



Date: 09/12/2015

SM/SM

**VND-302/15**

**SUBJECT:** Clarification 3 / AMENDMENT 3 of Tender Documents for public procurement:  
**PURCHASE OF 5 NEW SOLO LOW FLOOR BUSES WITH ELECTRIC DRIVE WITH EQUIPMENT FOR CHARGING** (name and label from the general procurement dictionary: 34144910 – Electric Buses), no. **VND – 302/15**

**CLARIFICATION OF TENDER DOCUMENTS 3 / AMENDMENT 3 OF TENDER DOCUMENTS NO. VND-302/15**

Dear Sir,

Please find attached the Clarification 3 / AMENDMENT 3 of Tender Documents,

**This Clarification 3 / AMENDMENT 3 is henceforward a containing part of Tender Documents.**

Sincerely Yours,

EXECUTIVE MANAGER  
OU "INVESTMENTS"

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Ljeposavka Vidović, LL.B.

**Attachment: Clarification 3 and entire amended Tender Documents 3 no. VND-302/15**

**PROCUREMENT SUBJECT - PURCHASE OF 5 NEW SOLO LOW FLOOR BUSES WITH ELECTRIC DRIVE WITH EQUIPMENT FOR CHARGING** (name and label from the general procurement dictionary: 34144910 – Electric Buses), no. **VND – 302/15**

**CLARIFICATION OF TENDER DOCUMENTS 3 / AMENDMENT 3 OF TENDER DOCUMENTS NO. VND-302/15**

Dear Sir,

Pursuant to Article 63 of the Law on Public Procurement („The Official Gazette of the Republic of Serbia” No. 124/12, 14/15 and 68/15) we are providing you with the following clarifications related to the bid preparation:

No.	QUESTION
1	<p>I read your answer regarding the number of doors in which you, as the Purchaser, remain with requirement that electrical buses which shall transport the citizens of Belgrade can be buses with two doors with minimum width of 1.200 mm.</p> <p>As an interested person, I required that you amend the Tender Documents, stating that the buses must have minimum three doors.</p> <p>You stubbornly stuck to your original requirement. I had studied the offer in the worldwide market of electric buses and came to the following conclusion: Technical specification for electrical buses which is a part of Tender Documents is adjusted exclusively for the buses produced by Bulgarian company Chariot Motors in cooperation with Chinese manufacturer Higer.</p> <p>Note that you do not have right to favour one manufacturer, especially if in this way you want to procure the goods which is not functional. Why do you allow procurement of buses with two doors, when in the market there are buses with three doors which are more functional? These buses are not purchased every day. Who gives you the right to spend citizens' money on non-functional buses?</p> <p>Have you ever used buses yourselves?</p> <p>Do you know that bus with two doors is considerably less comfortable and less functional than the one with three doors?</p> <p>Gentlemen, the State has entrusted you to procure something of vital significance for our city. You have to require such characteristics that provide the greatest comfort and functionality for citizens. Otherwise, I consider you corrupt or unprofessional for the job you do. This attitude of your and inability to understand the difference between buses with two and those with three doors remind me on the procurement of underground garbage containers when a lot of money was spent for something non-functional.</p> <p><b>Hence, my question is as follows:</b> Why do you allow the procurement of buses with two doors when you can get bids of buses with exclusively three doors? By which method you established that the functionality of a bus with two doors is the same as of the one with three doors and that it is irrelevant if the bus have two or three doors?</p> <p>Summary: Belgrade does not have alternative for passenger transport, we do not have metro so that buses can be only auxiliary means of transport.</p> <p><b>You have one more possibility to correct the Tender Documents, i.e. to set as the requirement for participation on the public procurement that the buses must have minimum three doors.</b> This is of vital significance for the citizens of Belgrade.</p> <p>Just to note – if you do not take care that the citizens of Belgrade obtain what is best for them, i.e. low floor buses with electrical drive and with three doors, I will turn to the Anti-corruption Agency, Public procurement Office, media and Prime Minister himself.</p> <p>As a citizen of this City, I feel responsibility to stop the individuals that easily spend public money on failed investments.</p> <p>You Gentlemen, viewed from the aspect of Belgrade citizen, should consider if it is better to procure buses with two or three doors. Such buses are not purchased every day and for this reason carefully consider what I wrote. You do not need to be professional at all to understand the difference in functionality and comfort between buses with two and those with three doors. You only need to be truly determined to procure for our city what is best for the money we entrusted you with.</p>
ANSWER	
<p>We absolutely reject your accusation that the tender for purchase of 5 electric buses is adjusted to any potential bidders.</p> <p>On the contrary, Tender Documents are written in accordance with the <b>Law on Public Procurement („The Official Gazette of the Republic of Serbia” No. 124/12, 14/15 and 68/15), Article 10. Principle of Ensuring Competition and Article 12 Principle of Equality of Bidders</b>, with the intention to cover the largest possible number of participants (bidders) among the producers of electrical buses with pantograph charging system, as in the</p>	

aspect of required power of traction motors, system of electrical energy storage (batteries or ultra capacitors), passenger capacity (minimum 80 places), number of doors (minimum 2 double service door) ....

As it was said in our previous answer regarding the number of doors and bus capacity, they are fully compliant with the Rulebook UN ECE 107 and Directive EC/2001/85, items 7.6.1.1 и 7.6.1.6, so please study the mentioned item of the Rulebooks.

7.6.1.1. The minimum number of doors in a vehicle shall be two, either two service doors or one service door and one emergency door. Every double-deck vehicle shall have two doors on the lower deck (see also paragraph 7.6.2.2. below). The minimum number of service doors required is as follows:

<i>Number of passengers</i>	<i>Number of service doors</i>		
	Class I & A	Class II	Class III & B
9 - 45	1	1	1
46 - 70	2	1	1
71 - 100	3 (2 in the case of a double-deck vehicle)	2	1
> 100	4	3	1

7.6.1.6. A double service door shall count as two doors and a double or multiple windows as two emergency windows.

As stipulated in the Table for Class I bus with the capacity of 71 - 100 places, minimum number of doors is 3 (three, "service doors") , since the two-winged door ( "double service door") is counted double, i.e. as two doors. This implies that the bus with two two-winged doors is considered to have 4 doors ("service doors"), so the requirement from table 7.6.1.1 is fulfilled.

The capacity of solo electrical buses with the length of 12 m and pantograph charging system is usually between 80 and 88 passengers. Their capacity is less in comparison to buses with the diesel bus of the same type, the capacity of which is 100-105 passengers. Having in mind this fact, the minimum required number of doors is 2 (two-winged) for E-bus corresponds to the minimum requirements regarding the time of passenger entrance/exit. This does not exclude the manufacturers of buses with three doors from participation. The number of doors is not the criterion in the tender, but only the requirement of the Purchaser which corresponds with the minimum requirements regarding the time of exchange of passengers and which is in accordance with the mentioned Rulebook UN ECE 107 and Directive EC/2001/85, items 7.6.1.1 и 7.6.1.6. and allows equal participation in the tender of all electrical bus manufacturers fulfilling the required conditions of the Purchaser and the requirements from Rulebook UN ECE 107 and Directive EC/2001/85, item 7.6.1.1 и 7.6.1.6.

The selection of the most favourable bid shall be done on the basis of the adopted criteria:

- Vehicle price (60 %)
- Warranty period for batteries/ultra capacitors (20 %)
- Delivery deadline (10 %)
- Bus capacity (5 %)
- Electrical energy consumption (5 %)

Considering the fact that the buses with electrical drive are to be purchased for the first time in Serbia and are not manufactured in Serbia, it is clear that they shall be homologated in accordance with the international documents (UN ECE Rulebooks or EC Directives). The awarded bidder shall be obliged to deliver to the Purchaser the documents **WVTA (Whole Vehicle Type Approval и COC Certificate (Certificate of conformity))** on the basis of which they shall be certified and complied with the domestic regulations by the Traffic Safety Agency and the laboratory for inspection of motor vehicles in Serbia. Since Serbia signed the document on accession with European Union, it is obligatory to apply all EU directives, i.e. to comply all its rulebooks and regulations with EU's, so in this case, the Directive EC/2001/85 in the part where it defines the concept of city bus (category M3, Class I) is fully valid and legitimate.

**QUESTION**

1. On December 3<sup>rd</sup>, on the Public Procurement Portal, you published the answer to the question of potential bidder regarding the procurement no. 302/15 – Purchase of 5 New Solo Low Floor Buses with Electric Drive with Equipment for Charging.

After studying the question asked by the potential bidder and the answer you published and bearing in mind the facts and validity of the question, we address you by means of institute prescribed by Article 63, paragraph 2 of the Law on Public Procurement, i.e. we are pointing to the irregularities that you made in defining the technical specifications for the subject public procurement and asking you to remove these irregularities in order to respect the positive regulations of the Republic of Serbia.

Namely, in the technical specification of the subject public procurement (page15/114, item 2.1. Main Dimensions - table), as well as in the form of technical description of offered bus (page 87/114, item 7.3) you stipulated that the offered **bus shall have minimum two (2) doors.**

Such defined requirement is opposite to the Law on Public Procurement and positive regulations of the Republic of Serbia regulating the field of subject public procurement.

Article 94. – Table 2. – of the Rulebook on division of motor and combined vehicles and technical conditions for vehicles in road traffic („The Official Gazette of the Republic of Serbia” No. 40/2012, 102/2012, 19/2013, 41/2013, 102/2014, 41/2015 and 78/2015), clearly defines the minimum required number of doors on the vehicles for passenger transport (buses, trolleybuses and combined vehicles for passenger transport) as follows:

Table 2.

Number of passengers	Number of service doors		
	Class I bus	Class II bus	Class III bus
23-45	1	1	1
46-70	2	1	1
71-100	3	2	1
> 100	4	3	

The above-mentioned Rulebook defines the division of motor and combined vehicles as well as the conditions these vehicles need to fulfill in order to operate in the road traffic regarding dimensions, technical conditions, devices, assemblies, equipment and technical standards and as such represents the positive regulation of the Republic of Serbia the application of which is UNEQUIVOCALLY MANDATORY.

In the published answer, you state that the Purchaser’s requirement regarding the number of doors is fully compliant with the Rulebook UN ECE 107 (item 7.6.1.1), so on this occasion we point to the “extract” from the mentioned Rulebook:

UN ECE 107  
7.6.1.1.

<i>Number of passengers</i>	<i>Minimum number of service doors</i>		
	<i>Classes I &amp; A</i>	<i>Class II</i>	<i>Classes III &amp; B</i>
<b>9 - 45</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>46 - 70</b>	<b>2</b>	<b>1</b>	<b>1</b>
<b>71 - 100</b>	<b>3</b> <b>(2 in the case of a double-deck vehicle)</b>	<b>2</b>	<b>1</b>
<b>&gt; 100</b>	<b>4</b>	<b>3</b>	<b>1</b>

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	<b>Classes I &amp; A</b>	<b>Class II</b>	<b>Classes III &amp; B</b>
<b>9 - 45</b>	<b>1</b>	<b>1</b>	<b>1</b>
<b>46 - 70</b>	<b>2</b>	<b>1</b>	<b>1</b>
<b>71 - 100</b>	<b>3</b>	<b>2</b>	<b>1</b>
<b>&gt; 100</b>	<b>4</b>	<b>3</b>	<b>1</b>

From the answer that you published, it remains unclear that the mentioned requirement is compliant with the above-stated Directives, especially bearing in mind that the Rulebook on division of motor and combined vehicles and technical conditions for vehicles in road traffic („The Official Gazette of the Republic of Serbia” No. 40/2012, 102/2012, 19/2013, 41/2013, 102/2014, 41/2015 and 78/2015) is harmonized with European regulations in this field, which are mandatory for the categories that it covers.

In accordance with the above-stated, please remove the mentioned irregularity and harmonize the technical specification with the applicable regulations of the Republic of Serbia for the subject field.

2. In the section “Additional conditions for participation in the public procurement procedure and the instruction on how to prove the fulfillment of these conditions” in item 11, among other, you prescribed the following: “...and that there were no unresolved claims related to the quality or exploitation of used goods in the period of **at least one (1) year of using delivered/handover for usage vehicles in regular exploitation.**”

The subject requirement is directly opposite to the Article 77. paragraph 2, item 1 and the basic requirement of the Purchaser, i.e. proof of business capacity.

“Together with the reference list the bidder shall submit Proof/Declaration... that in the period **of 5 years prior to the publishing of public invitation**, purchased/takeover for usage from the bidder...”

From the stipulated legal definition it can be concluded that the bidders satisfy the required condition if they delivered the subject vehicle in the period **of 5 years prior to the publishing of public invitation, i.e. from any date starting from 12/11/2010. to 11/11/2015.** However, by setting conditions regarding “unresolved claims related to the quality or exploitation of used goods in the period of **at least one (1) year** of using delivered/handover for usage vehicles in regular exploitation” you prevented bidders who delivered vehicle in the period from **12/11/2014 to 11/11/2015** submit appropriate bids, i.e. you set two OPPOSITE conditions.

On the basis of the above, please delete the requirement which refers to “**at least one year of usage in regular exploitation**”, in order to eliminate the irregularity of mentioned requirement and allow equal participation to all potential bidders and respect basic principles of the Law on Public Procurement.

In accordance with all the above, including the quoted legal provisions, with the aim of respecting the Law on Public Procurement, as well as other positive regulations of the Republic of Serbia, and particularly because you are the user of budget, please remove the stipulated irregularities and make necessary changes of the Tender Documents for subject public procurement. Otherwise, we shall be forced to act in accordance with Article 148 of the Law on Public Procurement.

#### **ANSWER**

In clarification no.2 from 3/12/2015 in item 2.1 ( table) and item 7.3 it is stipulated that the bus must have **minimum** (2) two two-winged doors on the right side.

This is fully compliant with the Rulebook UN ECE 107 and Directive EC/2001/85, items 7.6.1.1 and 7.6.1.6.

In your answer, you mention only table from Rulebook UN ECE 107 item 7.6.1.1 by you have not considered

item 7.6.1.6 from the same Rulebook.

We kindly ask you to study the mentioned items of Rulebook UN ECE 107 (it is identical in EC/2001/85)

7.6.1.1. The minimum number of doors in a vehicle shall be two, either two service doors or one service door and one emergency door. Every double-deck vehicle shall have two doors on the lower deck (see also paragraph 7.6.2.2. below). The minimum number of service doors required is as follows:

<i>Number of passengers</i>	<i>Number of service doors</i>		
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Considering the fact that the buses with electrical drive are to be purchased for the first time in Serbia and are not manufactured in Serbia, it is clear that they shall be homologated in accordance with the international documents (UN ECE Rulebooks or EC Directives). The awarded bidder shall be obliged to deliver to the Purchaser the documents **WVTA (Whole Vehicle Type Approval и COC Certificate (Certificate of conformity))** on the basis of which they shall be certified and complied with the domestic regulations by the Traffic Safety Agency and the laboratory for inspection of motor vehicles in Serbia. Since Serbia signed the document on accession with European Union, it is obligatory to apply all EU directives, i.e. to comply all its rulebooks and regulations with EU's, so in this case, the Directive EC/2001/85 in the part where it defines the concept of city bus (category M3, Class I) is fully valid and legitimate.

#### ANSWER

The Tender Documents are to be amended in the part of item 11 of additional condition for participation in the public procurement procedure, as follows:

The Bidder shall submit reference list (Form 8) with the bid, i.e. proof that the Manufacturer had delivered/hand over for usage offered type of vehicle, charging technology and electrical energy storage in last five (5) years prior to announcing of the invitation for procurement, to one or more end User/Purchaser.

With the reference list (Form 8) the Bidder shall also submit Proof/Statement from the end User/Purchaser on purchasing/handover for usage from the Bidder at least one (1) vehicle the same offered type, charging technology and electrical energy storage in last five (5) years, prior to announcing the invitation for procurement, on memorandum – signed, sealed and authorised issued by end User/Purchaser (type of vehicle in the Statement shall be identical to type of vehicle offered in the forms); and that there are no unsolved claims relating to quality or exploitation within at least one (1) year of using delivered/handover for usage vehicles in regular exploitation **during winter and summer period.**

The Statement shall be accompanied with photocopies of concluded agreements/other legal basis for usage (agreement on sale, agreement on lease, agreement for the transfer of usage, agreement on present or any other legal type of usage) and invoices:

**Issued statements shall have following information:**

- name and head office of supplier/giver for usage/lessor/donor...
- name and head office of bus manufacturer
- brand and type of delivered bus
- number of delivered buses
- takeover date between seller/giver for usage/lessor/donor... and purchaser/user
- first and last name of contact person, phone number of purchaser/user, contact email
- date of agreement conclusion and number of the agreement
- date and number of invoice (in case issuing invoice according to the legal act of usage)

**Model of the End User/Purchaser Statement attached to reference list.**

Regarding the above-mentioned, the amendment of the Tender Documents has been made on pages:

38/114

64/114

105/114

106/114

In everything else, the Purchaser maintains the terms stipulated in the Tender Documents.

In accordance with the above, the entire amended Tender Documents shall be published on the Public Procurement Portal of the City of Belgrade's Public Procurement Office, as well as on the web site of the Purchaser [www.gsp.co.rs](http://www.gsp.co.rs).

FOR THE PUBLIC PROCUREMENT COMMITTEE

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Tatjana Trajković, LL.B.

FOR THE PUBLIC PROCUREMENT COMMITTEE

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Slobodan Mišanović, M.Sc.T.E.