as required) in the content of the work, during the contract period.
- 13.4. The compensation for the winning Bidder will not be fixed for the entire duration of the contract, including its extensions, insofar as there are. Alongside this, and insofar as options for consultation by hours are exercised, the compensation at this stage will be updated, as and when the order of the Accountant General updating the contract rates with external service providers is published, and in accordance therewith.
- 13.5. **A Bid of a Bidder who does not submit a full Price Bid - will be rejected.**

#### **14. Tender Participation Guarantee (in this Tender, also: "Bid Guarantee" or "Tender Guarantee")**

- 14.1. The Bidder will attach to his Bid an autonomous, unlinked and unconditional guarantee from an Israeli bank or insurance company which possess a license to engage in insurance according to the *Control of Financial Services (Insurance) Law 5741-1981* and which was approved by the Accountant General in the Ministry. A guarantee from an insurance company will be signed by the authorized signatories of the insurance company and not by the insurance agent.
- 14.2. The guarantee letter will be submitted by the Bidder himself only (The Bidder will be the "debtor" according to the wording of the guarantee), in accordance with the wording detailed in the attached **Appendix W**, in the amount of NIS 25,000 (in words: twenty-five thousand NIS). The guarantee will be valid until 25/04/2023. On the guarantee it will be written that it is given "in connection with the Public Tender 10/2022".
- 14.3. Subject to the discretion of the Tender Committee, a wording different from the wording attached in **Appendix W** may cause the Bidder's Bid to be rejected.
- 14.4. A Bid that does not have a guarantee attached to it as required above and in the form of **Appendix W**, will be rejected and will not be discussed at all.
- 14.5. The Bidders will extend the validity of the Tender Participation Guarantee at the request of the Ministry until a final decision is made on the results of this Tender.
- 14.6. The Guarantee will be returned to the Bidder, whose Bid did not win the Tender, after the announcement of the Tender winner. The return of the Guarantee will be made, if made, by delivery by hand or by registered mail at the Committee's discretion, after the end of the Tender procedures. The Guarantee will be returned to the winner of the Tender at the time of signing the contract with him and after depositing the Performance Guarantee.
- 14.7. Without detracting from any other remedy given to the Ministry by any law or by this Tender, the Ministry will be entitled to forfeit this Guarantee, in whole or in part, at its discretion, in any case where the winner withdrew his bid, or he did not meet any of his obligations in accordance with his Bid and/or in accordance with the terms of the Tender and/or that he acted not in good faith including providing false/misleading information. It shall be clarified that the forfeit of the Guarantee does not detract from any other remedy to which the **Ministry is entitled**.

## 15. Validity of the Bid

The Bid will be valid for three months from the date of its submission. The Committee may, at its sole discretion, require from the Request participants to extend the validity of their Bid until the end of the Request procedures.

## 16. The expenses of preparing the Bid

- 16.1. All expenses involved in participating in the Request will be at the Bidder's expense, regardless of the results of the Request. The mere participation in the Request is equal to the Bidder's declaration that he is aware that all the expenses involved in participating in the Request, including the payments for the purchase of the Request's documents, are at his expense, and that he will not have any demand or claim for reimbursement or for any other compensation from the Ministry for its expenses as mentioned.
- 16.2. Without detracting from the generality of the foregoing, in case of cancellation of the Request, in whole or in part, for any reason, including cancellation by the Ministry for reasons related to the Ministry only and/or in case of amendment of the Request documents and/or in case of disqualification of Bidders or Bids for any reason, the Bidders will not be entitled to reimbursement of expenses or any compensation or for payment of any kind related to said cancellation, amendment or disqualification. Insofar that the contract is canceled after winning the Request or the scope of the work will be reduced - the consideration will be paid to the winner according to the services he actually performed.

## Chapter 5: Contact with the winner

### 17. Undertakings of the winner

- 17.1. The Bidder undertakes that if he wins the Request he will provide the Ministry with:
  - 17.1.1. **Performance guarantee** as mentioned in section 17 below, which will be made available to the Ministry until the date of signing the contract and as a condition for its signing;
  - 17.1.2. **For a corporation: Provide the Ministry with an up-to-date company/partnership extract** (which can be issued through the [website of the Israel Corporations Authority](#)), showing that no annual fee obligations are specified for the years preceding the year in which the contract is made. Regarding a company, it will be checked that it is not stated that the company is violating the law or that it is under notice before registration as a law-breaking company.

17.1.3. **For a non-profit-organization and a public-benefit corporation: Provide a certificate of proper management** from the Registrar of Associations or the Endowments Registrar, as the case may be, attesting that the body complies with the requirements of the [\*Amutot \(Non-Profit Organizations\) Law, 5740-1980\*](#), [\*Companies Law, 5759-1999\*](#) or the [\*Trust Law, 5739-1979\*](#), as the case may be, and the Registrar's instructions on how to manage it properly for the purpose of obtaining the approval.

17.2. **The provision of the service will begin only after the signing of the contract agreement by the Ministry. The receipt of the notification of winning the Request does not constitute confirmation of the commencement of the contract.**

17.3. The winner undertakes that, in the event that the international consultant and/or the Israeli consultant/accompanying entity is unable to continue in his position before the final report is completed, the winner will provide another consultant who meets the conditions stipulated in the Tender and who will be approved by the Ministry.

17.4. The winner must establish an address in Israel that will be used for producing judicial documents and documents and will remain in effect for up to 12 months after the work is completed.

## **18. Performance guarantee**

18.1. To ensure the fulfillment of his undertakings, the winner of the Request will deposit for the performance of the work, at the time of signing the contractual agreement with him, an autonomous, unlinked and unconditional guarantee from an Israeli bank or insurance company which possess a license to engage in insurance according to the *Control of Financial Services (Insurance) Law 5741-1981* and which was approved by the Accountant General in the Ministry, in the amount of **NIS 50,000 (in words: fifty thousand NIS)**, for the benefit of the Ministry of Transport and Road Safety, an example of the wording of the performance guarantee attached as **Appendix T** to the Request. A guarantee from an insurance company will be signed by the authorized signatories of the insurance company and not by the insurance agent.

18.2. This Guarantee will remain valid for the entire contractual period and until the end of 90 days after the contractual period.

18.3. If the contract extension option is exercised, the winner will extend the Guarantee accordingly or will put another one under, according to the terms of the original Guarantee as detailed in this section, 30 days before the end of the contract and as a condition for its continuation.

18.4. The Tender Committee will be entitled to forfeit the performance guarantee, in whole or in part, if the winner of the Request does not comply with his undertakings according to the contract or if the Ministry has spent amounts that the winner owes according to the aforementioned contract and/or if the Ministry suffers damage due to an act or omission of the winner or someone on his behalf, all at its discretion.

18.5. The winner of the Request undertakes to ensure that, throughout the contractual period, the Ministry will have a valid performance guarantee in the full amount mentioned in section 18 above.

## **19. Insurance**

The winner undertakes to carry out and maintain the insurances specified in section 11 of the contractual agreement, for his benefit and for the benefit of the State of Israel - the Ministry of Transport and present them to the Ministry when they include all the required coverages and conditions, and the limits of liability will not be less than what is indicated in section 11 of the contractual agreement, attached as **Appendix A** to the specification of this Request.

## **20. The contract period**

20.1. A Bidder who wins this Request undertakes to start the work by the end of 7 days from the Ministry's signing of the contractual agreement.

20.2. Without detracting from the deadlines specified in section 5, the Contract Period will be for one year from the Ministry's signing of the contractual agreement (Hereinafter: "**The Contract Period**"). The Tender Committee reserves the option to extend the Contract Period for periods of up to one additional year at a time, provided that the total Contract Period does not exceed two years and four months from the beginning of the validity of the contract to be signed. This option will be exercised at the Ministry's sole discretion. Notwithstanding the foregoing, the Ministry will be entitled to terminate this contract by giving 60 days prior written notice, at its sole discretion and without the need for providing reasoning. The winner will not be entitled to any compensation and/or indemnification and/or any payment for the termination of the contract.

## **21. Milestones and payment terms**

21.1. The consideration will be paid to the winner of the Request according to the milestones detailed below:

- 21.1.1. Milestone A: Completion of Phase A and approval of the work methodology document, including schedules as stated in section 5.1.1 above - 10%
- 21.1.2. Milestone B: Completion of Phases B and C as specified in sections 5.1.2 and 5.1.3 above - 50%
- 21.1.3. Milestone C: Completion of Phase D as detailed in Section 5.1.4 above - 40%
- 21.2. The consideration will be paid to the winner against the submission of a detailed account and an invoice approved by the Supervisor. The account will detail the nature of the work, the details of the winner, the party ordering the work, and the milestone for which the payment is required.
- 21.3. The payment demands will be submitted within the government Supplier Portal, while paying attention to the TAKAM Regulation 7.12.5. It shall be emphasized that the winner will bear all the costs associated with connecting to the government Supplier Portal.
- 21.4. The Supervisor will approve the accounts in the Supplier Portal after checking the execution of the works.
- 21.5. VAT will be added to the consideration according to law, as well as linkages subject to the linkage regulation specified in the TAKAM Regulation 7.5.2.1 and in the contractual agreement attached as Appendix X to this Tender specification.
- 21.6. The payment will be transferred to the Bidder by the Ministry during a period of up to 45 days from the receipt of a detailed bill and receipt of the approval of the Supervisor that the detailed service is indeed required of the winner, and it was indeed carried out to his satisfaction, in accordance with the date of the submission of the bill as stated in the TAKAM Regulation 1.4.3 "Making payments in accordance with an Undertaking".
- 21.7. The counting of credit days for payment to the supplier will start from the date of inserting a proper account in the Supplier Portal including all the required accompanying documents, as detailed in the [TAKAM Regulation 1.4.2, "Account Inspection"](#).
- 21.8. The winner will not have any demands or complaints to the Ministry regarding payment delays for reasons of lack of details in the accounts or incorrect details or lack of accompanying documents.
- 21.9. It shall be emphasized that if it is found in the submitted accounts that there is a financial deviation of any kind, including billing for work that was not actually performed and billing for work that was not required, no payment will be given for these deviations.



- 21.10. The supplier is not allowed to condition any payment to his suppliers and/or employees and/or to any other party to whom he must pay according to law or contract, in receiving payments from the Ministry.
- 21.11. It may be required to deduct tax at source for all payments that will be transferred directly to the winner who is an international entity that is not taxed in Israel, in accordance with the existing tax treaty between the State of Israel and the country where the winner is taxed or in accordance with any other law. The winner will be able to instruct the Ministry to transfer the payments due to him to an Israeli entity.

## **22. Compliance with schedule**

- 22.1. The winner undertakes to carry out all the works in accordance with the schedules detailed in this Request and its Appendices. Accordingly, the winner will be required to do everything that is reasonable to do under the circumstances to promote this undertaking.

## **23. Licenses and permits**

- 23.1. Each winner undertakes to have all the licenses and permits required by all authorized authorities for the purpose of managing and operating a business, starting from the beginning of the Contract Period and throughout the Contract Period. The winner will take care during the entire Contract Period to renew the necessary licenses and/or permits, so that during the entire Contract Period, its activity will be managed in accordance with the conditions of the licenses and/or permits required by any law. The responsibility for obtaining these licenses and permits will apply to the winner who will bear all the expenses involved. The Ministry will be entitled to require the winner to present these licenses and certificates at any time.
- 23.2. If no license has been renewed or a permit is not granted as required by any law, the Ministry may cancel the contract with the winner immediately, and the winner will not have any claim and/or argument and/or right to any compensation as a result thereof. **Accordingly, the Ministry may forfeit the performance guarantee, in whole or in part, at its sole discretion.**

## **24. Control and supervision**

- 24.1. It is hereby clarified that the Ministry will be entitled to carry out at its discretion, either by itself or through an external party on its behalf, supervision and control over the activity of the winner and his compliance with the conditions of this Tender, in the place and under the conditions as it deemed appropriate.

- 24.2. To the extent requested by the Ministry, the winner must provide any document and any findings related to his activity within the framework of this Tender upon the first requirement and cooperate at any time, and all in order to enable the examination of the issues and activities related to the performance of all the services required within the framework of this Request.
- 24.3. Failure to transmit information as required will constitute a fundamental breach of the contract by the winner, in accordance with the Tender documents and the contractual agreement that will be signed with him, **and the Ministry will be entitled to forfeit all or part of the performance guarantee and/or offset/withhold amounts due to the winner at its sole discretion.**

## **25. The relations of the parties**

- 25.1. The services that are the subject of this Request will be provided within the organizational framework of the winner only. Regarding "Organizational Framework", that is, all actions of the winner will be included, including: Finding employees, hiring them, negotiating with them, supervision of their activities, payment of their wages and their accompanying social conditions, their dismissal and the accompanying responsibilities as well as imposing discipline as is customary within the winner.
- 25.2. The winner undertakes to inform all his employees who are employed and will be employed for the purpose of providing the services that are the subject of this Request, explicitly and in writing, that they are not employees of the Ministry.
- 25.3. The winner alone will be liable for anyone employed by him in providing the service, according to any law. Also, the winner will be solely liable for any damage caused to the Ministry of Transport and/or the Israeli Government and/or to someone on their behalf and/or to any third party, by him or by those employed or operated by him. If, despite the above, the Ministry of Transport and/or the Government of Israel and/or someone on their behalf will be required to bear any liability, which, according to the provisions of the terms of this Tender and/or the terms of any law, is under the liability of the winner, the winner will indemnify and fully compensate them for it.
- 25.4. Tax payments and other mandatory payments will apply only to the winner, that derive from the provision of the service according to the terms of this Tender according to any law and that the employer must pay them in relation to his employees and in accordance with the law and practice, both in Israel and in the country of the consultant and his employees, including payments to the National Insurance Institute or its equivalent and the rest of the social rights. The winner alone

will be liable for any claim by an employee from his employees in connection with the execution of this contract or its termination.

## **26. General instructions regarding contacting the winner**

- 26.1. The winner will perform the services in accordance with an approved work order and budget.
- 26.2. The winner of the Request to provide efficient and excellent services in all areas of his activity and perform the full tasks in accordance with this Request and in accordance with the Supervisor's instructions to his full satisfaction, seriously and efficiently.

## **Chapter 6: Legal aspects and warranty**

### **27. Right of review**

- 27.1. In accordance with the *Mandatory Tender Regulations, 5753-1993*, the participants in the Request may ask to review the winning Bids, except for those parts which, in the opinion of the members of the Tender Committee, constitute a professional or trade secret.
- 27.2. A Bidder may request in advance that certain parts of his Bid remain confidential, due to being a professional or trade secret, while presenting reasons for the request. The request and reasons will be attached to the Bid itself. The Bidders' attention is directed to what is stated in section 11.1.6 above regarding their express agreement to waive the right to review the Bids of the other participants in the Request, in relation to information essentially identical to the information marked by them as a "trade secret" in their Bid.
- 27.3. The Tender Committee is the authorized and exclusive body to decide what constitutes a professional or trade secret in this context. A request for confidentiality will be brought before the Tender Committee, if relevant. The Committee's decision in this matter will be final and cannot be appealed.

### **28. Property rights**

- 28.1. The Ministry will have property rights in any work performed by the winner under this contract, including reports and intermediate products, including any information that will come to the winner as part of the work and its documentation on magnetic media or any other media, and the winner will not be allowed to make any use of them without the prior written approval of the Work Supervisor, but for the provision of the services referred to. The winner undertakes to take all actions as required in order to register these rights in the name of the Ministry according to any law.

- 28.2. Any material of any kind purchased by the winner for the purpose of performing the services will be the property of the Ministry and the winner must transfer it to the Ministry of Transport immediately upon completion of its use for the purpose of providing the services.
- 28.3. As part of the performance of the services that is the subject of this Request, the winner will not infringe any intellectual property right, including copyright, of any party. If such rights have been infringed, the winner will be solely liable for this infringement and indemnify the Ministry for all the expenses and damages that will incur as a result of a claim or demand for such an infringement.
- 28.4. After the completion of the provision of the required service or part thereof, the winner will hand over to the Ministry of Transport all the material relating to the service provided, including disks and/or any computer material/computer output, all at no additional cost. The winner will deliver all said material at any time according to the Ministry's request and at the latest within 14 days from the date of the demand.
- 28.5. The Ministry of Transport may at any time visit the offices of the winner and demand information, presentation of any document or any computer file related to the execution of the work and the control activity that is the subject of this Request.

## **29. Publication of the contractual agreement**

- 29.1. In accordance with Government Decision No. 1116 of 29.12.2013, which concerns the publication of permits and contract documents between the state authorities and private entities (Hereinafter: "**Government Decision**"), the final signed contract will be published on the central freedom of information website whose address is [www.foi.gov.il](http://www.foi.gov.il) within a month of its signing. The contract will be published in its full and final form and the publication will apply to any addition or correction of the contract made after the contract was published.
- 29.2. The party to the contract, the Bidder or a third party who may be harmed by the publication of the contract, may object to the publication of certain sections in the contract, all or part therefrom, and he must indicate in a clear and reasoned manner the relevant parts, which in his opinion may harm him, as mentioned in section 4(g) of the Government Decision. **To this end, a Bidder who believes that he may be harmed by the publication of the aforementioned contract will submit his objection along with a letter of reasoning when submitting his Bid to the Request, on the deadline for its submission. There is no obligation to do so. However, to the extent that the Bidder refrains from submitting an objection to the publication of the text of the contract, such as the one proposed in Appendix A to this Request, this will be considered as**

**if the Bidder has announced that he has no objection to the publication of the contract in the event of his winning.**

29.3. The Tender Committee may reject the objection of the party to the contract, the Bidder, or a third party if it finds that there is no exception to the law for the publication of the contract, or if it is convinced that under the circumstances, the weight of the public interest in disclosing the information exceeds the intensity of the expected damage to the private body as a result of the publication of the information. If the Tender Committee decided to reject the objection, it will announce this in a reasoned decision in writing and inform the opponent that he may petition against this decision within 21 days as stated in section 4(g) of the Government Decision. Information whose publication is controversial will not be published before the period for submitting the petition has elapsed.

### **30. Prohibition of coordination of Bids**

- 30.1. The Bidder may submit only one Bid. The Bidder will not be allowed to submit a Bid as a Bidder or as a subcontractor in the Bid of another Bidder, and will not be a partner, directly or indirectly, in the Bid of another participant in this Request.
- 30.2. An interested party in the Bidder or any entity in which the Bidder has an interest will not submit, by himself, a Bid to this Request and will be no partner or subcontractor in any way more than just one Bid as mentioned.
- 30.3. An official in the Bidder, an interested party in it or any body in which the Bidder has an interest will not submit a Bid to the Request, either by himself or as a partner in another Bid. Also, the aforementioned office holder will not offer himself for any position, including a subcontractor in any other Bid.
- 30.4. The Bidder, an interest party thereto, and any entity that the Bidder has an interest in or an official in one of them, will not work to coordinate the Bid of the Bidder with the Bid of any other Bidder. Without detracting from the generality of the foregoing, coordination of Bids, including:
- 30.4.1. Explicit or implied conclusion of the contract or an understanding of any kind with a person or entity that has an interest in the Bidder - regarding costs, cooperation, financing, prices, transfer of assets, strategies for the bids, etc.
- 30.4.2. Receiving of the said information or exchanging it in another way, its publication or disclosure to any person or body, when it is known to the Bidder that the person or body is an interested party or an officer or agent or employee of another Bidder.

- 30.5. If the Committee was convinced that despite what is stated in this section, the content of a Bid or Bids had been coordinated, as stated above, the Committee will reject the Bid or Bids and it will be possible to forfeit the guarantee, in whole or in part.
- 30.6. The work that is the subject of this Request will be performed by the **winner** only. The **winner** will not be allowed to perform the work or any part of it through subcontractors except for the consultants in the Bid.

### **31. Ownership of information and confidentiality**

- 31.1. All the Information that will reach the winner as part of this Request to perform the work, including the data, documents, text pages and his work products (Hereinafter: "**The Information**") will be fully and exclusively owned by the Ministry of Transport and the winner undertakes to keep the Information in complete and absolute confidentiality and not to forward it on to any party, or make any use of it other than the use required for the purpose of performing the work as stated in this Request. This obligation will apply even after the termination of the contract with the winner, for any reason.
- 31.2. The winning Bidder hereby declares that he is aware that failure to maintain confidentiality constitutes an offense according to Chapter 7, Section 5 of the *Penal Law 5737-1977*.
- 31.3. The winning Bidder undertakes to keep confidential any news and any Information that comes into his possession due to the performance of the work that is the subject of this Request, and he shall sign a non-disclosure agreement in the version of the Ministry of Foreign Affairs as **Appendix O** to the Request.
- 31.4. The winning Bidder undertakes to ensure that confidentiality, as mentioned, is also maintained by its employees, and all those employed by him for the purpose of performing the work which is the subject of this Request and undertakes to sign his employees and all those employed by him in the performance of the work, which is the subject of this Request, on the non-disclosure agreement in the version attached as **Appendix P** to the Request.
- 31.5. At the time of termination of the contract to perform the work according to this Request or at its termination, the winner undertakes to transfer without any additional consideration to the Ministry or to another body chosen by him to perform the work, all material and information accumulated from this work, according to the request of the Ministry, within a time frame to be determined by

the Ministry and while ensuring the continuity of the activity, and if necessary, he shall perform an on-the-job training, as required.

- 31.6. The material that will be delivered by the winner as mentioned above will include, inter alia: Documents, information and knowledge accumulated from this work on paper, diskettes, computer material / computer output, or other magnetic media. The winner will not keep in his possession any material, whether given to him directly or indirectly.

## **32. Information security**

- 32.1. The winner will be responsible to the Ministry of Transport for any information collected by him as well as any information that will be transferred to him or through him.
- 32.2. The winner will take care of the security of all the information that comes to him as part of the performance of the work that is the subject of this Request.
- 32.3. The winner will be denied access to the computer systems in his possession or to the computer systems that serve it for the purpose of performing the work that is the subject of this Request, from those who are not authorized to review the material or information stored on the computer or from those who did not sign a non-disclosure agreement.

## **33. Avoidance of conflict of interest**

- 33.1. Upon submission of the Bid, the Bidder undertakes that insofar as he wins this Tender, he or the consultant or the Israeli consultant on his behalf or any of his employees or anyone on his behalf, for the purpose of performing the services according to this Tender, will not be in a situation of conflict of interest between the work that is the subject of this Tender and other works that he is or the consultant or the Israeli consultant on his behalf or any of his employees performer during the provision of the services according to this Tender. In addition, the Bidder undertakes that insofar as he wins the Tender, for the purpose of carrying out the work that is the subject of this Tender, he will not communicate with a party with which there is a possibility that he or his employees will find themselves in a conflict of interests as stated.
- 33.2. In this context, the Bidder undertakes that insofar as he wins the Request, he and the consultants on his behalf, the international consultant and the Israeli consultant/accompanying entity or any of his employees or anyone on his behalf including control holders and parent/sister/subsidiary company, will not give any advice/service and/or will not perform any work, either directly or indirectly, with or for public transport operators, including entities that participate in tenders for granting licenses to operate public transport services, or to taxi organizations, transport companies

and companies or entities that operate or intend to operate mass transport systems. This is for the duration of the contract and for a year thereafter and regarding the additional staff members (as specified in section 4.5), for 6 months thereafter, unless the Ministry's consent was given in advance and in writing. The above is including through subsidiaries and/or parent and/or sister companies.

- 33.3. The Bidder hereby declares that he is not related to Dana Engineering Ltd. and/or Adalya Economic Consultants Ltd. and/or to their related companies; and that anyone on behalf of these companies, or anyone who worked in these companies during the year preceding the publication of this Request did not assist him in writing the Bid. For this matter, "related company" as defined in the *Securities Law, 5728-1968*.
- 33.4. For the purpose of checking the existence of a concern of a conflict of interest or a conflict of interest, the Bidder will deliver to the Ministry, upon receipt of the notification of his conditional win, an updated list containing all the services and/or works performed by him (as well as by its controlling owners and parent/subsidiary/sister companies), by the proposed expert - for and/or on behalf of and/or as part of an activity/service of one of the entities listed in section 33.2 above, while detailing in relation to each person or entity for whom said work or service is performed (Hereinafter: "**Customer List**"). In addition, a detail of all the companies that are under the control and/or partnership of one or more of the interested parties will be attached.

The affidavit attached as **Appendix M** regarding the Bidder's contract and his undertaking to avoid conflict of interest, will be signed by the authorized signatories of the Bidder and will be presented by him before signing the contract and will be considered an integral part of his bid.

The affidavit attached as **Appendix N** regarding the consultant's contracts and his undertaking to avoid a conflict of interest, will be signed by the proposed consultant and will also be presented before signing the contract and will also be considered by him as an integral part of his Bid.

- 33.5. The lists will be reviewed by the Tender Committee. The Tender Committee will be entitled to check the correctness of the statements of the Bidders and who is on their behalf against any party that will be detailed in the documents on behalf of the Bidder and/or any other relevant source of information. To the extent that it is found that the Bidder or anyone on his behalf as detailed above, has a conflict of interest or may be found in a conflict of interest as detailed above, this party will be required to undertake to stop the execution of the works listed in these sections upon the winning of the Request, insofar as he wins; or the Bidder will be allowed to withdraw his Bid. It will not be possible to enter into a contract with a Bidder, which a conflict of interests occur



regarding him or the expert on his behalf or the project manager on his behalf or any of his employees or anyone on his behalf, as well as regarding an interested party and/or control, including through subsidiaries and/or parent and/or sister. The Committee's determination regarding the absence of a concern of conflict of interest will be a condition for signing the contractual agreement, insofar as the Bidder wins the Request. The Committee's decision regarding the matter will be final and binding for the winner.

- 33.6. It is hereby clarified that the Tender Committee will be entitled to reject a Bidder's Bid which, according to its judgment, there is a concern of a conflict of interest and/or an actual conflict of interest and/or that the Bidder or anyone on his behalf as stated did not declare this as stated in this section.
- 33.7. The Bidder undertakes that if and when any possibility or suspicion arises for him that during the management of the Request or during his work for the Ministry (as applicable) according to the terms of this Request, he or someone on his behalf may find himself in a situation where there is a possibility of a conflict of interest, he shall report this immediately in writing to the Supervisor and cease the same activity until receiving the Supervisor's permission to continue, insofar as it is granted.
- 33.8. It is known and agreed that the Tender Committee will be entitled to cancel the contract with the winner and/or to demand the termination of the activity of anyone on behalf of the Bidder within the framework of the contract, in the case where, according to its discretion, there is a concern of a conflict of interest regarding them, and this after an inquiry by the Committee and/or the Ministry with the winning company.
- 33.9. Violation of any undertaking according to this section 32 including its sub-sections and the presence of the winner and/or someone on his behalf in a conflict of interest during the Contract Period, at the discretion of the Tender Committee, will be grounds for canceling the contractual agreement, and charging the Bidder with agreed compensations that amount to NIS 15,000, which only partially reflect the potential damage that may be caused to the Ministry as a result of breaching the winning bidder's undertaking regarding the prohibition to be found in a conflict of interest.

## **34. Transfer and grant of rights**

The winner will not have the right to transfer and/or encumber and/or in any way a right from his rights or a duty from his undertakings in connection with the contract or pursuant to it or deriving therefrom,

all or part thereof, unless he received the Ministry's consent in advance and in writing, and in accordance with the conditions determined by the Ministry at its discretion.

### **35. Liability and indemnification**

The winner will bear full and exclusive liability towards the Ministry for any damage, including pure economic damage, which will be caused directly or indirectly to the Ministry, the winner, and its employees and/or his agents and any third party, in the course of, and following or as a result of fulfilling his undertakings according to this Request, including, but without detracting from the generality of the foregoing, for the failure to provide the service, and the Ministry will be exempt from liability for any damage as stated.

The winner will compensate the Ministry for any damage for which it is liable as stated above and indemnify the Ministry for any payment that any of them incurs due to a lawsuit that will be filed against him for damage for which the winner is liable as stated above and/or according to any law.

### **36. The law applicable to the tender and the subsequent contract, and the appropriate forum**

It is hereby agreed that the law applies to the Tender and the costumer-winner relations and the appropriate forum, including the international consultant and his employees, is the Israeli law and the forum for all legal litigation will be exclusively the court in Israel.

## **Chapter G: Appendices**

*The English translation does not include the translation of the appendices themselves.*

**Below is the list of appendices attached to the Request:**

**Appendix A:** Contractual agreement

**Appendix B:** The price bid

**Appendix C:** Details of the bidding entity and its contact person for the Request

**Appendix D:** Declaration of submission and non-coordination of transactions

**Appendix E:** Attorney's approval regarding incorporation and authorized signatories

**Appendix F:** Affidavit regarding the lack of convictions for employing foreign workers and minimum wage

**Appendix G:** Affidavit regarding the employment of people with disabilities

**Appendix H:** Certification of the Bidder's accountant regarding the absence of a "going concern" comment

**Appendix I:** Affidavit regarding the absence of substantial legal proceedings

**Appendix J:** The consultant's experience

**Appendix K:** Bidder's affidavit regarding the absence of a criminal record

**Appendix L:** The consultant's affidavit regarding the absence of a criminal record

**Appendix M:** Affidavit and undertaking of the Bidder regarding avoidance of conflicts of interest

**Appendix N:** Affidavit and undertaking of the consultant regarding avoidance of conflicts of interest

**Appendix O:** Confidentiality obligation - The Bidder

**Appendix P:** Confidentiality obligation - The consultant

**Appendix Q:** Affidavit regarding the lack of assistance from the Ministry employee in preparing the bid

**Appendix R:** Encouragement of women in business

**Appendix S:** Letter of performance guarantee

**Appendix T:** Affidavit and undertaking of the Bidder regarding the absence of a business and/or friend  
and/or family ties

**Appendix U:** Mutual undertaking letter

**Appendix V:** Tender guarantee letter