



Approved by BOD Decision no. 254/13.11.2023

Procedure for the establishment of mixed-capital companies

1. PURPOSE

This Procedure is aimed at setting the steps and activities relating to the investors' selection process in view of initiating and/or implementing the investment projects of S.N. Nuclearelectrica S.A. ("SNN") by the establishment of mixed-capital companies (Special Purpose Vehicles - SPV).

2. SCOPE

The Procedure shall apply in the following cases, according to the decision of the statutory body that approved the investment:

- In order to be initiated and put in operations, the investment project requires the establishment of a Special Purpose Vehicle, i.e. a company with SNN capital and with capital of other private companies;
- The Special Purpose Vehicle was established, but the development of the investment project and/or of the Special Purpose Vehicle's scope of business requires that new investors be attracted to the Special Purpose Vehicle's shareholding.

The Procedure is to be applied by all SNN divisions and departments which perform activities that are relevant to the observance of the Procedure's provisions, such as (but without limitation): Investment Development Division, Legal Division, Financial Division, Operations Division, Strategic Projects and International Relations Division, Procurement Division, Audit and Risk Management Division.

3. DEFINITIONS AND ABBREVIATIONS

3.1. Definitions

Notice - means the prior information notice for launching the qualification and selection process of Project investors;

Articles of Incorporation – means the articles of incorporation of the Special Purpose Vehicle;

Investors' Agreement - means the contractual document comprising all the terms and conditions governing the relation between SNN, the Selected Investor and other shareholders of the Special Purpose Vehicle (as applicable).

Non-Disclosure Agreement – means a document that is included in the Qualification Documentation and refers to maintaining confidentiality of information and documents made available by SNN. The Agreement covers the entire Process, from the submission of Letters of Expression of Interest by the Interested Investors, to the signature of the Articles of Incorporation, of the Investors' Agreement or of the Memorandum of Understanding and, in the case of a Qualified Investor which has not been declared a Selected Investor, the Agreement covers the entire Process, from the submission of the Letters of Expression of Interest by the Interested Investors and until the expiry of a 5-year period following the notification on the non-qualification as a Selected Investor .

Tender Specifications – means the set of documents addressed to the Qualified Investors, containing instructions for preparing the Documentation of Intent and comprising the following elements:

- *the Strategy /the Strategic approach / the Project Implementation Plan (the “ Strategy”)*, comprising (*inter alia*):
 - the general requirements of the Project;
 - the overview of SNN’s ownership;
 - the overview of potential ownership interest of other shareholders (Romanian State included);
 - the method to be used for capital contribution to the Special Purpose Vehicle (contribution in cash, contribution in kind);
- *the applicable Procedure, specifically*:
 - the procedure to be used for answering the questions addressed by the Qualified Investors and by the Selected Investor and the timeframe for provision of such answers;
 - the regulation for performing the Selected Investor selection process.

The **Evaluation and Selection Committee** – means a Committee established by decision of SNN’s Chief Executive Officer (CEO) for the conduct of the entire qualification, evaluation and selection process; the Committee’s duties might include the duty to negotiate the terms of association with the Selected Investor. The Evaluation and Selection Committee (hereinafter referred to as the “Committee”) shall carry-out the analysis-related activity for all phases of the Procedure. The Committee may be composed of members who are nominated from SNN, from SNN subsidiaries or from companies that are involved in the implementation of the Project and in which SNN holds an ownership, as well as of external experts designated to assist the Committee.

Consultant – means the financial consultant and/or the legal consultant whom SNN may hire for the Project.

Qualification Documentation – means the set of documents made available to the prospective investor.

Documentation of Intent – means the set of documents submitted by each Qualified Investor to be evaluated by the Evaluation and Selection Committee, for the purpose of nominating the Selected Investor . The Documentation of Intent submitted by each Qualified Investor is used by the Evaluation and Selection Committee to determine the Selected Investor.

EUR or EURO – means the single currency of the Economic and Monetary Union of the European Union.

Tender Guarantee– means the security instrument issued in favour of SNN, to be submitted by the Qualified Investors.

Qualified Investor – means an Interested Investor that filled-out and submitted the Qualification Documentation according to SNN’s instructions and, by means of the said documentation, proved the fulfilment of the qualification criteria.

Interested Investor - means a prospective Investor that submitted a signed Letter of Expression of Interest together with the filled-out Qualification Documentation.

Selected Investor – means a Qualified Investor that, having submitted a Letter of Intent, is declared as the winner following evaluation; the selected investor will be notified in this respect by SNN in view of starting negotiations for the joint implementation of the Project.

Memorandum of Understanding (MoU) /Term Sheet (TS) – means a non-binding document whereby the parties agree upon the principles of collaboration regarding the assessment of the technical and/or economic feasibility of the Project.

Procedure – means the current Procedure regarding the investors’ selection process in view of implementing SNN’s investment projects by setting-up Special Purpose Vehicles .

Project – means SNN’s investment projects of which implementation requires either (i) the establishment of a Special Purpose Vehicle, i.e. a company with SNN capital/capital of other private law companies, or (ii)

attracting new investors within the shareholding of the Special Purpose Vehicle.

Process – means the competitive, transparent and non-discriminatory process whereby the Interested Investors are qualified and selected in view of commencing negotiations for the joint establishment of the Special Purpose Vehicle intended to develop, finance and build the Project.

Letter of Expression of Interest – means the document whereby an Interested Investor expresses its interest to participate in the qualification procedure conducted under the Process and which, among others, implies the acceptance of the Procedure’s provisions.

Special Purpose Vehicle (SPV) – means the project-dedicated company to be established for the purpose of implementing the Project; subsequent to signing the Investors' Agreement and the Articles of Incorporation, the company’s shareholders will be SNN and the Selected Investor .

Strategy/Strategic approach /Project implementation Plan (the “Strategy”) – means a document that is part of the Tender Specifications and contains Project and Process-related relevant information.

Terms and Conditions (T&C): means a document signed by SNN and by the Selected Investor, as parties, whereby the parties agree upon the main conditions of collaboration for the joint implementation of the Project. The T&C negotiation may be conducted either by the Evaluation and Selection Committee, or by the divisions with responsibilities in this respect according to the Organisational and Operational Regulation (ROF), as per the Decision of the SNN’s CEO, depending on the Project complexity and status.

3.2. Abbreviations

GMS	General Meeting of SNN’s Shareholders
BOD	Board of Directors of S.N. Nuclearelectrica S.A.
CEO	Chief Executive Officer
TSP	Tender Specifications
FD	Financial Division
LD	Legal Division
PD	Procurement Division
EN	EnergoNuclear S.A.
IDD	Investment Development Division
MoU	Memorandum of Understanding
OOR/ ROF	SNN’s Organisational and Operational Regulation
RP	RoPower Nuclear S.A.
SNN	S.N. Nuclearelectrica S.A.
T&C	Terms and Conditions
TS	Term Sheet

4. REFERENCE DOCUMENTS

4.1 Internal/external Regulations

SNN S.A.'s Articles of Incorporation.

2020-2025 Investment Strategy approved by Resolution of SNN's OGMS no. 7 paragraph 2/12 June 2020.

SNN –MSM-001 – Management System Manual of SNN SA.

The Organisational and Operational Regulation (ROF) of S.N. „Nuclearelectrica” S.A.

2021-2030 National Integrated Energy and Climate Change Plan (hereinafter referred to as the “NIECCP”);

The Company Law no. 31/1990, republished, as subsequently amended and supplemented.

Minister of Economy Order no. 1180/4 November 2021 on ceasing the applicability of the Procedure concerned with the implementation of “Green /Brown Field” Projects and on replacement thereof with the establishment of IPP companies, with in-kind contribution consisting of assets of companies, national enterprises and autonomous corporations that are part of the Minister of Economy, Trade and Business Environment (MECMA) portfolio and contribution in cash from a prospective investor, by Order of the Minister of Economy, Trade and Business Environment no. 1646/28 August 2012.

4.2 Related documents

CT-00-03 – Income and expenditure budget.

MR-00-01.01 – Counterparty credit risk management.

5. WORK METHOD

5.1. General principles

The Procedure for conducting the investor selection process relies upon the following general principles:

- a) Ensuring a competitive, transparent and non-discriminatory conduct of the selection process.
- b) Using the best practice in view of implementing the projects committed to under the SNN Investment Strategy and of achieving the strategic goals thereof.
- c) Effective use of opportunities, competitive advantages and strategic aspects that foster the project implementation which the prospective investors may have (including in terms of an accelerated pace).
- d) Ensuring the most effective capital structure of the Special Purpose Vehicle and the most effective Project funding and implementation structure; consideration of strategic partnerships and of membership to a group with proven experience in project development or in funding such projects.
- e) The eligibility of prospective investors for participating in the Procedure shall be established by reference to certain Project-relevant criteria, such as:
 - i. the financial standing, as reflected by the audited financial statements and/or by a relevant level of the turnover and/or of the capacity to attract financing;
 - ii. the prospective investor shall be a financial or strategic investor or part of a group with proven experience in energy projects and/or in related areas, for example:
 - production and/or distribution and/or supply of electricity and/or natural gas and/or energy industry-related services; or
 - development and/or operation of energy, hydrogen production groups; or
 - trading in energy products (electricity, natural gas, etc.); or
 - experience in nuclear energy research and/or in related areas, such as nuclear medicine, isotopes; or
 - experience in development of complex projects which may contribute to the development of SNN.

Concurrently with the nomination of the Evaluation and Selection Committee, relevant criteria to be applied for the different phases of the Procedure will be established for each Project. The aforementioned criteria can be supplemented with environmental, social or governance criteria, as well as with criteria related to ensuring a certain competitive advantage, to interdictions or to limitations for the participation in the Selection Procedure.

5.2. The main phases of the investors' selection process

The structure of the Project investors' qualification and selection process is presented below:

1. Publication of the Qualification Documentation
2. Qualification of Interested Investors, establishing the list of Qualified Investors and submission of the Tender Specifications to the Qualified Investors
3. Preparation of the short list
4. Final evaluation and determining the Selected Investor
5. T&C negotiation and signature
6. Articles of Incorporation and Investors' Agreement negotiation
7. Obtaining the required corporate approvals and establishment of the Special Purpose Vehicle
8. Registration with the National Trade Register Office (ONRC)

The Evaluation and Selection Committee may be authorised to decide upon the customisation of the investors' qualification and selection process depending on the Project complexity and status, on one hand, and on the established qualification criteria, on the other hand.

5.2.1. Publication of the Qualification Documentation

This means the publication of the Prior Information Notice relating to the commencement of the Project-related investors' qualification and selection process, as well as the publication of SNN's contact details. The Notice shall comprise references on how to obtain the forms composing the Qualification Documentation.

Direct participation invitations may also be addressed to prospective investors that are recognised as being experienced in the field, as per the established criteria.

The Qualification Documentation comprises:

- a brief description of the Project, containing publicly-available Project information;
- the presentation of the Procedure;
- the template for the Letter of Expression of Interest;
- the template for the Non-Disclosure Agreement relating to the participation of Investors that are interested in the Process
- the template for the Tender Guarantee, as applicable;

5.2.2. Qualification of Interested Investors, establishing the list of Qualified Investors and submission of the Tender Specifications to the Qualified Investors

During this phase the fulfilment, by the investors, of the qualification requirements for participation in the Procedure, will be conducted, as they are detailed in the Tender Specifications. Only the investors proving the fulfilment of said requirements may participate in the subsequent phase of the Procedure. This phase comprises the performance of the following activities:

- Submission of the Letter of Expression of Interest and of the filled-out Qualification Documentation, by the Interested Investors;
- Analysis of the Qualification Documentation - the Committee will focus on the accuracy and completeness of the Qualification Documentation and will be able to request clarifications in respect thereof;
- Establishing the list of Qualified Investors and notification of the Qualified Investors;
- Submission of the Tender Specification to the Qualified Investors;
- Submission of the Tender Guarantee by the Qualified Investors .

5.2.3. Preparing the short list of Qualified Investors

The following activities will be carried-out in this phase:

- Meetings between the Committee and the Qualified Investors for presentation, detailing and clarification purposes;
- Submission of the Documentation of Intent by the Qualified Investors;
- Documentation of Intent evaluation and preparing the short list of Qualified Investors.

5.2.4. Final evaluation and determining the Selected Investor

This is the tender selection phase dedicated to decide the winning offer, by applying the scoring grid/evaluation criteria/evaluation principles detailed in the Tender Specifications onto the tenders submitted by the Qualified Investors.

5.2.5. T&C negotiation and signature

During this phase, the parties will negotiate the T&C on the joint implementation of the Project and will proceed to the signature of the final version thereof.

5.2.6. Articles of Incorporation and Investors' Agreement negotiation

The parties will negotiate the draft Articles of Incorporation of the Special Purpose Vehicle and the draft Investors' Agreement, relying on the T&C clauses. The negotiation of corporate documents will take place pursuant to the Decision of SNN's CEO.

5.2.7. Obtaining the required corporate approvals

In order for the Special Purpose Vehicle's Articles of Incorporation and Investors' Agreement, in their final agreed version, to be signed and/or enter into force, these documents shall be presented for approval to the adequate corporate bodies, according to the decision-making level provided in the SNN's Articles of Incorporation (GMS, BOD).

5.2.8 Registration with the National Trade Register Office (ONRC)

The SNN's specialised divisions, according to their duties prescribed in the OOR, will carry-out the registration of the Special Purpose Vehicle with ONRC. The Evaluation and Selection Committee shall supervise the completion of this activity and shall inform the SNN management thereof.

5.3. Exceptions

Depending on the Project specificity, complexity and/or status, the Evaluation and Selection Committee may be authorised to decide upon the customisation of the investors' qualification and selection process, in compliance with the aforementioned principles (competitiveness, transparency and non-discrimination) and with the criteria referred to in paragraph 6.

By way of exception from the rules listed in paragraph 5.2, direct partnerships may be concluded with the prior approval of the General Meeting of the Shareholders in view of establishing Special Purpose Vehicles, in the following cases, but without limitation thereto:

- Such direct partnerships support the operationalisation of agreements signed between Romania and other governments.
- The fulfilment of the Project purpose and of the Special Purpose Vehicle's main scope of activity (works, products or services) may be ensured through/by contribution of a certain economic agent/investor, due to causes such as:
 - o the competition is missing or is severely limited;
 - o technical reasons which may arise from interoperability-related specific requirements that must be fulfilled in order to ensure the implementation of the Project;
 - o protection of exclusive rights, including intellectual property rights;
 - o the investor is the owner of an asset which is required for Project development;
 - o the investor's capacity to facilitate the attraction of commercial/technology or financing partners that are beneficial to the Project ;
 - o other cases, as identified and substantiated to the shareholders.

Furthermore, when applying the principle relating to efficient use of opportunities, competitive advantages and strategic aspects, situations might be identified that generate the need to proceed to direct conclusion of a MoU/TS, prior to conducting the selection process, in order to validate the technical, economic and/or financial feasibility of a Project. If the Project feasibility and opportuneness is confirmed, the final selection of the investor with whom the Special Purpose Vehicle will be established shall be conducted by applying the principle of ensuring the competitive, transparent and non-discriminatory nature of the selection process and, implicitly, the broad accessibility of the Process, by disseminating the entire package of information (including the documentation developed subsequent to the conclusion of the MoU/TS) to all Qualified Investors .

5.4. EVALUATION CRITERIA/PRINCIPLES. SCORING GRID

5.4.1. Qualification requirements for participation in the Selection Procedure

The analysis relying on the requirements referred to in paragraphs 5.4.1 and 5.4.2 shall be conducted during the phase concerned with the Qualification of Interested Investors, establishing the list of Qualified Investors and submission of the Tender Specifications to the Qualified Investors.

The qualification requirements can be mandatory and complementary. The mandatory and complementary qualification criteria, as applicable, will be established concurrently with the nomination of the Evaluation and Selection Committee .

A. The prospective investors will have to meet the following **mandatory qualification requirements**:

A.1. General characteristics – legal form of organisation

- The investor may be any private legal person or an association of two or several such persons.

A.2. Similar experience

- The investor must be a financial/technology or strategic investor with proven experience in energy projects and/or in related areas in respect of which SNN expresses its interest. For proving the experience, investors must present projects/contracts they implemented in their own name or through companies under their control. In case of an association of several investors, the requirement shall be deemed fulfilled if at least one of the partnership members proves the required similar experience.

A.3. Financial standing

The investor must be able to prove its financing capability according to the role and responsibilities undertaken within the Special Purpose Vehicle.

The aforementioned criteria-based analysis may be supplemented by risk reports, for a comprehensive image regarding the investor's potential and the compliance with SNN's risk portfolio.

B. The Tender Specifications may also establish certain **complementary qualification requirements**, such as environmental, social and governance criteria.

5.4.2 Interdictions for participation in the Selection Procedure

Any investor which undergoes any of the situation listed below, either individually or as member of an association, will be excluded from the Selection Procedure:

- i. The investor or a member of its governance, management or supervision body or any other person holding the power or representation, decision-making or control within the Tenderer's organisation, was convicted by final judgement for having committed one of the following criminal offences: (i) creation of an organised crime group, as provided for in Article 367 of Law no. 286/2009 on the Criminal Code, as subsequently amended and supplemented or in the related provisions of the criminal laws of the state in which the natural or legal person in question was convicted; (ii) corruption offences, such as taking a bribe, giving a bribe,

influence peddling, buying influence, as provided for in Articles 289-294 of Law no. 286/2009 on the Criminal Code, as subsequently amended and supplemented or offences assimilated to those of corruption, as provided for in Articles 10-13 of Law no. 78/2000 on preventing, discovering and sanctioning of corruption offences, as subsequently amended and supplemented or in the related provisions of the criminal laws of the state in which the natural or legal person in question was convicted; (iii) offences against the financial interest of the European Union, as provided for in Articles 181-185 of Law no. 78/2000, as subsequently amended and supplemented or in the related provisions of the criminal laws of the state in which the natural or legal person in question was convicted; (iv) terrorist acts provided for in Articles 32-35 and in Articles 37-38 of Law no. 535/2004 on preventing and combating terrorism, as subsequently amended and supplemented or in the related provisions of the criminal laws of the state in which the natural or legal person in question was convicted; (v) money laundering, as provided for in Article 49 of Law no. 129/2019 on preventing and combating money laundering and terrorist financing and for amending and supplementing other normative acts or terrorist financing, as provided for in Article 36 of Law no. 535/2004, as subsequently amended and supplemented or in the related provisions of the criminal laws of the state in which the natural or legal person in question was convicted; (vi) trafficking and, and exploitation of vulnerable persons, as provided for in Articles 209-217 of Law no. 286/2009 on the Criminal Code, as subsequently amended and supplemented , or in the related provisions of the criminal laws of the state in which the natural or legal person in question was convicted; (vii) fraud within the meaning of Article 1 of the Convention on the Protection of the European Communities' Financial Interests of 27 November 1995;

- ii. failed to comply with its obligations relating to the payment of taxes, charges and contributions to the consolidated general budget in the country where its registered office is located. For this purpose, the exclusion will apply both to the Tenderer having overdue debts to the consolidated general budget, and also to the Tenderer in relation to which the persons and/or entities that are under a control relation with the Tenderer, irrespective of the nature of such control, have overdue debts to the consolidated general budget in the country where the head office is located;
- iii. failed to comply with its obligations derived from mandatory regulations in the environmental, social, employment fields in force at national level;
- iv. is undergoing insolvency, bankruptcy, creditor arrangements or liquidation proceedings, is under judicial supervision or has ceased its business and/or is undergoing legal proceedings for its declaration in one of the aforementioned situations.
- v. has committed a serious professional misconduct as a result of which its integrity is questionable. Serious professional misconduct shall be construed as any misconduct that affects its professional reputation, such as violations of competition rules as a result of cartel-type conduct aimed at rigging tenders, investment attraction processes, restructuring, cooperation and/or privatisation proceedings, irrespective of the public company and/or the public institution involved that organised the procedure in question, or breaches of intellectual ownership rights, committed with intention or gross negligence;
- vi. has entered into agreements with other economic operators with the aim of distorting competition for, or in relation to, this selection procedure;
- vii. is in a conflict of interests situation in respect of, or in connection with, this selection procedure and such situation cannot be effectively remedied by less severe measures;
- viii. has previously participated in the preparation of the selection procedure and such participation led to a distortion of competition and this situation cannot be remedied by less severe measures;
- ix. has severely or repeatedly breached its main obligations under a public procurement contract, a sectoral procurement contract, a concession contract or of any other share sales and purchase contract previously concluded with any public institution involved in the privatisation process and/or with economic agents operating in public utilities fields and/or in fields of general economic interest, and such breaches determined the early termination of the contract in question due to its fault, the payment of damages or other comparable penalties. Severe breaches of contractual obligations shall be deemed, as an example, the failure in performing the contract, the supply/delivery/execution of goods/services/works that present major nonconformities which render them improper for their intended use as stated in the contract, where such breach is determined by court judgement;
- x. the Tenderer was found guilty of misrepresentation regarding the content of information provided for the purpose of checking the existence of reasons for exclusion or the fulfilment of qualification and selection criteria, has failed in providing such information or is unable to submit the requested supporting documentation;

xi. the Tenderer tried to unlawfully influence the decision-making process, has provided erroneous information likely to have a significant influence on the SNN decisions on the exclusion from the selection procedure, on the selection or on concluding the contract with the investor in question.

In case of an association, the aforementioned participation-related interdictions shall apply to each of the association members and shall affect the entire association

5.4.3 Evaluation criteria for determining the Selected Investor

The selection of the investor shall apply to investors included in the short list, based on the submitted documents; the winning investor (the „Selected Investor ”) is the investor whose overall offer (financial/technical and strategic) collects the highest number of points.

The criteria that can be scored for evaluation purposes are:

- The value of the Investor’s contribution, respectively the capital infusion into the Special Purpose Vehicle, and also the nature of this contribution – contribution in cash or contribution in-kind, including the schedule and method used for subscription, shares sell/buy options; in case of an in-kind contribution, the asset proposed as in-kind contribution shall be subject to a legal status assessment;
- The vision relating to the Project Implementation Strategy and to the development of the Special Purpose Vehicle ‘s business plan;
- The proposed capital structure, namely the percentage that the investor will hold in the share capital of the Special Purpose Vehicle, and also the capacity to propose and negotiate, in continuous changing circumstances, a capital structure that is not only adapted to the investment plan to be substantiated and agreed upon for the Project, but also stable and balanced in terms of decision-making, capable of minimising the risk of debt consolidation of the Special Purpose Vehicle at SNN level, which would have adverse consequences on SNN’s possibility of attracting funding from financial institutions to develop its investment projects;
- The funding structure proposed for the Project and the investor’s capability to support it;
- The technology – the uniqueness, the current progress in the development thereof, the existence of an approval granted by a regulatory authority that is relevant Project-wise, the level of flexibility and adaptability to the Project circumstances/context;
- Other strategic aspects providing a competitive advantage: alignment to the ESG goals of SNN, consideration of strategic partnerships and of membership to a group/institution/national or international association/investment funds that is experienced in energy projects, in the development of complex industrial or research projects in the nuclear and nuclear-related fields, capable of providing for the development of SNN and for the efficient capitalisation of its assets.

6. RESPONSIBILITIES

The roles and responsibilities will be established in compliance with the Management Manual, under the internal procedure.