

Pursuant to Article 40, Paragraph 5 of the Croatian Radiotelevision Act (Official Gazette no. 137/10 and 76/12), and in conjunction with Article 69, Paragraph 1, Subparagraph 25 of the Electronic Media Act (Official Gazette no. 153/09, 84/11, 94/13 and 136/13) and Article 20, Paragraph 1 of the Statute of the Agency for Electronic Media (Official Gazette no. 90/10), the Electronic Media Council has adopted the

RULES ON CEDING UNUTILISED EXCLUSIVE RIGHTS

Article 1

- (1) These Rules stipulate the procedure for ceding unutilised exclusive rights in the event of:
- The procurement of audio and audiovisual content of a higher value on the basis of exclusive rights,
 - The procurement of premium sports events referred to in Article 9, Paragraph 2 and 3 of the Croatian Radio-Television Act.
- (2) These Rules apply to the ceding of unutilised exclusive rights referred to in Paragraph 1 of this Article, when the possibility of such ceding is stipulated by an agreement on the acquisition of exclusive rights for the exploitation of audio and audiovisual content of a higher value and/or premium sports events, or as stipulated by the law.
- (3) Unutilised exclusive rights imply those rights based upon which Croatian Radiotelevision has not broadcasted content on programme channels in accordance with the provisions of the Croatian Radiotelevision Act and its Contract with the Government of the Republic of Croatia.
- (4) Audio and audiovisual content of high value implies all activities that Croatian Radiotelevision procures under exclusive rights.
- (5) The provisions of these Rules do not apply to the archival material of Croatian Radiotelevision.

Article 2

The ceding of unutilised exclusive rights is carried out based on a public tender.

Article 3

- (1) Croatian Radiotelevision is obliged to publish the public tender as referred to in Article 2 of these Rules in the Official Gazette and on its website. Croatian Radiotelevision is obliged to submit immediately the text of the public tender to the Agency for Electronic Media for publication on its website.
- (2) The public tender referred to in Paragraph 1 of this Article shall contain the following information:
1. The type and name of unutilised exclusive rights
 2. The description and scope of unutilised exclusive rights
 3. The starting fee for each type of unutilised exclusive rights, without value added tax
 4. The deadline for submission of bids,
 5. The place, date and time of the bids,
 6. Verification of the capacity of bidders at the opening of bids,
 7. Proof of the capacity of bidders,
 8. Bid guarantee,
 9. Surety,
 10. Address for the submission of bids,

11. Deadline for informing bidders of the most favourable bid,
12. Criterion for selecting the most favourable bid,
13. Deadline for payment of the fee,
14. Deadline for signing the contract, which cannot exceed 45 days from the date of opening the bids,
15. Other tender documentation, if required.

(3) The deadline for submission of tenders referred to in Item 4, Paragraph 2 of this Article shall be at least fifteen (15) days from the date the public tender was published in the Official Gazette.

(4) The deadline referred to in Item 4, Paragraph 2 of this Article is identical to the period referred to in Item 5, Paragraph 2 of this Article.

(5) The period referred to in Item 11, Paragraph 2 of this Article shall be eight (8) days from the date of the opening of the bids.

Article 4

(1) The starting fee referred to in Item 3, Paragraph 2 of Article 3 of this Ordinance shall not be less than 20% of the monetary value of the scope (quantity) of the unutilised exclusive rights that are to be ceded.

(2) The starting fee referred to in Paragraph 1 of this Article is calculated based on the fee in the contract on the acquisition of exclusive rights for the exploitation of audio and audiovisual content of a higher value and/or premium sports events.

Article 5

(1) Croatian Radiotelevision may determine that the guarantee referred to in Item 8, Paragraph 2 of Article 3 of this Ordinance be a blank promissory note or bank guarantee.

(2) The risks that are covered by the guarantee referred to in Paragraph 1 of this Article are a bidder withdrawing his bid within its period of validity, the submission of false documents, and the refusal to sign the contract.

Article 6

The criterion for selecting the most favourable bid is the price of the bid.

Article 7

(1) The bidder partaking in the public tender procedure referred to in Article 2 of this Article may only be a legal or natural person who has obtained a concession for the provision of television and/or radio media services, or who has permission from the Electronic Media Council for conducting activities relating to the provision of on-demand audio and/or audiovisual media services activities, or who has permission from the Electronic Media Council for satellite, Internet, cable transmission and other permitted forms of the transmission of audiovisual and/or radio programmes.

(2) In preparing the bid, the bidder must comply with the published public tender conditions.

(3) The applicant is required to attach to the offer:

- An excerpt from the court register or other stipulated register in the Republic of Croatia
- Confirmation from the competent commercial court that the applicant is not the subject of bankruptcy proceedings, pre-bankruptcy proceedings or preliminary proceedings for ascertaining the existence of conditions for initiating pre-bankruptcy proceedings,
- Confirmation of the competent commercial court that against the applicant no preliminary proceedings have been initiated for the purpose of determining the existence of conditions for initiating bankruptcy and/or liquidation proceedings ex officio,
- Confirmation from the competent commercial court that liquidation proceedings have not been initiated against the applicant,
- Other documents stipulated by the public tender in accordance with the Public Procurement Act.

Article 8

(1) The bid shall be submitted in writing (machine or computer written), as an original document, in a single copy, with page numbers marked, directly or by postal mail, in a sealed envelope with the full name and address of the bidder and noting "the public tender number: ____", to the address and by the deadline indicated in the public tender.

(2) Bids shall be recorded in receiving order by marking the envelopes of the received bids with the sequential number and time of receipt, and the bids are then recorded in the corresponding register of received bids in the same sequence.

(3) A bid that has arrived after the bid submission deadline shall be marked as a bid that has arrived after the submission deadline and such a bid shall not be opened.

(4) Before the opening, the bids are archived so that they are inaccessible to unauthorised persons.

Article 9

(1) Timely bids are opened by at least three authorised representatives of Croatian Radiotelevision.

(2) Untimely bids are returned unopened to the bidder within three days of the public opening date.

(3) The opening of bids is to be recorded in minutes signed by the representatives referred to in Paragraph 1 of this Article and by the present authorised representatives of bidders.

Article 10

(1) Croatian Radiotelevision shall make a decision on the selection based on the results of the examination and evaluation of valid bids.

(2) Such a decision will result in selecting the most favourable bid of a bidder, with whom a contract is to be concluded.

(3) The decision on the selection is based on the criterion for selecting a bid. If two or more bids have the same price, the more favourable bid shall be the bid that was received first by Croatian Radiotelevision at the address for the submission of bids, regardless of the manner of delivery.

(4) The decision on selecting the most favourable bid shall be forwarded to all bidders.

(5) Based on the selection decision, Croatian Radiotelevision and the selected bidder shall conclude the contract.

(6) If the selected bidder, within a given deadline, which may not exceed 8 days of having received the decision referred to in Paragraph 4 of this Article, withdraws his offer, or refuses to sign the contract or fails to submit surety as required by the public tender, Croatian Radiotelevision shall once again rank the bids according to the selection criterion and disregarding the bid of the selected bidder make of decision on selecting a new and valid most favourable bid or cancel the public tender.

Article 11

(1) After the bid submission deadline, Croatian Radiotelevision is obliged cancel the public tender if no bids were received or if the bids received were not valid bids.

(2) A bid is valid if it is timely submitted and if it meets the conditions of the public tender.

(3) For the case referred to in Paragraph 1 of this Article, the decision to cancel the public tender will be published by Croatian Radiotelevision in the Official Gazette and on its website. Croatian Radiotelevision shall immediately submit the decision on cancelling the tender to the Agency for Electronic Media for publication on its website.

Article 12

These Rules shall enter into force on the eighth day of its publication in the "Official Gazette".

The Electronic Media Council
The Council President
Mirjana Rakić

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