

Open call for
the selection of the capacity booking platform to be used
at “Mallnow” interconnection point and “GCP” virtual interconnection point
GAS-2-2019

Dear Madam, Sir,

The Agency for the Cooperation of Energy Regulators (‘the Agency’) calls for the submission of offers for the selection of a web-based booking platform to be used by TSOs for the offering of bundled gas transmission capacity at the “Mallnow” physical interconnection point (‘IP’) and “GCP” virtual interconnection point (‘VIP’) – hereinafter referred altogether as ‘capacity booking platform’. The procedure for the selection of the above-mentioned capacity booking platform is performed within the framework of Article 37(1) and (2) of Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a Network Code on Capacity Allocation Mechanisms in gas transmission systems (‘CAM NC’) and according to the requirements set hereinafter.

Background

The Agency shall adopt a decision concerning the capacity booking platform in accordance with Article 8(1) of Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators. The Agency is competent to decide on the capacity booking platform to be used at an interconnection point, if no agreement has been reached by the respective transmission system operators (‘TSOs’) or the national regulatory authorities (‘NRAs’) in due time. Article 37(3) of the CAM NC establishes this competence.

The competence to decide on the capacity booking platform was transferred to the Agency on 19 April 2018. In light of Article 8(3) of Regulation (EC) No 713/2009 and the Decision of the Board of Appeal of the Agency of 14 February 2019, the Agency shall provide its decision by 14 August 2019.

The decision of the Agency will bind the operator and the TSOs offering capacity at the above-mentioned interconnection points (‘TSOs concerned’) for a period no longer than three (3) years.

In accordance with Article 37(4) CAM NC, the TSOs shall reach a contractual agreement with the selected operator for the use of a capacity booking platform before the end of this period.

This procedure is not a tender and does not fall under the relevant rules for the procurement of services established under the relevant provisions of Union law. It is a part of the ongoing administrative proceeding during which the Agency collects and evaluates the evidence necessary for the selection of a capacity booking platform within the meaning of Article 37(1) and (2) of Commission Regulation (EU) 2017/459.

Confidentiality and Data Protection

In light of the specific features of this administrative procedure, as reported above, the offers will be included in the administrative proceedings documentation and may be published along with the decision. In order to claim confidentiality for parts of information in the documents that you regard as business secrets or otherwise confidential, please carefully read the description in Annex 1 on how to claim confidentiality.

In order to protect personal data, the Agency encourages submissions that contain no, or only a minimal amount of, personal data. If the submission of offers will involve the recording and processing of personal data, such data will be processed pursuant to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data. Unless indicated otherwise, any personal data will be processed solely for the purpose of the selection of the capacity booking platform by the Agency. Details concerning the processing of your personal data are available in the privacy statement¹.

Transparency

Upon request, the Agency may provide additional information with the purpose of clarifying aspects related to the procedure and the submissions to be provided. Any request for additional information must be made in writing only to the e-mail address **bookingplatform@acer.europa.eu**.

Requests for additional information shall be received by the Agency within ten (10) working days prior to the time limit for submission of offers. Requests for additional information submitted after this period will not be processed.

¹ https://www.acer.europa.eu/en/The_agency/Data-Protection/Documents/DPN_Interactions%20with%20Stakeholders.pdf

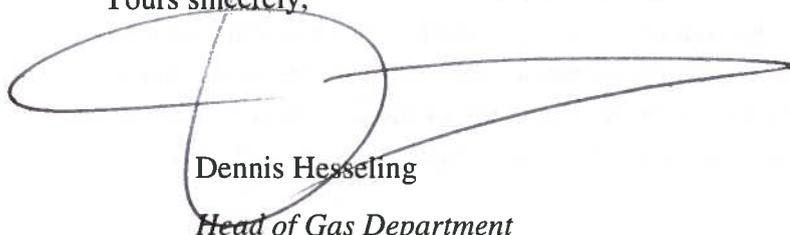
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of Energy Regulators

The Agency may, on its own initiative, inform interested parties of any error, inaccuracy, omission or any other type of clerical error in the invitation to submit offers or any supporting document.

Yours sincerely,



Dennis Hesselting
Head of Gas Department

1. REQUIREMENTS FOR THE SUBMISSION OF OFFERS

The offer to be submitted by operators of capacity booking platforms within the meaning of Article 37(1) and (2) of the CAM NC shall adhere to the following requirements:

- 1.1 Subject of the offer is the establishment of a web-based booking platform to be used by TSOs for the offering of capacity (i) at the “Mallnow” physical interconnection point operated by GASCADE Gastransport GmbH and OGP GAZ-SYSTEM S.A. and (ii) at the “GCP” virtual interconnection point operated by ONTRAS Gastransport GmbH and OGP GAZ-SYSTEM S.A. The offer of capacity through the capacity booking platform shall comply with the relevant provisions of Union law on the common rules for the internal market in natural gas applicable at all time in the course of the execution of the service contract with the above mentioned TSOs. In particular, the offer of capacity through the capacity booking platform shall comply with:
- Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005,
 - Commission Regulation (EU) 2017/459 of 16 March 2017 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013,
 - Commission Regulation (EU) 2015/703 of 30 April 2015 establishing a network code on interoperability and data exchange rules,
 - Commission Regulation (EU) No 312/2014 of 26 March 2014 establishing the Network code on Gas Balancing of Transmission Networks.
 - Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency and Commission implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency;
- 1.2 The offer of capacity through the capacity booking platform shall also comply with Article 101 and 102 of the Treaty on the Functioning of the European Union. Network users shall have non-discriminatory access to capacity booking platforms, and continuous developments of the booking platform infrastructure shall respond to market needs and be maintained for the whole duration of the service contract with the TSOs concerned. A specific set of minimum provisions to that end shall be included in the service contract, and this shall be considered in the formulation of the offer.

- 1.3 The offer shall remain valid and be binding to the benefit of the concerned TSOs until the conclusion of the service contract between the concerned TSOs and the capacity booking platform to be selected as a result of this administrative procedure. The commitments stemming from the offer cannot be changed unless such a modification is required jointly by the involved TSOs or by an amendment of any relevant Union legislation that impacts the services provided by the capacity booking platform, if it enters into force in the course of the validity of the offer or of the consequential service contract.
- 1.4 The offer shall be based on the assumption of the conclusion of a service contract with the concerned TSOS with a duration of three (3) years.
- 1.5 The offer shall include the provision of capacity booking facilities for **both sides** of the “Mallnow” IP and of the “GCP” VIP respectively.

2. SELECTION PROCEDURE (minimum criteria)

Provided the offers submitted by an operator of a capacity booking platform (‘the operator’) meet the requirements set at Section 1 above, the Agency will assess if the offers comply with the minimum criteria set at sub-section 2.1 and will select the offer as set at Section 3.

In order to be considered further for the evaluation, the capacity booking platform to be proposed with the offer shall present a set of minimum criteria, consisting of a minimum set of technical and IT features resulting from those listed in Annexes 2 and 4 to this invitation.

2.1. *Minimum criteria listed in Annex 2*

The criteria in Annex 2 consist of 22 legal features. The legal features are subdivided into two categories:

- a) features stemming from Union law (rows 1-18; hereinafter referred to as “EU legal requirements”) – to be fulfilled by the operator on the date of submission of the offer;
- b) features stemming from national legislation (rows 19-22; hereinafter referred to as “national requirements”) – to be fulfilled by the operator within three (3) months from the conclusion of the service contract with the TSOs concerned².

To verify compliance with EU legal requirements and the national requirements, the operator should fill in, and include the verification of their claims, in the provided “Template on legal requirements (including a **declaration on honour on their fulfilment**)”, in Annex 3, to be signed by the legal attorney of the company and its legal representative. Upon request of the Agency, the

² In the area of Energy, the Union and the Member States have shared competence. The Member States may legislate and adopt legally binding acts, to the extent that the Union has not yet exercised its competence. Because of the shared competence, the Member States may further specify the legal requirements the Agency has already adopted. Because of the shared competence, the Agency regards the Member States national requirements equally as important as the EU legal requirements, and they must therefore be taken into consideration in the assessment for the selection of the capacity booking platform. See TFEU Article 2(2) and 4(2)(i).

operators shall submit the necessary evidence to prove the fulfilment of the requirements as indicated in the declaration on honour on their fulfilment.

If an operator does not fulfil all of the EU legal requirements on the date of submission of its offer, and/or if an operator does not verify that it will be able to fulfil all the specific obligations indicated in the national requirements within the required three (3) month period as of contract signature between the selected capacity booking platform and the TSO, **the offer will not be considered further.**

2.2. *Minimum criteria listed in Annex 4*

The criteria set in Annex 4 consist of 199 IT features subdivided in 19 IT domains. These requirements reflect elements of IT security, governance and user-friendliness.

The operators should complete and submit a self-assessment using the “Template on IT features” in Annex 5, accompanied by a formal audit report verifying the self-assessment. The audit shall be performed by an experienced and certified auditor specialized in ISO/IEC 27001:2013 in the Area/Domain of Energy that is to be contracted by the Capacity Booking Platform Operator. The focus of the IT Self-Assessment (Annex 5) and the audit is to check that the principles of ISO 27000 standard series or the best practices common in the information technology service management (ITSM) are covered by the capacity booking platforms.

If a Capacity Booking Platform Operator does not fulfil the minimum passing mark for each relevant IT domain as verified by the auditor, its **offer will be not considered further.**

3. **EVALUATION OF OFFERS**

The Agency will evaluate only the offers that meet the requirements included at Section 1 and fulfil the minimum criteria of Section 2.

The evaluation will focus on:

- (1) the overall yearly fee for the employment of the web-based booking platform for **each** of the two interconnection points regardless of any existing service contracts between the existing capacity booking platform operator and the TSOs concerned; and
- (2) on the technical quality of the Case Study (Annex 6).

3.1 *Overall fee for the employment of the web-based booking platform at each of the two interconnection points*

The overall yearly fee for the employment of the capacity booking platform for each interconnection point shall cover all the costs due by the TSOs concerned for using the capacity booking platform in line with the EU legal requirements and the national requirements.

The overall yearly fee shall remain fixed for the overall duration of the service contract to be signed with the TSOs concerned - a maximum three (3) years.

The overall yearly fee represents forty [40] percent of the total points to be assigned.

The offers will be awarded points following this calculation:

$$\text{Points for the evaluation of the overall yearly fee} = \frac{\text{lowest overall yearly fee}}{\text{overall yearly fee proposed by the operator}} * 40$$

3.2 *Technical quality*

The technical quality of the offer will be evaluated on the basis of a proposal for a case study. For this purpose, operators shall submit a detailed proposal for the case study defined at Annex 6. The proposal should stay within the number of pages and limits indicated therein.

The proposal for the case study shall be evaluated on the basis of the following criteria and scoring system:

Criterion	Total Points	Explanation
Completeness	20	The proposal for the case study should include all the requested information in detail. The scope of the case study should duly consider all constraints required under Chapter 2 of Annex 6
Consistency	20	The information provided should describe a workable and realistic project that could be implemented in practice with means, staff, skills and contracts which are already available to your platform and which may deliver a reasonable and meaningful contribution to the project.
Robustness	20	The proposal for the case study should be robust to allow adjustments in scope and in time, to properly prevent and mitigate for unexpected delays/issues in any phase of the project;
Relevance	20	The proposal for the case study should be in line with the existing way to work of the platform, and shall consider the existing practices for governance and IT processes. It shall fit the requirements of Chapter 2 of Annex 6;

Criterion	Total Points	Explanation
Efficiency	20	In respect to efficiency, the proposal for the case study should be, as a minimum, in line with the time constraints showed in Chapter 2 of Annex 6. Any project proposal, which will aim to deliver all the agreed points earlier than the common agreed dates, will be proportionally considered better, under this evaluation criteria

Operators scoring less than 50% of the points awarded for each of the single criterion identified above will not be considered further.

Technical quality represents 60 percent of the total points to be assigned.

3.3 Selection of the offer

The Agency will evaluate each offer according to the following formula:

$$\text{Total Score} = \frac{\text{Lowest overall yearly fee}}{\text{overall yearly fee proposed by the operator}} * 40 + \frac{\text{total technical quality of the operator}}{100} * 60$$

The Agency will select the operator that submitted the offer with the highest total score resulting from the application of the above-mentioned formula.

4. SUBMISSIONS OF OFFERS

4.1 The offer shall include:

- a financial statement indicating the overall yearly fee for the employment of the web-based booking platform **for each of the two interconnection points** identified above, i) regardless of any existing service contracts between the operator and any of the TSOs concerned and ii) considering the need to ensure platform developments to respond to market needs. If the fee consists of multiple components (e.g. entrance fees, yearly fees, etc...), a relevant breakdown shall be provided together with the overall yearly fee applicable at each interconnection point (i.e. per IP side).
- a duly filled in, signed and dated declaration on honour as per the “Template on legal requirements”;

- a duly filled in, signed and dated declaration as per the “Template on Self-Assessment”;
 - the duly signed and dated auditor’s report certifying that the technical solutions declared as implemented by the operator as reported within the (“the answers”) provided within the “Template on Self-assessment” (Annex 5) were verified during the audit and indicating which of the answers given by the operator were consistent and/or in contradiction with the results of the audit;
 - the proposal for the “Case Study” (Annex 6);
 - evidence of the entitlement of legal representation of the capacity booking platform operator;
 - Statement providing the shareholders composition of the booking platform.
- 4.2 The offer, and therefore all the accompanying documents identified at point 4.1, shall be in English and shall bear the signature of persons duly authorized to represent the capacity booking platform operator.
- 4.3 The offer, together with all the accompanying documents, shall be sent to the following address only: **bookingplatform@acer.europa.eu**
- 4.4 Offers, including all the supporting documents as per point 4.1 above, must be received by the Agency by 07 June 2019 12.00 CET at the latest. The Agency will confirm that the offer has been submitted on time by sending you an acknowledgment of receipt. **The acknowledgment of receipt shall not be considered as a proof of completeness** of the submissions.
- 4.5 The capacity booking platform operators must ensure that their submitted offer contain all the information and documents required at the time of submission as set above. In case of failure to submit any of the documents identified above at 4.1, the capacity booking platform operator concerned will be disqualified and will not be considered further in the evolution of the offer.
- 4.6 After the submission of the offer, the Agency may contact the relevant operator only with the purpose of clarifying the offer and its supporting documents. Clarifications shall not change the offer.
- 4.7 The Agency shall not be held liable for the costs incurred for the preparation and the submission of the offer.

Annex 1 – Confidentiality (attached separately);

Annex 2 – Catalogue of criteria on legal requirements (attached separately);

Annex 3 – Template on legal requirements (declaration on honour on their fulfilment) (attached separately);

Annex 4 – Catalogue of selection criteria on IT features (attached separately);

Annex 5 – Template on IT Self-Assessment (attached separately);

Annex 6 – Case Study description (attached separately).