

**Procedure  
for organizing and conducting tender to select the centralized data base administrator for  
number portability implementation in the Republic of Moldova**

**I. GENERAL PROVISIONS**

1. This Procedure shall establish the general principles, the terms and conditions for organizing the tender in order to select the entity that shall develop, operate, manage and maintain the centralized database for number portability implementation and realization in the Republic of Moldova, shall coordinate and control the numbers porting process in a centralized manner.

2. For the purpose of this Procedure , the following terms shall be defined as follows:

1) **Contractual guarantee** – a bank guarantee for ensuring the proper fulfillment of the obligations by the centralized database administrator, as stipulated in the Agreement for the organization, operation, administration and maintenance of the centralized database;

2) **Tender participation guarantee**– sum of money transferred to the organizers of the tender by the tender candidate, together with the bid, meant to ensure the validity of the bid;

3) **Tender candidate** – legal entity or civil society/association of legal entities that submitted, according to the Terms of Reference, an application to participate in the tender and was registered in the single correspondence Registry for participation in the tender;

4) **Terms of Reference** - set of minimum technical, administrative, commercial and financial requirements which the tender participant shall have to fulfill, the evaluation grid, the minimum obligations which the tender candidate shall have to assume, if nominated as winner, as well as the terms and manner to submit applications for participation in the tender;

5) **Applications for participation in the tender** – a written document, by which the candidate notifies of intention to participate in the tender;

6) **Bid** – a written document, prepared in accordance with the requirements and of the Terms of Reference, submitted by the tender candidate, by which the latter engages to develop, operate, manage and maintain the centralized data base, to coordinate and control the number porting process in a centralized;

7) **Tender participant** – an tender candidate admitted to the stage of review, evaluation and comparison of bids;

8) **Tender participation fee** – sum of money transferred to the tender organizer by the tender candidate, which ensures the applicant's participation in the tender.

3. The terms not defined by the Procedure shall bear the meaning as provided by the Law on Electronic Communications no. 241- XVI of November 15, 2007, hereinafter Law 241/2007, National Numbering Plan (NNP), approved by order of the Ministry of Communications and Information Technology no.15 of March, 2010, the Regulations on Number Portability, approved by ANRCETI Administrative Board Decision no. 34 of 01.12. 2011 and Procedure for Management of Telephone Numbering Resources, approved by ANRCETI Administrative Board Decision no.58 of December 21, 2010.

4. The tender shall be organized and conducted in compliance with the following basic principles:

- 1) Transparency;
- 2) Non-discrimination;
- 3) Objectivity;
- 4) Confidentiality;
- 5) Impartiality.

5. As a result of the tender, one winning bid shall be selected, which will serve as legal basis for nomination of the tender winner and appointment of the centralized database administrator.

6. The centralized database administrator shall be selected by means of an open international tender, by applying the procedure of comparative selection.

7. Comparative selection is based on the principle of the first classified, as a result of evaluation of a total of technical, administrative, commercial and financial criteria, contained in the Terms of Reference.

8. The tender shall take place in two distinctive stages:

1) First stage (pre-selection of candidates, in order to identify tender participants), which takes place on basis of eligibility criteria, set in the Terms of Reference, having as participants all the applicants that submitted applications for participation, under the terms and conditions established in the tender announcement;

2) Second stage (review, evaluation and comparison of bids), having as participants only the candidates pre-selected at first stage.

9. The tender is open for legal entities from the Republic of Moldova and from abroad or civil societies/ legal entity associations from the Republic of Moldova and/or abroad for submitting joint applications for participation and bids.

10. Civil societies/associations can participate in a non-legalized form, provided that they present the original of a contract, legalized by a notary, to confirm the status of a civil society/association, concluded between all its members. The contract shall contain at least the names of its associated members, the name of the state, on the territory of which it was founded, the number of registration in the trade registry or another equivalent registry, the premises and the percent share of every member in the given civil society/association.

11. The tender candidates/participants shall be able to take part in the tender personally or through a duly authorized representative.

12. The following persons **shall not** be able to participate in the tender:

1) Holders of licenses authorizing the use of numbering resources for the provision of public fixed and/or mobile networks and/or service in the Republic of Moldova;

2) Providers of public fixed and/or mobile telephone networks and/or service from the Republic of Moldova;

3) Providers that are operating a switch or equivalent element (gateway) used for international call termination in the Republic of Moldova;

4) Persons holding shares (social parts), directly or indirectly, within any of the persons listed in sections 1-3 above;

5) Persons affiliated to any of the persons listed in sections 1-3 above;

6) Persons having structural links or other economic or patrimonial interests within any of the persons listed in sections 1-3 above;

7) Physical persons.

13. The following persons **shall have** the right to be present at the tender:

1) Legal or mandated representatives of the legal entities from the Republic of Moldova and from abroad, or of the civil societies/ legal entity associations from the Republic of Moldova and/or abroad, who submitted an application for participation in the tender and paid the fee and the participation guarantee – as tender candidates or participants;

2) Representatives of providers of electronic communications networks and/or services, representatives of the central sector body, mass-media, etc. – as observers.

**14.** Where the nominated winner is a foreign legal entity, the legal entity registered in the state registry of legal entities in Moldova, created and controlled by the winning tender participant, shall be appointed as administrator of the centralized data base.

**15.** Where the nominated winner is a civil society/association, the legal entity registered in the state registry of legal entities in Moldova, created and controlled by the civil society/association nominated as winner, shall be appointed as administrator of the centralized data base.

## **II. TENDER ORGANIZER**

**16.** The function of the organizer of the tender to select the administrator of the centralized database, hereinafter the tender, shall refer to the Agency.

**17.** For the purpose of performing its function of the tender organizer, the Agency shall be liable to fulfill the duties as provided for in this Procedure and in the Terms of Reference.

**18.** The financial resources for organizing and conducting the tender shall be provided from tender participation fees and, where appropriate, from tender participation guarantees.

**19.** The tender participation fee and guarantee shall be transferred to the Agency's account indicated in the tender announcement.

**20.** The tender participation fee shall not be reimbursed.

**21.** The tender participation guarantee shall be reimbursed to non-winning candidates/participants, except in cases stipulated by this Procedure.

## **III. TENDER COMMISSION**

**22.** For the purpose of holding the tender, the Agency, in its decision, shall found the tender commission, hereinafter – the Commission, and shall appoint the Secretary of the Commission.

**23.** The Commission shall consist of 11 members with voting right, including:

1) Chairman of the Commission, who shall be one of the Administrative Board members;

2) 4 specialists in economic, technical and legal areas from the Agency;

3) 4 representatives of the providers of public fixed/mobile telephone networks and services from the Republic of Moldova;

4) A representative of the Ministry of Information Technology and Communications, knowledgeable in number portability;

5) A renowned specialist from outside of the Republic of Moldova, knowledgeable and experienced in number portability.

**24.** The Commission Secretary shall be appointed from the Agency staff and shall not have the voting right.

**25.** The Commission may also comprise, under advisory vote, specialists in the field of information technology and communications from the Agency, representatives of providers of public telephone networks and services from the Republic of Moldova, independent experts, including from abroad. The list of the commission shall be made by the Secretary of the Commission and shall be approved by the Chairman of the Commission.

**26.** The activity of the Commission shall start on the date the decision on the Commission appointment is adopted.

**27.** The first meeting of the Commission shall take place on the date scheduled by the Agency, whereas the following meetings shall take place on the date decided upon by Commission Chairman.

**28.** The meetings of the Commission shall be deliberative, if attended at least by two thirds of its members. Every member of the Commission will be announced in writing at least 3 working days before the meeting.

**29.** Every member is entitled to one vote „for” or „against”. Abstaining from voting shall not be permitted.

**30.** All Commission members shall have the voting right at all the meetings of the Commission.

**31.** The Decisions of the Commission shall be adopted by open voting, with the simple majority of the votes given by the members present. In case of equal votes, the Chairman’s vote shall be decisive.

**32.** The Decisions of the Commission shall be recorded in minutes, drawn up during the meetings and signed by all voting members present.

**33.** The Commission members, who disagree with the Decisions of the Commission, and refuse to sign the minutes, shall submit, immediately, in written form, a separate opinion, explaining the reasons for the divergence, which shall be attached to the minutes.

**34.** The status of Commission member/Secretary can be withdrawn in the following cases:

- 1) Request from the authority/provider who proposed the candidacy;
- 2) Personal request of the member/Secretary regarding voluntary withdrawal.

**35.** If some of the members/Secretary withdraw(s) for the reasons indicated at section 34 or if they cannot participate in the meetings of the Commission due to their dismissal from office, they shall be replaced by other members of the same authority or the same provider (persons newly-appointed to such office) authorized by an official letter from the authority or provider, without a new decision being issued by the Agency.

**36.** The Commission shall have the following main duties:

- 1) Verify the conditions of eligibility of candidates;
- 2) Pre-select the tender participants ;
- 3) Reject applications that do not meet the minimum requirements, as established in the Terms of Reference;
- 2) Open, review, evaluate, compare the bids;
- 3) Request the necessary explanations and clarifications on the bids submitted by tender participants;
- 4) Nomination of the winning bid;
- 5) Nomination of the winner;
- 6) Suspension or cancellation of the tender.

**37.** The Chairman of the Commission shall have the following duties:

- 1) Organize meetings, decide upon the place, date and time of Commission meetings;
- 2) Preside Commission meetings;
- 3) Sign decisions, minutes, other documents issued within the Commission activity.

**38.** The Secretary of the Commission shall perform all the secretarial work at all the stages of the tender, including: making the tender documents available to the applicants, providing written advice, drafting notices and minutes, other activities associated with the Procedure of organizing and conducting the tender.

#### **IV. ORGANIZATION OF TENDER**

**39.** During the organizational stage, the Agency shall:

- 1) Establish the terms and conditions for holding the tender;
- 2) Establish the participation fee and guarantee, as well as the contractual guarantee;
- 3) Establish eligibility criteria and the method of evaluating the candidates’ qualification data;
- 4) Establish the criteria of bid evaluation and the evaluation grid;

- 5) Develop and approve the Terms of Reference and other tender documents to be made available to applicants;
- 6) Draw up, approve and publish the tender announcement;
- 7) Institute the tender Commission;
- 8) Arrange an office for the work of the Commission.

**40.** The Agency shall publish announcements about the tender in at least two 2 daily newspapers under wide international circulation, in at least two specialized international publications, including the „Official Journal of the European Union”, in a daily newspaper under national circulation, in a specialized publication, on its website and at the Agency office, in a fully-accessible public space, at least 45 days before the date scheduled for the submission of tender applications.

**41.** The minimum contents of the tender announcement shall contain:

- 1) Full name of the organizer;
- 2) Object of the tender and its brief description;
- 3) Procedure of selecting the winner of the tender;
- 4) Participation conditions;
- 5) Place and conditions for obtaining the Terms of Reference, other tender documents;
- 6) Date, hour and place of tender, if appropriate, date, time and place of opening the bids;
- 7) The sum of the participation fees and guarantee, the methods and deadlines of payment;
- 8) Address, deadline date and time for submitting applications for participation;
- 9) Language (s) in which of the bids are to be written and the language of communication during the tender;
- 10) Other relevant information.

**42.** During the organizational stage of the tender, Commission Secretary shall:

- 1) Register, the single tender correspondence Registry and keep in safe conditions the applications for tender participation, accompanied by the bids, other documents submitted by tender candidates under the provisions of this Procedure;
- 2) Respond, in written form, to any enquiries from candidates with reference to the tender, received 10 days before expiry of the term for submission of tender applications, and ensure that these enquiries and responses are published on the website of the Agency;
- 3) Perform other duties related to the Procedure of organizing and conducting the tender.

**43.** The timeframe for the preparation and submission of tender applications, accompanied by bids and other documents (starting from the date of the published announcement till the deadline for submitting applications) shall be established by the Agency, but shall not be shorter than 45 calendar days.

## **V. TERMS OF REFERENCE AND OTHER TENDER DOCUMENTS**

**44.** For the purpose of conducting the tender, the Agency shall develop and approve the tender documents, made available to the candidates by being displayed on the Agency Website and, upon request, directly, by the Commission secretary.

**45.** The Terms of Reference shall be the basic tender document.

**46.** The Agency shall ensure the decision-making transparency in the process of development and approval of the Terms of Reference and other tender documents pursuant to the legislation in force.

**47.** The Terms of reference shall contain, but shall not be limited to the following:

- 1) Full name of the organizer, address and contact details;

- 2) Objective of the tender;
- 3) Eligibility criteria and manner of estimation of candidates' qualification data;
- 4) Criteria for bid evaluation and evaluation grid;
- 5) Minimum conditions for the bid and the documents to be submitted by the tender candidates;
- 6) Amount and method of transferring the tender participation fee and guarantee to the Agency's account;
- 7) Amount and method of submitting the contractual guarantee;
- 8) Place, deadline and method of submitting the tender applications;
- 9) Manner in which candidates may request explanations with reference to the Terms of Reference, other tender documents;
- 10) Validity term of bids;
- 11) Place, date and time for opening the bids.
- 12) General conditions to be included in the Agreement for the development, operation, administration and maintenance of the centralized data base, signed between the Agency and the administrator of the centralized data base;
- 13) General information about the Republic of Moldova;
- 14) General information regarding the situation in the electronic communications sector;
- 15) Detailed information regarding the state of things on the fixed and mobile telephone segments.

## **VI. SUBMISSION OF APPLICATIONS**

**48.** In order to participate in the tender, potential candidates shall submit to the Agency a tender application, by filling in, obligatorily, a standard form, as established in the Terms of Reference, hereinafter – the application.

**49.** The application shall be, mainly, accompanied by the following documents, which shall be part thereof:

- 1) Documents duly certifying the applicant's identity;
- 2) Document confirming payment, to the indicated account and in the required amount, of tender participation fee and guarantee;
- 3) Bid, which must be firm, unequivocal, serious and complete;
- 4) Documents confirming the powers of the natural persons representing the tender candidates;
- 5) Declaration on individual responsibility of the legal or mandated representative of the applicant regarding the veracity of data and documents submitted to the Agency;
- 6) Other documents as required by the Terms of Reference, which are part of the bid.

**50.** The documents prepared by or with the participation of the competent authorities from abroad, subsequently shall be authenticated at the Embassy of the Republic of Moldova accredited to that particular country. Those documents can be submitted without authentication if this is stipulated in international treaties which Moldova joined. The documents presented by the foreign legal entities or civil societies/associations with the participation of foreign legal entities, written in foreign languages, shall be translated in Romanian, certified as required by law of the Republic of Moldova.

**51.** The tender candidates shall seal the bid and the accompanying documents in a separate envelope, marked as required in the Terms of Reference.

**52.** The tender application and the accompanying documents, including the sealed envelope with the bid and the accompanying documents shall be introduced in a parcel, sealed and marked as required by the Terms of Reference.

**53.** Where the parcel is not marked as required, the Agency shall not assume any responsibility for its loss or opening ahead of schedule. In such a case, the bid included in the parcel opened ahead of schedule or submitted to the Secretary of the Commission after the deadline for submission of bids, shall not be accepted for participation in the tender and shall be returned promptly to the submitting applicant, who shall be able to submit a new bid, within the general term established for bid submission, whereas the tender participation fee shall not be reimbursed.

**54.** The application signed by the person empowered by the tender candidate, accompanied by the documents required by this Procedure, shall be submitted to the Agency before the deadline, including to the address as indicated in the tender announcement, taking the risks of its submission, only by one of the following methods:

1) By personal delivery or delivery by representative authorized by the candidate, under signature;

2) By registered mail, with confirmation of receipt.

**55.** The submission date shall be considered the date the person in charge from the Agency signs to confirm application receipt, or, where applicable, the date confirming registered mail receipt by the Agency, indicated in the confirmation of receipt.

**56.** The applications, accompanied by the documents required by this Procedure, submitted to the Agency before the established deadline, date and time, shall be handed over by the person in charge of the Agency to the Secretary of the Commission for storage, only if the parcels and seals are intact. Otherwise, the bid shall not be accepted for participation in the tender and shall be promptly returned to the applicant who submitted it, the latter being able to submit another bid within the terms generally established for that.

**57.** Applications sent after the deadline and those followed by notices of withdrawal shall be returned by the person in charge of the Agency to the candidates, where applicable, without opening the packages, whereas the tender participation fee shall not be returned.

**58.** Members of civil societies/legal entity associations shall not have the right to submit other tender applications and bids, individually or within other societies/associations.

**59.** Legal entities nominated as sub-contractors and/or partners within a bid shall not have the right to be nominated as such within other bids or to submit applications and bids on their own behalf or within a civil society/association of legal entities.

**60.** Applications for the tender, bids and/or documents attached to it shall not be subject to withdrawal from the Agency after the expiry of the deadline for their submission. A bidder shall be able to participate in the tender with one single bid. If an applicant submits more bids, only the bid submitted last shall be taken into account, provided this bid has been submitted pursuant to the terms and conditions of this Procedure.

**61.** The tender candidate or participant shall be entitled to refuse participation at any stage of the tender.

**62.** Where the tender candidate decides to withdraw his application and the supporting documents from tender before the deadline set for submission of applications, all the documents submitted by the applicant, as well as the participation guarantee shall be returned to the candidate, except the participation fee.

**63.** Where the applicant refuses to participate after the deadline for submitting applications, the documents, the participation guarantee and fee shall not be returned.

## **VII. MINIMAL REQUIREMENTS FOR TENDER CANDIDATES AND THEIR RIGHTS**

**64.** For the evaluation the candidates' qualification data, the provisions of this chapter shall be applied, taking into account the candidate's right to intellectual property protection and trade secrets.

**65.** In order to be eligible for the tender, the candidate shall submit, within the set deadlines, the duly completed documentation as required by the Terms of Reference. These documents must certify, mainly:

- 1) Managerial competence, experience, good reputation, financial capacity, technological facilities;
- 2) Reliability (certificates confirming that the applicant is not under liquidation or insolvency procedure, that his property is not under sequester and his business activities are not suspended);
- 3) General information about the candidate.

**66.** The tender candidates shall have the right:

- 1) To take note of the Terms of Reference, other tender documents, including to request copies of those;
- 2) To make proposals with reference to the organization of the tender, to request and receive explanations regarding the requirements set in the Terms of Reference, other tender documents;
- 3) To withdraw his bid at any stage of the tender, bearing the consequences specified in this Procedure.

**67.** Tender applicants/participants shall be able, within maximum 5 working days, to submit to the Agency a written appeal against any decision or action / inaction of the Agency or the Commission, taken at any stage of the tender, which harms their legitimate interests.

## **VIII. TENDER PROCESS**

**68.** The tender shall take place if at least 3 applications to participate have been filed in. Where fewer than 3 applications for participation have been received, the tender shall be cancelled, through Agency decision, the participation fee and guarantee being returned.

**69.** The tender can be conducted by the Commission, in one or more sessions. The first session shall take place within maximum 10 working days from the deadline established for submission of applications.

**70.** Before the tender is opened, the Commission members, applicants/participants and observers are required to get registered with the Secretary of the Commission.

**71.** *The first stage of the tender* (pre-selection of candidates) *shall take place as follows:*

- 1) On the date fixed for the tender, the Commission shall meet for a session:
- 2) The meeting may be attended by the legal or authorized representatives of the applicants (who have applied, under the terms and conditions set out in the announcement), experts and observers registered before the session of the commission opens;
- 3) The Chairman of the Commission shall open the session and introduce the Commission members, decides upon the quorum and notifies regarding the working procedure of the Commission;
- 4) The Secretary of the Commission shall present the list of applicants and the sealed parcels, submitted by the applicants, read out the written notifications with reference to bid withdrawals, as appropriate;
- 5) The Commission, in the order of registration in the single tender correspondence Registry, shall verify the integrity of parcels, envelopes and seals, open every parcel, verify availability and conformity of all the documents accompanying the applications with the requirements set forth in this Procedure and the Terms of Reference, estimating the conformity of the qualification data of candidates according to eligibility criteria for professional capacity and the grid of scores according to the Terms of Reference, by filling out the forms for evaluation of candidates' eligibility and adopts a decision admittance to the second stage of the tender;



6) The forms shall be filled out separately for every candidate, by every Commission member, in one copy, with signature, shall be sealed in separate envelopes and shall be submitted to the Secretary of the Commission;

7) The Commission shall not open the envelopes and bids;

8) For participation in the second stage, the Commission shall admit only the candidates that duly filed in all the requested documents and information in compliance with the minimum requirements set forth in the Terms of Reference;

9) The Commission shall reject the applications, where the candidates failed to submit all the required documents and information, or where the application itself, the required documents and information do not meet the minimum requirements set forth in the Terms of Reference;

10) For the Commission records, the Secretary of the Commission shall make the minutes, in which he shall record the information regarding the availability and compliance of the documents and information submitted by every candidates, as well as the pre-selection results;

11) The minutes shall be read out in the presence of the attendees of the session of the Commission and shall be signed by the Chairman and Secretary of the Commission, and endorsed by all the Commission members with voting right, present at the session, except those as provided in section 33 of this Procedure, and the legal or mandated representatives of the candidates (where legal or mandated representatives of the applicant refuses to endorse the minutes by signature, this fact shall be recorded in the minutes and confirmed by the Chairman's and secretary's signatures);

12) The Commission shall ensure the notification, in written form, of every applicant on its decision with reference to the results of the first stage;

**72. *The second stage of the tender (review, evaluation and comparison of bids) shall take place as follows:***

1) The second stage of the tender shall take place only if 2(two) or more participants are admitted to take part in the tender (where fewer than 2(two) participants are admitted, the tender shall be cancelled, through the Agency decision, the participation guarantee and fee being returned to the participant admitted to the tender);

2) The Commission shall proceed, immediately or in the coming days, to the verification of compliance of every proposed bid with the requirements set forth in the Terms of Reference and subsequently shall take on the detailed review, clarification and evaluation of every bid;

3) The Chairman of the Commission shall announce the names of tender participants and shall read out the written notifications on bid withdrawal, as appropriate, after which the Secretary of the Commission shall open the sealed envelopes with the bids in the order of their registration in the single correspondence registry for the tender and shall hand them in to the Chairman of the Commission;

4) The sealed envelopes with the bids shall be opened in the presence of Commission members, including experts and legal or mandated representatives of the bidders (shortlisted in the first stage) and observers registered before the session has been opened;

5) The Chairman of the Commission shall announce the names of the participants as included in their bids;

6) The Commission shall verify the equivalence of the announced names with the ones indicated on the envelope, as well as the conformity of the documents included *in* the envelope with the list of documents indicated *on* the envelope and the compliance with the requirements set in the Terms of Reference for the bid and for other documents and information accompanying the bid;

7) The Secretary of the Commission shall present the main features and values of the bids;

8) For the purpose of review, objective evaluation and comparison of bids, the Commission may request that the participants provide explanations and clarifications as to their bids;

9) Request for explanations or clarification and the response shall be provided in written forms, however, these shall not allow any modifications to the value or the contents of the bids;

10) Where the tender applicant cannot explain or clarify certain provisions, errors or omissions in the bid, to become commensurate with the Terms of Reference, the Commission shall cancel that participant's admission to the tender;

11) The Commission shall have the right to recommend the Agency to resort to the relevant bodies from the Republic of Moldova or from foreign countries as regards verification of the data about tender participants. Using these data, the Commission shall comply with the confidentiality requirements.

12) The Commission shall examine, evaluate and compare the bids in a timeframe of maximum 10 working days after the first session of the Commission;

13) Every member of the Commission shall independently evaluate the values indicated in every bid, in accordance with the evaluation criteria and the evaluation grid, as prescribed by the Terms of Reference;

14) The evaluation results shall be recorded by being entered in the standard evaluation forms;

15) The standard evaluation forms shall be filled in, separately per bid, by every member of the Commission, in one copy, under the member's signature, shall be sealed in separate envelopes and shall be delivered to the Secretary of the Commission;

16) After the evaluation of all the bids by all the members of the Commission, the Chairman of the Commission shall open, in the order of applicants registration in the single tender correspondence Registry, the envelopes with the evaluation forms of candidates' eligibility criteria and evaluation of bids, filled-in by the Commission members and shall verify whether the forms have been completed correctly and completely;

17) The incorrectly or incompletely filled-in evaluation forms shall be, returned to the members to be corrected immediately, on the spot;

18) Where, after the corrections, it is found that the evaluation forms are filled out incorrectly or incompletely for at least one bid, the Commission shall not take into consideration the evaluation forms filled in by this member for all the bids;

19) The Commission shall announce the results recorded by every member for every candidate and for every bid separately and shall calculate the average score earned separately for every bid, according to the Terms of Reference. The average score shall be calculated as the ratio between the total score, calculated on the basis of duly completed and accurate evaluation forms, filled in by every member of the Commission and the total number of such forms (the evaluation shall be considered accurate and complete, if the evaluation form contains the values for all the criteria and correspond to the calculation models and to the evaluation grid as provided for in the Terms of Reference).

**73.** For the Commission records, the Secretary of the Commission shall make the minutes, in which he shall record the information regarding the review and evaluation of bids. The minutes shall be read out in the presence of those attending the session and shall be signed by the Chairman and the Secretary of the Commission and endorsed by all the voting members of the Commission, present at the session, an exception being those members mentioned in section 33 of this Procedure, and the legal or mandated representatives of tender participants (where the legal or mandated representative of the applicant refuses to endorse the minutes by signature, this fact shall be recorded in the minutes and confirmed by the Chairman's and secretary's signatures).

**74.** After the objective review and evaluation of bids, the Commission shall be able to take the decision regarding the rejection of all the bids, if the bids do not comply with the

requirements set in the Terms of Reference, in which case the Commission shall cancel the Tender.

**75. *The nomination of the winner shall take place as follows:***

1) The bid the first to be registered in the comparison table, according to the requirements of the Terms of Reference, shall be proposed to the Commission by its Chairman, for the nomination of the winning bidder, through open voting;

2) The decision regarding the nomination of the winning bidder shall be issued in three copies and shall comprise:

- a) Names of the Commission members;
- b) Names of participants;
- c) Evaluation method;
- d) Nomination of the winning participant;
- e) Signatures of the Commission members;
- f) Date of issue.

**76.** The Commission members, who disagree with the winner nomination decision, shall provide a separate written opinion, explaining the reasons for the divergence, which shall be attached to the minutes;

**77.** The decision of the Commission regarding winner nomination shall be submitted to the Agency;

**78.** The Agency, within 5 working days after the receipt of the decision regarding the winner nominated by the Commission, shall adopt the decision regarding the designation of the centralized data base administrator (hereinafter the CDB administrator) and shall submit a copy of that to the designated CDB administrator.

**79.** The decision regarding the designation of the CDB administrator shall contain the following:

- 1) Deadline for concluding the Agreement with the Agency;
- 2) Deadline for submitting the contractual guarantee;
- 3) Draft Agreement for development, operation, administration and maintenance of the centralized data base, issued according to the winning bid.

**80.** The Agency, within 5 working days after the decision on designating the CDB administrator was adopted, shall notify the tender results, in written form, to all the participants.

**81.** The CDB administrator shall submit to the Agency, within 15 calendar days after receiving the designation decision, the contractual guarantee regarding the availability of the funds necessary to completely and adequately perform all the obligations of the CDB administrator, assumed through the bid and stipulated in the Agreement for the development, operation, administration and maintenance of the centralized data base. The conditions applicable to the contractual guarantee, the validity term, the conditions for refund or the use of the guarantee by the Agency shall be prescribed in the Agreement signed between the CDB administrator and the Agency.

**82.** The CDB administrator, within 30 calendar days after receiving the designation decision, shall negotiate and sign with the Agency the Agreement for the development, operation, administration and maintenance of the CDB, issued according to the winning bid, which is an integral part thereof. After signing this Agreement, the Agency, within 5 working days, shall return the tender participation guarantee to the CDB administrator.

**83.** Where the CDB administrator fails to comply with the terms provided in sections 81 and/or 82, the Agency shall cancel its decision on designation of the CDB administrator and, within 3 working days, shall notify that to the Commission.

**84.** On basis of the decision cancelling the prior decision on designation of the CDB administrator, the Commission, within 3 working days, shall cancel its prior decision on nominating the winning bidder, without returning the tender participation guarantee and shall announce as tender winner the participant ranked next by the score gained during the tender. If there is no such participant, the Commission shall cancel the tender.

**85.** If the tender is cancelled for the reason indicated in section 83 and new tenders are announced, the tender winner who failed to submit the contractual guarantee to the Agency and/or did not sign with the Agency the Agreement for the development, operation, administration and maintenance of the CDB, within the prescribed terms, shall be deprived of the right to participate in the newly announced tenders for the selection of a CDB administrator.

**86.** *The Commission shall cancel the tender in the following situations:*

1) Where, at any stage of the tender, the Commission finds essential violations of the tender Procedure ; the tender candidates/participants, who by their actions contributed to the cancellation of the tender, shall be deprived of the right to participate in new tender for the selection of the CDB administrator, announced by the Agency and the tender participation guarantee paid to the Agency account shall not be returned;

2) Other cases as stipulated by this Procedure.

**87.** Where the Tender is cancelled for the reasons indicated in this Procedure , the Agency, within 30 days of the date of receipt of the Commission Decision, shall decide on the organization of a new Tender and the conditions of this Tender.

## **IX. RESPONSIBILITIES AND OBLIGATIONS**

**88.** Candidates/participants shall be liable to:

1) Comply with the provisions of this Procedure ;

2) Comply with the provisions and deadlines, established by the Terms of Reference, other tender documents;

3) If nominated as winner of the tender, to unconditionally meet his obligations under this Procedure, Terms of Reference and bid;

4) Incur all the costs required for participation in the tender.

**89.** The Agency shall not be liable and shall not engage to reimburse costs required for participation in the tender, incurred by the Candidates/participants.

**90.** The Chairman, Secretary and members of the tender Commission, as well as other persons involved in organizing/conducting the tender, shall assume personal responsibility, for ensuring the integrity and confidentiality of the information and data presented by the candidates/participants, both during the tender and after it is over. They shall sign a declaration of confidentiality thereto.

**91.** The Chairman, Secretary and members of the tender Commission, as well as other persons involved in organizing/conducting the tender, shall not make copies of the documents filed in by the candidates/participants.

**92.** Neither the Chairman, Secretary and members of the tender Commission, as well as other persons involved in organizing/conducting the tender, nor any person related to these can have a direct or indirect interest in the designation of a tender participant as a winner. A person pursues direct interest if, in the exercise of his powers under this Procedure, he has received or will receive, from a tender candidates/participants or affiliated person thereof, any payment or other benefit, in cash *or otherwise*. A person pursues indirect interest if it is, directly or indirectly, a shareholder (associated), member of the administration, administrator, auditor or employee, with a workbook or otherwise, of one of the candidates/participants, or has control, direct or indirect, over one of the candidates/participants, or is an affiliated person of any of the candidates/participants, or has other economic or property interests in any of the candidates/participants, and shall sign a declaration of impartiality in this respect.

**93.** The Chairman, Secretary and members of the tender Commission, as well as other persons involved in organizing/conducting the tender, other affiliated persons, shall not have the right participate in the tender as candidates/participants or represent them.

**94.** Candidates/participants shall not have the right to influence or attempt to influence, directly or indirectly, the members or Secretary of the tender Commission, other Agency representatives or other persons involved in organizing/conducting the tender, or in

decision-taking referring to the winning bid, under the penalty of being excluded from the tender and losing the participation guarantee and fee.

**95.** The Commission shall have the right to reject, at any stage of the tender, the application of the candidate and/or the bid, who makes directly or indirectly, to the members or Secretary of the tender Commission, another Agency representative or other persons involved in organizing/conducting the tender, a proposal for engagement or any other service as a reward for certain actions, decisions or application of certain procedures in his favor.

**96.** None of the candidates/participants or legal or mandated representatives of these, shall have the right to contact the members of the Commission regarding issued associated with his bid, until the Agency has designated the CDB administrator, otherwise than prescribed by this Procedure.

## **X. DISPUTE RESOLUTION**

**97.** The divergences arising at any stage of the tender shall be resolved by the tender Commission before the end of the tender.

**98.** Appeals on the tender result may be submitted by tender participants within 5 working days of receiving the notification about the tender results.

**99.** The appeal must be drawn up in written form and submitted to the Agency office by the authorized representative of the tender participant, under signature or sent by registered mail, with confirmation of receipt.

**100.** Within 15 calendar days from the date the appeal was filed in, a commission designated through an Agency's decision, consisting of persons other than those that were members of the tender Commission, shall solve the appeal and shall issue the minutes, signed by the Commission members and approved by the Director of the Agency.

**101.** After the minutes on solving the appeal have been issued and approved, the Agency shall send to the complainants a notification with reference to the results of appeal review, so as it is prescribed in the minutes.

**102.** The Agency may extend the timeframe for solving the appeal by maximum 5 calendar days, where the analysis of the appeal needs processing of a big amount of information.

## **XI. FINAL PROVISIONS**

**103.** This Procedure shall not be modified during the tender.

**104.** Unsuccessful candidates/participants shall be fully refunded, within 10 days after the tender, with tender participation guarantee, except the following situations:

- 1) The application is withdrawn by the candidates/participants during the tender;
- 2) There is false information provided in the tender documents;
- 3) Forged or invalid documents are attached to the application;
- 4) The winner fails to provide the contractual guarantee before the deadline;
- 5) The winner fails to sign with the Agency, in due time, the Agreement for the organization, operation, administration and maintenance of the CDB, or refused to sign;
- 6) Candidates/participants that, by their actions, contributed to the cancellation of the tender;
- 7) Candidates/participants that influenced or attempted to influence, directly or indirectly, the members or Secretary of the Commission, other representatives of the Agency or other persons involved in organizing/conducting the tender, or in the decision-making with reference to the winner;
- 8) Other cases, as established by this Procedure.

**105.** After the Agreement for the organization, operation, administration and maintenance of the CDB has been signed between the Agency and the CDB administrator, the

Commission shall self-dissolve, all the documents related to the tender being deposited in the Agency archive.

**106.** Before the termination of the Agreement for the organization, operation, administration and maintenance of the CDB, the CDB administrator shall not have the right, without a written consent of the Agency, to change the structure of its shareholders (associates).

**107.** Before the termination of the Agreement for the organization, operation, administration and maintenance of the CDB, the CDB administrator shall not have the right, without a written consent of the Agency, to transfer or delegate his rights and(or) obligations as prescribed by the Agreement for the organization, operation, administration and maintenance of the CDB.

### DECLARATION OF CONFIDENTIALITY

The undersigned \_\_\_\_\_,  
(Name, surname, identity code)

as \_\_\_\_\_

**1.** I hereby declare, under personal responsibility and under the penalty of false evidence that I pledge to:

**a)** Keep confidentiality about the candidates/ contents of bids/information presented by the candidates/participants to the Tender for selection of a centralized data base administrator for the implementation of number portability in the Republic of Moldova, as well as other information submitted by providers of public electronic communications networks and services, the disclosure of which could prejudice their right to protect their intellectual property or commercial, industrial, professional, bank secret, as well as the work of the Tender Commission;

**b)** Use the information obtained during the Tender for selection of a centralized data base administrator for the implementation of number portability in the Republic of Moldova only for my activity as \_\_\_\_\_;

**c)** Keep the confidential information accessible to me so that third parties do not have the possibility to learn and use it;

**2.** I understand that in case I disclose this information I am liable for violation of civil and criminal law, with applicable compensation of damage caused to Tender participants/candidates or other persons.

\_\_\_\_\_  
(signature)

### DECLARATION OF IMPARTIALITY

The undersigned \_\_\_\_\_,  
(Name, surname, identity code)

As \_\_\_\_\_

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1. I hereby declare, under personal responsibility and under the penalty of false evidence that I:

**a)** do not hold social parts, interest parts, shares of the subscribed capital of candidates/participants to the Tender for select the centralized data base administrator for number portability implementation in the Republic of Moldova (hereinafter Tender);

**b)** am not a member of administrative boards/leadership or supervisory bodies of Tender candidates/ participants;

**c)** am not spouse, relative or kindred, up to the fourth degree, with individuals members of administrative boards/leadership or supervisory bodies of Tender candidates/ participants;

**d)** have no interest whatsoever which could affect impartiality during the process of verification/evaluation of candidates/bids.

2. I understand that in case I disclose this information I am liable are liable for violation of civil and criminal law, with applicable compensation of damage caused to Tender participants/candidates or other persons.

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(signature)