



## **Tender Documents**

### **REQUEST FOR PRICE PROPOSAL**

Name of the Commercial Public Tender (hereinafter referred to as "Tender"):

**"Legal advisor"**

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## A. INSTRUCTIONS FOR BIDDERS

### A.1 GENERAL INSTRUCTIONS

#### A.1.1 Identification of the Tender promulgator:

Name of the organization: NAFTA a.s.  
COMPANY ID No.: 36 286 192  
VAT ID No.: SK2022146599  
Company registered office: Votrubova 1, 821 09 Bratislava  
Registered in: Commercial Register of the District Court Bratislava I,  
Section Sa, File No. 4837/B  
Country: the Slovak Republic

Contact person: Mr. Jarábek Martin, Mr. Papcun Juraj  
Telephone: +421 2 4024 2607; +421 2 4024 2660  
Fax: +421 2 4024 2516  
E-mail: [legal\\_advisor@nafta.sk](mailto:legal_advisor@nafta.sk)  
Web sites: [www.nafta.sk](http://www.nafta.sk)

#### A.1.2 Subject of the Tender:

The subject of the Tender is selection of legal advisor to support NAFTA a.s. in acquisition of an underground gas storage facility in Germany. More details see in Annex No. 1.

#### A.1.3 Evaluation of proposals:

Only proposals from bidders submitted in the manner and by the date pursuant to the tender call shall be evaluated.

The promulgator reserves the right to restrict the number of bidders after proposals are submitted and to invite the bidders determined in this way to individual negotiations about the terms and conditions.

The promulgator reserves the right to negotiate the proposal with the bidder in several consecutive rounds with the possibility to invite bidders to submit the updated quotation after each round of negotiations.

In case of several rounds of negotiations, the promulgator shall notify bidders in advance that the quotation they are going to submit shall be the final quotation.

#### A.1.4 Explanation and communication:

Any communication and provision of information among the promulgator and bidders shall be carried out in writing or electronically. Address for written communication is:

Nafta a.s.  
Votrubova 1  
821 09 Bratislava  
Slovak republic

And e-mail address is [legal\\_advisor@nafta.sk](mailto:legal_advisor@nafta.sk)

**A.1.5 Content of the proposal:**

The submitted proposal shall contain the documents in the following order:

1. References proving provision of services as legal advisors in M&A, energy law and mining law
2. Track record of proposed team members participating at the legal services provision

**A.1.6 Execution of the proposal:**

The proposal shall be signed by the statutory body of the bidder in compliance with the extract from the Commercial Register or the person authorized for such acting. The original of the document proving authorization of the person to sign the proposal shall be a part of the proposal in such case.

**A.2 SUBMISSION OF PROPOSAL**

**A.2.1 Designation of covers with proposals:**

Bidders submit proposal in electronic form (in .pdf format) on the email address of the promulgator: legal\_advisor@nafta.sk

**A.2.2 Date of the proposal submission:**

**By 4<sup>th</sup> August, 2016 till 12:00 p.m.**

The proposal delivered after this hour shall not be considered.

**A.2.3 Date of announcement of the selected proposal:**

**By 30<sup>th</sup> of September, 2016 at the latest.**

**B. PRICE PROPOSAL, INVOICING**

**B.1 PRICE PROPOSAL**

1. The price for the subject of the Tender shall be set pursuant to Act of the National Council of the Slovak Republic No.18/1996 Coll. on Prices as amended.
2. The prices provided by the bidder shall be in EUR,
3. The bidder shall propose the price for the subject of the Tender in the following composition:
  - Hourly rates based on seniority and/or blended hourly rates
  - Estimation of maximal costs charged

Price shall be stated in Annex No. 2

4. The bidder shall include all and any costs incurred in regard to the delivery of the subject of the Tender in the price.

5. The price mentioned in the proposal shall cover all costs related to the subject of the Tender – Annex No. 2 shall contain the total price for the subject of the Tender, i.e. the summary of all items including all other costs of the bidder.
6. The committee for the proposal evaluation may ask the bidder for clarification and justification of appropriateness of the proposed price.

## **B.2 INVOICING**

The promulgator shall not provide advance payments.

The invoice maturity is within 60 days from the date of the invoice delivery to the registered office of the promulgator.

## **C. SUPPLEMENTARY CONDITIONS AND PROVISIONS**

1. The tender documents shall be provided by the promulgator free of charge.
2. The promulgator shall reserve the right to change the Tender conditions or to cancel the Tender anytime. It shall inform the bidders on these facts.
3. The bidder shall not be entitled to compensation of costs related to the participation in the Tender.
4. Within the proposal evaluation the promulgator shall reserve the right to ask the bidders for explanation of the proposal or to verify some data and facts mentioned in the proposal.
5. No contractual relationship shall arise by the Tender closing and announcement of the Tender result.
6. The proposals shall not be returned to the bidders but they remain archived by the promulgator as a part of the tender documentation.
7. All documents and deeds submitted by the bidder to the promulgator shall be signed by the bidder, statutory body of the bidder or a member of the statutory body of the bidder or his/her representative who shall be authorized to act on behalf of the bidder in contractual relations. Authorization of this person shall be in compliance with the submitted documents on authorization to run business or a proxy.
8. The promulgator shall be entitled to select a proposal which is the most suitable while it shall not be obliged to inform on reasons of its decision. It shall also be entitled to refuse all submitted proposals.
9. The tender documents shall be subject to the trade secret without any time restriction.

## **D. LIST OF ANNEXES**

### **Annex No. 1**

Assumed scope of legal support requested

### **Annex No. 2**

Cover letter for bidders

Annex No. 1)

**A non-exhaustive list of legal tasks to be performed by legal advisor**

**1) Design of transaction**

- a) Assessment of possible options of performing transaction
- b) Pros and cons/risks of possible options of the transaction

*As NAFTA is currently considering and discussing with counterparty possibilities of concluding the transaction, we expect to receive basic comparison of both transaction structure possibilities (share deal vs. asset deal) with advice which one should be preferred by NAFTA from legal perspective. Tax considerations will be addressed separately.*

**2) Due diligence in standard scope focused mainly on following areas:**

- a) Mining law
  - Licenses & their terms (law applicable, current compliance with law requirements, permissions validity)
- b) Energy law
  - Interconnection agreement with transmission system operator including its renegotiation
  - Interconnection contract with electrical grid operator
- c) Others
  - Suppliers contracts
  - Certificates of title (title to assets and right of the storage under acquisition, possible liens)
  - Labor law – review of ability to comply with German labor law with pre-defined number of employees (over-times, stand-by days, ability to take vacation in full extent)

*We expect the legal advisor to conduct a full scope DD and provide us with red flag and DD report as a result of such DD. We understand that reasonable materiality threshold will be agreed beforehand with the legal advisor.*

**3) Transaction phase**

- a) Acquisition of target
  - Possible support in establishing German branch of NAFTA depending on the design of transaction (register in commercial register, register for CIT, VAT, etc.)
- b) Mining law
  - Licenses' transfer
- c) Energy law
  - Conclusion of Interconnection agreement

- Energy license transfer
  - Booking Entry/Exit capacity => support under Beate regulation => Entry/Exit tariff reduction
- d) Environmental legislation
- e) Others
- Transfer of interconnection contract with electrical grid operator
- f) Drafting of transaction documents
- SPA/Asset transfer agreement

Notes:

*In case NAFTA prepares a binding offer (term sheet), we expect the legal advisor to review and comment such offer.*

*We expect the legal advisor proposal to cover at least four rounds of mark-ups of transaction documentation and time period of transaction phase at least in extend of one month.*

*We also expect that some of the existing contracts (particularly existing connection contract with TSO) will have to be renegotiated and we will need the legal advisors support in those renegotiations.*

*We expect substantial support of the legal advisor in potential discussions with regulator and/or mining authorities especially in connection with transfer of permits/licenses in case of an asset deal.*

#### **4) Start of operation of target by NAFTA**

- a) Mining law
- Other permits
  - Consultancy
- b) Energy law
- Elaborating & approving General terms & conditions of SSO
  - Gas storage contracts and its compliance with German legislation
  - Storage capacity tendering
  - Consultancy
- c) Others
- Electricity supply contract
  - Suppliers contracts

Annex No. 2)

**COVER LETTER FOR BIDDER**

Title: **Legal advisor**

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Bidder:	
Address:	
COMPANY ID No.:	
Tax ID No.:	
Authorized representative of the bidder:	
Tel.:	
Fax.:	

Item No.:	Description of the Service:	price in EUR excl. VAT:	VAT rate and VAT amount,	price VAT incl.
1.	Hourly rates based on seniority and/or blended hourly rates			
2.	Estimation of maximal costs charged			

We concurrently hereby confirm that the data provided in the remaining annexes to the proposal shall serve as binding documents for evaluation of our proposal.

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Seal, name and signature of the bidder's representative