



REF. NO LOM/2021/ÚOL-14910

TENDER DOCUMENTATION

to the public contract concerning

PROVISION OF TECHNICAL AND BUSINESS SERVICES IN THE PEOPLE'S REPUBLIC OF BANGLADESH (2021)

awarded as an open procedure under §56 of Act No. 134/2016 Coll., on Public Procurement,
as amended (hereinafter as “the Act”)

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Name of the public contract:	PROVISION OF TECHNICAL AND BUSINESS SERVICES IN THE PEOPLE'S REPUBLIC OF BANGLADESH (2021)
CONTRACTING ENTITY	
Business name:	LOM PRAHA s.p.
Registered office:	Tiskařská 270/8, Prague 10, Malešice, Postal Code 108 00
ID:	00000515
Person authorized to act on behalf of the contracting entity:	Ing. Bc. Radomír Daňhel, MBA, LL.M., Sales and Logistics Manager
Contracting entity's contact person for the tender:	Ing. Monika Dřevová Public Procurement Specialist
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1. Basic details of the public contract

Public contract type:	services
Public contract mode:	over-limit
Tender type:	open
CPV code:	75211200-0 Foreign economic-aid-related services 79411100-9 Business development consultancy services 79417000-0 Safety consultancy services
Subject of the public contract:	Provision of technical and business services (hereinafter as “services”). For more information see Art. 2 of this tender documentation (hereinafter as “TD”).
Performance term:	4 years from the effective date of the Contract
Estimated value:	CZK 50,000,000 excluding VAT
Reserved commitment changes:	no
Admissibility of variant proposals:	no
Division of public contract into parts:	no
Tender result:	Conclusion of the Contract to Provision Technical and Business Services with 1 winning tender participant.

2. Subject of the public contract

- 2.1.** The subject of the public contract is conclusion of the Contract to Provision Technical and Business Services (hereinafter as “Contract”) in the framework of the implementation of the contracting entity's projects in the People's Republic of Bangladesh (hereinafter as the "territory"). Based on the Contract and in the territory specified herein, the tender participant shall conduct and secure delivery of the following **technical and business services** (hereinafter as “services”), **directly, and via its branch (office) in the territory**:
- 2.1.1.** Technical and business consultations for the contracting entity's contracting negotiations in the territory for the purpose of concluding contracts with entities from the territory, in particular with the Directorate General Defence Purchase, Ministry of Defence of the People's Republic of Bangladesh (hereinafter as the "DGDP MoD").
 - 2.1.2.** Intermediating negotiations with the DGDP MoD leading to the signature of contracts between the contracting entity and the DGDP MoD.
 - 2.1.3.** Professional assistance in the preparation of accompanying documents in the appropriate language version.
 - 2.1.4.** Professional assistance and technical-business consultancy in the preparation and participation in tenders of the DGDP MoD.
 - 2.1.5.** Technical-business consultancy for the contracting entity’s contracting negotiations in the territory within the performance of the Contract concluded by the contracting entity with subjects from the territory.
 - 2.1.6.** Technical-business consultancy and professional assistance in resolving any claims applied within contracts with the DGDP MoD.
 - 2.1.7.** Administrative assistance to the contracting entity during receipt, and quantitative and qualitative control of materials and aggregates in the territory.
 - 2.1.8.** Administrative assistance in the preparation of original documentation for goods and services in the appropriate language version (e.g. quality certificates, certificates of conformity, packing sheets, manuals, etc.).
 - 2.1.9.** Technical-business consultancy and professional assistance during customs procedures for the contracting entity’s activities within the territory.
 - 2.1.10.** Provision of local transport, accommodation reservations and language assistance in the territory for the contracting entity's staff.
- 2.2.** The tender participant shall receive the compensation specified in Article III of the draft Contract, which forms *Annex 3* hereto for provision of the services. The compensation shall be paid in USD.
- 2.3.** Other contractual conditions are defined in the binding draft Contract, which forms *Annex 3* hereto.

3. Place and term of performance of the public contract

3.1. Place of performance

- The place of performance of the public contract is the contracting entity’s registered office: LOM PRAHA s.p., Tiskařská 270/8, Prague 10 – Malešice, postal code 108 00, and at the address of the tender participant or intermediary’s office in the People's Republic of Bangladesh, as the contracting entity sees fit.

3.2. Public contract term:

- The public contract term specified by the tender participant shall be 4 years following the effective date of the Contract concluded with the winning tender participant.

4. Contractor qualifications

4.1. Qualification is met by a contractor who:

- demonstrates basic competence under §74 of the Act,
- demonstrates professional competence under §77 of the Act,

4.2. Basic competence

A tender participant is disqualified if:

- a) it has been convicted in the country of its registered office of any crime listed in Annex 3 to the Act or a similar offence under the law of the contractor's country of residence within the last five years prior to the commencement of the procurement procedure; annulled convictions shall be disregarded,
- b) has tax arrears recorded in the Czech Republic or in the country of its registered office,
- c) has arrears on insurance premiums or penalty on public health insurance in the Czech Republic or in the country of its registered office,
- d) has arrears on insurance premiums or penalty on social security and contribution to the state employment policy in the Czech Republic or in the country of its registered office,
- e) is in liquidation, a bankruptcy order was issued against them, a forced administration was ordered for them under different legislation or is in a similar situation under the law of the country of their registered office.

If the tender participant is a legal entity, the condition specified under Letter a) above must be fulfilled by the legal entity itself, and every member of its statutory body. If a legal entity is a member of the contractor's statutory body, the condition under Letter a) above must be fulfilled by this legal entity, every member of the statutory body of this legal entity, and the person representing this legal entity in the contractor's statutory body.

If a **branch of a foreign legal entity** is involved in the tender, the condition under point a) must be met by this legal entity and the branch manager. If the tender participant is a **branch office of a Czech legal entity**, the condition under Letter a) above must be fulfilled by every member of the statutory body of this legal entity, the person representing this legal entity in the contractor's statutory body, and the branch office manager.

The tender participant shall demonstrate fulfilment of the basic competence conditions in the Czech Republic and the country of their registered office by submitting:

- a) an excerpt from the criminal record register (Letter a)),
- b) confirmation issued by the relevant tax authority (Letter b)),
- c) written affidavit in relation to excise duty (Letter b)),
- d) written affidavit in relation to Letter c),
- e) confirmation of the relevant District Social Security Administration (Letter d)),

- f) an excerpt from the Commercial Register, or by submitting a written affidavit if they are not registered in the Commercial Register, (Letter e)).

4.3. Professional competence

The tender participant shall demonstrate fulfilment of the professional competence conditions in the Czech Republic and the country of their registered office by submitting:

- a) *an excerpt from the Commercial Register* or other similar register if another legal regulation requires such registration.
- b) proof that they are authorized to do business to the extent corresponding with the subject of the public contract if required by other legislation, in particular an *authorization under the Trade Licensing Act*.
- c) *Permission to trade in military material* in accordance with relevant legal provisions.
- d) *Proof / confirmation of authorization to perform the activities specified in Subsection 2.1 herein in the given territory or proof of commercial representation in the given territory. A plain copy of such document may be submitted.*

The contractor does not have to submit documents under Letters a), b) or c) unless the legislation in the country of its registered office requires similar professional qualifications.

4.4. Submission of documentation

- a) The contractor shall submit documentation demonstrating fulfilment of the qualification requirements **in original electronic form with the valid electronic signature** of the authorised institution that issues such document electronically via the E-ZAK electronic platform at <https://zakazky.lompraha.cz/>.
- b) In cases where the law or the contracting entity requires in the tender terms and conditions that the selected contractor submit original documents or their certified copies which only exist in paper form, they will need to be converted to electronic form in accordance with §22 of the Act No. 300/2008 Coll., on Electronic Transactions and Authorised Conversion of Documents, as amended.
- c) Contractors who are unable to provide verifiable electronic signatures shall send the required documents to prove their eligibility to the contracting entity in the original form or as an officially certified copy in paper form through a postal service provider.

4.5. The contractor is entitled to submission of documents in his proposal with an affidavit, in accordance with the provisions of §86 (2) of the Act. Prior to the conclusion of the framework agreement, the selected contractor is obliged to submit originals or certified copies of the qualification documentation if not previously submitted within the tender. **Materials demonstrating basic competence under §74 and professional competence under §77 (1) must demonstrate fulfilment of the specified competence criteria no later than 3 months before the start of the tender.**

4.6. The contractor may submit a similar document in accordance with the law of the country in which the document is issued; such document must be accompanied **by a translation into Czech**. This condition shall not apply to documents issued in Slovak language. If the contracting entity has doubts regarding the translation accuracy, it may request the submission of the document's certified translation into Czech language by an interpreter registered in the list of experts and interpreters. Documents issued in Slovak language and achieved education documents issued in Latin are submitted without translation. If

the required document is not issued under the applicable law, it may be replaced by an affidavit.

4.7. The contractor may fulfil its obligation to submit a document with a **reference or link** to the relevant information kept in the public administration information system or in a similar system operated in another member state which allows unrestricted remote access. Such reference **must include the internet address and the login and retrieval data for the requested information** if such information is necessary.

4.8. The contractor may demonstrate basic and professional competence through an **excerpt from the list of qualified contractors**, which cannot be older than 3 months as of the last day on which basic and professional competence are to be demonstrated.

4.9. Demonstrating qualifications via other persons or entities

The contractor may demonstrate a portion of professional competence, with the exception of the criteria under §77 (1) of the Act, as required by the contracting entity via other persons or entities. In such case, the contractor shall submit the following documents to the contracting entity:

- a) documents demonstrating fulfilment of professional competence under §77 (1) of the Act by such other person or entity,
- b) documents proving that the missing part of the qualification is fulfilled through another person or entity,
- c) documents demonstrating fulfilment of basic competence under §74 of the Act by another person or entity, and
- d) a written commitment of another person to provide performance for the fulfilment of a public contract or to provide goods or rights which the contractor would be entitled to utilise within the public contract, at least to the extent that another person proved their qualification on behalf of the contractor.

It is considered that the requirement under point d) above is satisfied if the content of the written commitment of another person is a joint and several liability of that person for the performance of the public contract together with the contractor.

4.10. Joint demonstration of qualifications

If the subject of a public contract is fulfilled jointly by several contractors, who submit their joint proposal for this purpose, each of the contractors shall demonstrate basic and professional competence under §77 (1) of the Act for each contractor separately. Other qualifications shall be demonstrated jointly by the contractors. Contractors are also required to submit a contract containing the commitment that all such contractors will be jointly and severally liable to the contracting entity and third parties within any legal relationship arising out of this public contract throughout the term of the public contract.

4.11. Changes in a tender participant's qualifications

If, following the submission of documents or a qualification statement, a change in the qualification of a tender participant occurs during the tender, the tender participant is required to notify the contracting entity within 5 business days of this change and submit new documents or qualification statement within 10 business days of notification of such change. A tender participant is except if the qualifications change in such a way that:

- a) qualification requirements are still met;
- b) the criteria for reducing the number of tender participants or proposals were not affected, and
- c) there has been no impact on the proposal evaluation criteria.

4.12. If the selected contractor is a Czech legal entity, the contracting entity shall determine its beneficial owner under the law defining records of beneficial owners (hereinafter as “beneficial owner”) from such records of beneficial owners under the same law (hereinafter as “records of beneficial owners”). The contracting entity shall disqualify a selected contractor under the provisions of §122 (7) of the Act, if the Czech legal entity has a beneficial owner who cannot be identified under §122 (4) of the Act based on records of beneficial owners; proof of registration in such records of beneficial owners once notice of contractor disqualification has been sent shall be disregarded. If the selected tender participant fails to submit the required originals or officially certified copies of the documents proving the qualification before the conclusion of the framework agreement, or fails to submit any other requested documents or information according to the provisions of §122 (5) of the Act, they will be disqualified from the tender by the contracting entity under §122 (7) of the Act.

5. Subcontracting

5.1. If a contractor intends to use subcontracting within performance of the public contract, **it is obliged** in its proposal to:

- a) identify the parts of the **public contract** which they intend to fulfil through subcontractors; or
- b) **submit a list of subcontractors** if they are known to the tender participant and state which part of the public contract would be fulfilled by individual subcontractors.

5.2. The selected contractor shall submit identification details for all subcontractors to the contracting entity within 10 days of delivery of the contractor selection notice at the latest if known to them and if not otherwise specified in the proposal.

5.3. Subcontractors not identified in the proposal from the selected contractor and / or those identified after delivery of the contractor selection notice per the previous subsection and who are to be engaged in the fulfilment of the public contract (framework agreement), must be identified by the selected contractor to the contracting entity a minimum of 5 (five) business days prior to fulfilment of the public contract by the give subcontractor.

5.4. The contractor shall be entitled to change their subcontractors only with the prior written consent of the contracting entity.

5.5. The contracting entity explicitly forbids chaining of subcontractors, i.e. the subcontractor must be the direct contractor of the tender participant.

6. Requirements as to the method of preparing a proposed price

6.1. The contracting entity requires that the proposed price be expressed as a percentage rate (%) to be paid from every payment made under a contract concluded between the contracting entity and the DGDP MoD, less the contractor’s costs for transport, duties, and other fees related to fulfilment of such contracts concluded with the DGDP MoD. The tender participant shall specify this percentage rate in Annex *PI* hereto.

6.2. The offered percentage rate (%) specified by the tender participant in the proposal must be defined as the highest allowed rate, and it may not be increased or modified over the duration and valid term of the Contract.

7. Proposal evaluation criteria and method

7.1. Proposals will be ranked according to their economic advantage – **using the lowest offered percentage rate.**

7.2. The contracting authority will rank the proposals from the one with the lowest offered percentage rate up to the proposal with the highest offered percentage rate. The proposal with the lowest percentage rate will be ranked as the best proposal.

7.3. Procedure for handling identical proposals

If the prices contained in the proposals which placed first are identical, the contracting entity shall draw the winning proposal. The drawing will be carried out in accordance with the principles specified in §6 (1) and (2) of the Act. Tender participants whose proposals are in such drawing have the right to attend the drawing. The contracting entity shall announce the date and time of the drawing at least 3 business days before the drawing takes place.

7.4. The opening of the proposals is not a public process in order allow the receipt of proposals exclusively in electronic form. The opening of the proposals shall be conducted in accordance with §109 of the Act.

8. Draft contract, business and payment terms and conditions

8.1. The contracting entity shall conclude the Contract with the winning tender participant.

8.2. The Contract shall be valid for a term of 4 years from the effective date thereof.

8.3. The binding template of the Contract is provided in *Annex 3* hereto. The tender participant is directed to add their identification details to the template Contract. The tender participant is not authorised amend or modify the draft Contract in any way.

8.4. The binding template of the Contract contains all business, payment, delivery, and other terms and conditions. These terms and conditions are binding for the tender participant who is not authorised to amend them in any way.

8.5. The tender participant shall submit the Contract in (.doc) format in their proposal, whereby such Contract shall include the tender participant's identification details.

9. Instructions for preparing proposals

9.1. Contracting entity's proposal preparation requirements

- A proposal must be drawn up in **Czech or English.**
- Materials demonstrating the tender participant's qualifications are submitted in Czech, with the exception of the use of English technical terms commonly used in the Czech Republic in the relevant field.
- The proposal must be prepared **in electronic form**, it must be **legible** and must not contain overwrites and corrections that could mislead the contracting entity.

- The proposal and all documents included with the proposal as required by law and herein must be **signed** by the tender participant or the statutory body of the tender participant, or its authorised agent; **this does not apply to the binding template of the Contract**. If one's proposal is signed by a different person, the proposal must include the authorisation of the person to represent the tender participant with the officially verified signature of the tender participant or their statutory body.
- The proposal shall include **the binding template of the Contract in .doc format**, amended to include the required details, and which forms *Annex 3* hereto.
- A proposal must be accompanied by a cover sheet, which will be dated, stamped, and signed by the tender participant, its authorised agent, or authorised representative, and shall specify the basic identification details of the tender participant (name, legal form, registered office, or mailing address if it differs from the registered office, ID, Tax ID, person authorised to conduct negotiations, phone and email contacts to be used by the contracting entity during the tender for correspondence purposes, if the tender participant does not receive such materials using the electronic tool on the contracting entity's profile, or the participant's data box.). The proposed percentage rate (%) offered by the tender participant must also be entered on the proposal cover sheet in the relevant column.

9.2. The contracting entity recommends that the content of the proposal be structured as follows:

Proposal cover sheet the binding template of which forms the *Annex 1* hereto.

Demonstration of qualifications

To demonstrate qualification, the contractor shall submit any copies of the documents required by law and by the contracting entity in Article 3 herein, an excerpt from the list of qualified contractors, or an affidavit within their proposal.

A template affidavit forms *Annex 2* hereto.

A proposal prepared in accordance with Article 6 herein.

The draft Contract in accordance with Article 8 herein.

9.3. A tender participant is only allowed to submit one proposal, either individually or together with other participants. A participant who has submitted a proposal in a tender may not simultaneously be the person through whom another participant demonstrates their qualification in the same tender.

The contracting entity shall exclude any participant who submits more than one proposal individually or jointly with other tender participants or submits a proposal and at the same time they are the person or entity through whom another participant proves their qualification in the same tender.

9.4. The contracting entity does not allow for variant proposals.

9.5. The contracting entity recommends tender participants properly examine the tender documents before submitting a proposal and follow the instructions given in the tender when preparing their proposal. Any proposal with contents that do not

correspond to the required structure or that fail to meet any of the other conditions defined herein shall be disqualified from the tender by law.

10. Proposal submission deadline and method

- 10.1.** The deadline for submitting proposals is abbreviated in accordance with the provisions of §57 (2) (b) of the Act, as amended. The reason for an abbreviated deadline within an open procedure is the contracting entity's interest in seeking a public contract announced by the DGDP MoD, and this public contract is currently active. Given the above, it is impossible to define a deadline in accordance with §57 (1) of the Act.
- 10.2.** Tender participants can submit their proposals until **14th January 2022 at 10:00 a.m.**
- 10.3.** Proposals must only be submitted in electronic form via the contracting entity's profile at <https://zakazky.lompraha.cz/>. The manual for contractors is available on the following website: <https://zakazky.lompraha.cz/>.
- 10.4. Proposals which are not delivered via the electronic tool and within the set deadline will not be included in the tender.** A proposal is considered submitted once delivered via the contracting entity's profile specified above. Any proposal received in ways other than via the contracting entity's profile or after the specified deadline will be disregarded.
- 10.5.** By submitting a proposal, the contractor confirms that they are entitled to disclose all information contained therein to the contracting entity and is responsible for all consequences if such statement is false.

11. Terms and conditions for contractors

- 11.1.** If the selected contractor is a legal entity under §122 (4), and its beneficial owner(s) cannot be identified from the records of beneficial owners, the contractor will be disqualified from the tender by law. If the selected contractor is a foreign legal entity under §122 (5) of the Act, the contracting entity shall call on the contractor to submit an excerpt from a foreign source as to details of its beneficial owner(s); if no such records exist,
- a) then they shall communicate the identification details of all persons who are beneficial owners, and
 - b) submit documents showing that all the persons referred to in item a) have a relationship with the contractor; these documents are in particular:
 1. Excerpt from a foreign records similar to the public register,
 2. List of shareholders,
 3. The decision of the statutory body on the payment of the profit share,
 4. Articles of Association, Memorandum, or Articles of Incorporation.
- 11.2.** **The contracting entity draws attention to the fact that it is bound by §211 (1) of the Act stipulating the obligation of written electronic communication between a contracting entity and a contractor which applies to all documents submitted including those submitted by the selected contractor on the basis of a notice pursuant to §122 (3) and (5) of the Act. In cases where the law or the contracting entity requires in the tender terms and conditions that the selected contractor submit original documents or their certified copies which only exist in paper form,**

they will need to be **converted to electronic form** in accordance with §22 of the Act No. 300/2008 Coll., on Electronic Transactions and Authorised Conversion of Documents, as amended.

- 11.3. This tender documentation is only provided for the purpose of preparing a proposal with the aim to award the contract; the tender participant shall not use it for any other purposes.
- 11.4. The terms and conditions specified in the tender documentation, as well as in all the documentation related to the tender, are binding for the contractor.
- 11.5. The tender participant shall submit their proposal free of charge; the contracting entity is exempt from any claims related to the submission of a proposal.

12. Tender Documentation Explanation, Amendment, or Addition

- 12.1. The tender participant is entitled to request that the contracting entity provides written **clarifications of the tender documentation**, in a manner pursuant to §98 of the Act.
- 12.2. A request for clarification of the tender documentation may be delivered in writing in electronic form, by means of an electronic tool, data box, or via email to the contact person, no later than 7 business days before the proposal submission deadline.
- 12.3. Clarification of the tender documentation, including the exact wording of the request, will be published no later than 3 business days from the date of delivery of the contractor's request pursuant to §98 (4) of the Act.
- 12.4. The contracting entity shall publish the clarification of the tender documentation on its profile no later than 4 business days before the proposal submission deadline. The contracting entity may also clarify the tender documentation without a prior request.

13. Rights and obligations of the contracting entity

- 13.1. The contracting entity does not return the submitted proposals and keeps them as proof of the tender procedure.
- 13.2. In accordance with provisions of §48 (9) of the Act, the contracting entity will verify fulfilment of grounds for disqualification **of a selected contractor** (the contracting entity shall disqualify a participant who is a corporation or has a legal form similar to a corporation and does not have exclusively booked shares) on the basis of the information in the Commercial Register.

A selected Contractor with its registered office abroad who is a corporation or has a legal form similar to a corporation will be asked by the Contracting Entity to submit a written affidavit as to which persons are the owners of shares whose aggregate nominal value exceeds 10% of the participant's basic capital, indicating the source, from which the shareholder data is derived, within a reasonable period of time.
- 13.3. In accordance with the provisions of §39 (4) of the Act, the contracting entity may **evaluate the fulfilment of the tender eligibility conditions** before or **after the evaluation of the proposals**. For selected contractor, it is always necessary to evaluate fulfilment of the tender eligibility conditions and evaluate its proposal.

13.4. The contracting entity **shall publish the concluded Contract**, including any amendments and addenda under the provisions of §219 of the Act and in accordance with the Act No. 340/2015 Coll., on Special Conditions for the Effectiveness of Certain Contracts, the Disclosure of these Contracts, and the Register of Contracts (Act on the Register of Contracts). The contractor is authorised in the Contract to designate specific information that it considers **confidential information and details** as defined under special legislation and that are not to be disclosed.

13.5. The contracting entity shall **publish the amount actually paid** for performance of the Contract in accordance with §219 (3) of the Act.

14. List of annexes to the tender documentation

Annex 1 – Proposal Cover Sheet

Annex 2 – Affidavit

Annex 3 – Specimen of the Contract to Provision Technical and Business Services

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LOM PRAHA s.p.
Electronically signed by
Ing. Bc. Radomír Daňhel, MBA, LL.M.,
Sales and Logistics Manager