

REGULATION OF THE TENDER “OTR RPA QT. ELECTRÃO 2021”

SECTION I

LEGAL PROVISIONS

Article 1

Tender Object

The purpose of this tender is the selection of treatment and recovery operators for waste batteries and accumulators (WBA) from the selective collection of Electrão collection network. The WBA are collected autonomously and independently by Electrão, from the different types of collection points of Electrão network, based on the pre-defined operational flows under the Integrated Waste Management System for Batteries and Accumulators managed by Electrão, with the characteristics defined in the documents and in the *Complementary Information* of this tender.

Article 2

CONTRACTING AUTHORITY

The contracting authority is Electrão – Associação de Gestão de Resíduos, whose registered office is located at Restelo Business Center, Avenida Ilha da Madeira, nº 35 I, 4º - A, 1400-203 Lisboa, NIPC (corporation tax n.º) 509300421, henceforth called “Electrão”.

Article 3

Consultation of Tender Documents

The tender documents (Tender Notice, Tender Regulation, Complementary Information and Proposal Submission Form) is available at the address indicated in the previous article and can be consulted and downloaded from the page <https://www.electrao.pt/concursos/>.

Article 4

Participants

1. Without prejudice to what is mentioned in the following numbers, and since there is a pre-qualification phase, entities that, at the date of the tender, present the following requirements can submit a proposal:
 - a) Hold the necessary licenses, permits and certificates to carry out the treatment and recovery operations object of this tender;

- b) Gather the necessary information to support and evaluate the environmental performance assessment in the scope of this tender;
 - c) Fulfil the required conditions for waste treatment and recovery operations, which are the subject of this proposal, and in accordance with the legislation in force, namely as regards their facilities, equipment and techniques used;
 - d) Fulfil the service requirements subject of this proposal, for WBA treatment operator issued by APA – Agência Portuguesa do Ambiente (Portuguese Environment Agency) and minimum valuation requirements established in Article 76 of Decree-Law no. 102-D / 2020, of 10 December 2020 and in Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006;
 - e) Gather the necessary conditions for the fulfilment of the service requirements object of this proposal presented in the Complementary Information of this tender.
2. If it is not pre-qualified, the participant may submit its application for qualification, with all the necessary information available for this purpose on the Electrão website <https://www.electrao.pt/concursos/>.
 3. Entities that are in any of the situations listed in Annex I of this Tender Regulation or covered by an impediment to participation determined by Electrão under the terms of this Regulation, or in any other Regulation, are not admitted to the Tender.
 4. Electrão reserves the right not to admit entities with overdue amounts or falling due on the day immediately following the date of the tender, or that have undergone a special revitalization process pending on the date of the tender, or who are covered by an insolvency plan or a revitalization plan or any other procedure for the protection of creditors.
 5. Electrão further reserves the right not to admit entities in a litigation situation with Electrão.
 6. Electrão may, at any time, require the submission of supporting documents for the statements made by the participants.
 7. The participant is obliged to inform Electrão if it finds itself in any of the situations referred in Annex I of this Tender Regulation and also to update with it all the information provided in order to check the fulfilment of its participation conditions, in particular any changes to the permit.

Article 5

Tender Evaluation Criteria

1. The evaluation criteria for this tender are as follows:

Criteria	Weighting
Verified Unit Price (VUP)	75%
Environmental Performance (EP)	25%

Wherein:

- VUP is the Unit Price (€/ton) calculated based on the unit price presented in the proposal and the average transport cost (responsibility of Electrão) of the waste from the place of departure to the installation of the candidate operator. The unit cost of transport used will be 1 €/km.
 - The environmental performance will take into account the recycling rate achieved, determined through analysis of the documentation sent with the proposal.
2. In case of a tie, the applicable award criteria will be the first proposal received.
 3. Electrão reserves the right, for reasons of operational/economic efficiency, to assign more than one WBA type to the same participant, even if for a certain WBA type it is not the best proposal, according to the evaluation criteria identified above.
 4. Electrão reserves the right not to accept proposals in which it is found that the proposed price is disproportionate to the average price practiced on the market, based on the two immediately preceding years, or for other reasons provided for in the Tender Regulation.

SECTION II

PROPOSAL SUBMISSION

Article 6

Proposal Submission

1. The proposals for the Waste Treatment Operator (WTO) service must be submitted by e-mail until the date and time announced, according to the previous indication of Electrão, with the participation of entities who fulfil the conditions set out in article 4 of this document. Proposals shall be submitted in digital format and by electronic means to the e-mail: operacao@electrao.pt.
2. The proposal must be composed by the following documents, without which it will not be considered:
 - a. Proposal submission form, duly completed;
 - b. Updated operating permit;
 - c. Latest recycling certificate and information according to Commission Regulation (EU) No. 493/2012.
3. The participant assumes full responsibility for the proposal and information made available in the context of the tender.
4. Additional information and/or clarifications regarding the documentation sent may be requested;
5. The participant is not obliged to submit proposals for all WBA types listed in the Tender Notice.
6. The proposal must be submitted by the participant and subscribed by whoever has the power to compel it, with an indication of the name and the quality in which he subscribes to the proposal.

7. The participant is obliged to keep his proposal for a period of 30 days from the date of the deadline for submission of proposals, considering this deadline extended for equal periods, unless otherwise agreed by the participant and Electrão.

Article 7

Clarifications Requests

1. Interested parties may request clarifications regarding the proper understanding and interpretation of the elements exposed up to two working days before the deadline for the proposals submission.
2. Requests for clarification should be sent, by email, to: operacao@electrao.pt with receipt of reading and delivery notice. The subject of the email must include the number of the tender.
3. Clarifications must be provided by Electrão, by email, within one working day after receiving the clarification request.

Article 8

Responsibility for submitting the proposal

1. The participant must ensure that all proposals submitted by him are correct and accurate, being responsible for them, to which he is irrevocably bound.

SECTION III

ADJUDICATION

Article 9

Candidates Selection

1. After completing the formalities mentioned in this Tender Regulation, the proposals are analysed and ranked according to their classification.
2. Electrão will prepare a report on the proposals evaluation, with the decision and chosen proposals.
3. The chosen proposals will be those that meet the most favourable conditions according to the tender evaluation criteria provided for in Article 5.
4. Electrão reserves the right, in the event that, in its free discretion, none of the proposals submitted meet the purposes of this call for proposals, it will not award the services to any of them.
5. Electrão reserves the right, for operational/economic efficiency reasons, to assign more than one WBA type to the same participant, even if for a certain WBA type it is not the best proposal, according to the evaluation criteria identified above.

6. Tender procedures are subject to transparency, equality and competition principles, with the results of such tender procedures being validated by an independent entity.
7. In situations where it is necessary to resort to direct adjudication, Electrão may consult entities that comply with the provisions of the applicable legislation.
8. Any complaints against the tender results must be addressed to Electrão by the last working day of the month following the month in which the tender results are communicated, not determining the suspension of the effectiveness of the decision.
9. Electrão reserves the right to suspend the service if the requirements identified in the Tender Notice are not fulfilled and the services can be attributed to the 2nd classified or by direct adjudication.
10. In case of suspension of the service under the terms of the previous number or for any other reason attributable to the participant, Electrão reserves the right to determine the Entity's impediment from participating in future Electrão tenders for the period that it may establish.
11. It will be a selection condition the prior signature of the waste treatment operator contract right after the communication of the tender results and which the participant, in the case of selection, declares without reservation accepting. The contract draft is available in the tender documents.

Article 10

Causes of non-adjudication

1. Electrão reserves the right not to proceed to the selection when the proposed price is disproportionate to the average price normally practiced on the market, based on the two immediately preceding years, or is lower than the base value stated in the notice, if applicable.
2. If the tender is deserted or if there is no participant selection, Electrão may promote the holding of a new tender or initiate direct negotiation procedures with participants or third parties.

Article 11

False documents and declarations

1. Without prejudice to the participation to the competent entity for the purposes of criminal or administrative proceedings, the documents falsification or the guilty provision of false declarations and/or the omission to update the information provided determines, depending on the case, the respective exclusion or the invalidity of the award and subsequent acts.
2. The falsification of documents or the guilty rendering of false declarations will cause the participant to be unable to participate in future Electrão tenders for the period that it determines.

Article 12

Procedure Annulment

1. Electrão may, at any time, cancel this tender when:
 - a) Due to unforeseeable circumstances, it is necessary to change the fundamental elements of the documents on which the tender is based;
 - b) Other supervening reasons justify it.
2. The tender annulment decision is justified and publicized in the same way it was advertised its opening.

ANNEX I

1. Entities that are in the following circumstances cannot participate:

- a) Are in a state of insolvency declared by court order, even if not final;
- b) Have been convicted of a judgment which has the force of *res judicata* for any crime that affects their professional honor, if in the meantime their rehabilitation has not occurred, in the case of natural persons, or, in the case of legal persons, they have been convicted for those crimes, the members of the corporate bodies of administration, direction or management of the same and these are in effective function;
- c) Have been subject to administrative sanctions for serious professional misconduct, if in the meantime their rehabilitation has not occurred, in the case of natural persons, or, in the case of legal persons, they have been subject to application of that administrative sanction the members of the corporate bodies of administration, direction or management of the same and these are in effective functions;
- d) Do not have their situation regularized in relation to social security contributions in Portugal or, if applicable, in the State of which they are nationals or in which their main establishment is located;
- e) Do not have their situation regularized in relation to taxes due in Portugal or, if applicable, in the State of which they are nationals or in which their main establishment is located;
- f) Are prevented, under the terms of the law, from applying for private or public tenders, namely because they are subject to the accessory sanction provided for in paragraph e) of paragraph 1 of article 30 of Law no. 50/2006, of 29 August (in its current version), in paragraph e) of paragraph 1 of article 21 of Decree-Law no. 433/82, of 27 October (in its current version), in paragraph b) of no. 1 of article 71 of Law no. 19/2012, of 8 May, in no. 1 of article 460 of the Public Contracts Code, or in paragraph b) of no. 2 of article 562 of the Labor Code during the period of inability established in the condemnatory decision;
- g) Have been subject to an administrative or judicial sanction for less than two years for the use at their service of labor legally subject to the payment of taxes and social security contributions, not declared under the terms that impose this obligation, in Portugal or in the State, that they are nationals or in which their main establishment is located;
- h) Have been convicted of a judgment which has the force of *res judicata* for any of the following crimes, if in the meantime their rehabilitation has not occurred, in the case of natural persons, or, in the case of legal persons, the following crimes have been condemned: holders of the corporate bodies of administration, direction or management of the same and these are in effective functions, if in the meantime their rehabilitation has not occurred:
 - i) Participation in the activities of a criminal organization, as defined in Articles 1 and 2 of Council Framework Decision 2008/841 / JHA of 24 October 2008, on the fight against organized crime;
 - ii) Corruption within the meaning of Article 3 of the Council Act of 26 May 1997 and Article 2 (1) (a) of Council Framework Decision 2003/568 / JHA, 22 July 2003 on combating corruption in the private sector;

iii) Fraud within the meaning of Article 1 of the Convention on the Protection of the European Communities' Financial Interests;

iv) Money laundering, within the meaning of article 1 of Directive No. 91/308 / EEC, of the Council, of 10 June, on the prevention of the use of the financial system for the purpose of money laundering (version in force)

v) Have, in any capacity, provided, directly or indirectly, advice or technical support in the preparation and elaboration of the documents of the procedure.