



PROJECT LNG-HMA

Creation of a Hub system for supply, storage and distribution of
LNG in High/Middle Adriatic Sea

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Activation process of the Public-Private Partnership (PPP)

INTRODUCTION.

Project LNG - High/Middle Adriatic Croatia - Italy fits in the context of European energy policy (COP21 Paris 2015 and Road Map Europe Carbon Free 2050). The choice of methane as a fossil fuel used in the Carbon Free transition imposes diversification of supply routes of methane gas through the use of LNG.

Regarding investments in public works or works of public interest, the European Union will favour forming public-private partnerships (Junker plan).

A project can be involved in rules and procedures foreseen by the public-private partnership (PPP) as regulated by European Directives and rules of the Juncker plan, but also other financing programs of the European Commission.

Croatian law regarding public procurement is aligned with EU regulations and defined by the Law on public procurement (published in the Official Gazette, nr. 90. on 2nd of August 2011, in force from 1st of January 2012 with the exception of a few paragraphs that all came into force on the day of accession of Croatia to the EU, 1st of July 2013) and corresponds to the following European directives:

- ▶ Directive 2004/17/CE of the European Parliament and the Council of 31st of March 2004 defining tender procedure for water and energy suppliers that provide transport and postal services (Official Gazette, law 134 from 30/4/2004.);
- ▶ Directive 2004/18/CE of the European Parliament and the Council of 31st of March 2004 related to the coordination of tender awarding procedure for works, supply and services (Official Gazette law 134 from 30/4/2004.);

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- ▶ Directive 2005/75/CE of the European Parliament and the Council of 16th November 2005 amending Directive 2004/18/CE related to the coordination of tender awarding procedure for works, supply and services (Official Gazette law 323 from 9/12/2005.);
 - ▶ Directive 2005/51/CE of the European Parliament and the Council of 7th September 2005 amending appendix XX of Directive 2004/17/CE and appendix VIII of Directive 2004/18/CE of the European Parliament and the Council related to public tenders (Official Gazette law 257 from 1/10/2005.);
 - ▶ Directive 2007/66/CE of the European Parliament and the Council of 11th December 2007 amending Directive 89/665/CEE and Directive 92/13/CE of the European Council regarding the efficiency improvement of tender awarding procedure (Official Gazette law 335 from 20/12/2007.);

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- ▶ Article 2, 12 and 13 of Directive 2009/81/CE of the European Parliament and the Council of 13th July 2009 related to the coordination of tender awarding procedure for works, supply and services in defence and security sectors and recent amendments of Directive 2004/17/CE and Directive 2004/18/CE (Official Gazette law 216 from 20/8/2009).

In addition, the Croatian legislation united a law no. 90/2012 defining public-private partnership (PPP) with law no. 152-2862/2014 in line with the European Directive no. 23/2104.

PROCEDURAL ASSUMPTIONS.

The project envisages the assembly of public-private partnership between Croatia and Italy which would, in first phase, include institutional authorities of the Croatian Government, a few counties involved in the project with the emphasis on the county of Rijeka and the Veneto region and potentially region Friuli-Venezia Giulia, all in accordance with the INTERREG Italy - Croatia programme 2014/2020.

Public-private partnership should define and determine actions regarding design and planning of local development related to the LNG-HMA Croatia-Italy project.

Regarding Directive no. 23/2014, as well as Italian and Croatian laws on it's application, public partnership must single out public subjects responsible for the initiation of the public-private partnership process related to the contracting authority.

Croatia shall initiate the public-private partnership and Italian regions (Veneto and Friuli-Venezia Giulia) shall join at a later stage.

Group of private companies (Croatian and Italian) shall have the role of “proposers - promoters”, as does Directive no. 23/2014 envisages, and shall present to the Croatian Government a feasibility study. Proposer (a group of companies) commit to present to the Croatian Government all techno-economic information so that the Government might evaluate it’s feasibility, in line with the Croatian energy strategy and public investments regulations. If the Croatian Government evaluates the project as appropriate, it will initiate the process of public-private partnership and determine the contracting authorities.

In the framework of initiating the public-private partnership process, the Croatian Government commits, within the boundaries of applicable laws, that the process will be irrevocable and without interruption.

When Contracting Authorities are appointed, a group of companies “proposers - promoters” will present to them a proposition containing:

- ▶ Preliminary project;
- ▶ Economic and financial plan;
- ▶ Specification of services’ characteristics and management;
- ▶ Draft contracts defining concessions;
- ▶ Economic influence evaluation;
- ▶ Proposition of initiation of European funds (Junker plan).

Economic-financial plan regards costs for drafting the proposal, including the rights on intellectual property. The proposal contains validation on creditworthiness of the Proposer. Contracting Authorities that invite the tender evaluate and approve the proposal within 30 days. For this cause they can invite the Proposer to amend the preliminary project proposal so that it can meet the requirements necessary for their approval.

The preliminary project, with potential amendments, is in line with the guidelines approved by the Contracting Authorities on the basis of applicable laws. In addition, Contracting Authorities commit to initiate the process of authorisation that is unique and includes all the works envisaged by the project. Approved preliminary project is drafted on the basis of tender for concession, to which the Proposer is invited and after which it assumes the role of the promoter.

Tender specifies that the Proposer of the project can exercise the right of first refusal. Competitors, including the Proposer, must meet the requirements according to the applicable law and present the offer that contains the draft of the contract, economic and financial plan, specification of services' characteristics and management, as well as potential changes to the preliminary project. If the project is not assigned to the Proposer, it can exercise the right of first refusal, until 15 days after the final decision, and become selected if it commits to fulfil contractual obligations under the same conditions as the selected bidder. If the Proposer is not selected and does not exercise the right of first refusal, it has the right to receive payment, on the burden of the Contracting Authority, for compensating costs of preparing the proposition in the amount of 2% of the overall value of works included in the tender.