

**TENDER SPECIFICATIONS  
(the "Specifications")**

within the meaning of Sec. 44 et seq. of Act No. 137/2006 Coll

regarding the public contract

**"Electronic Volume Converters 2015-2017"**

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## 1 SUBJECT MATTER OF PERFORMANCE

### 1.1 Designation of the Public Contract, Contracting Entity, Authorized Representative

The public contract "Electronic Volume Converters 2015-2017" is being awarded pursuant to Sec. 21 (1) (a) of the Public Procurement Act (Act No. 137/2006 Coll., on public contracts, as amended - the "Act") in an open procedure by a joint procurement organization of several contracting entities within the meaning of Sec. 2 (9) and (10) of the Act; RWE GasNet, s.r.o., representing the joint procurement organization, acts on behalf of the members of that joint procurement organization.

Joint procurement organization (association of contracting entities):

#### 1. RWE Distribuční služby, s.r.o.

seat: Plynářská 499/1, 657 02 Brno

ID No.: 27935311

#### 2. RWE GasNet, s.r.o.

seat: 401 17 Ústí nad Labem, Klíšská 940

ID No.: 27295567

Contracting Entity's particulars:

#### RWE Distribuční služby, s.r.o.

seat: Plynářská 499/1, 657 02 Brno

represented by: RNDr. Jan Valenta, Chairman of the Executive Directors  
Ing. Dušan Malý, Executive Director

ID No.: 27935311

VAT No.: CZ27935311

banking connection: Československá obchodní banka, a. s.

account No.: 17837923/0300

entered in the Commercial Register kept by the Brno Regional Court in Section C, File No. 57165  
("RWE Distribuční služby, s.r.o.")

#### RWE GasNet, s.r.o.

seat: Klíšská 940, Ústí nad Labem 401 17

represented by: Ing. Miloslav Zaur, Chairman of the Executive Directors  
Thomas Merker, Executive Director

ID No.: 27295567

VAT No.: CZ27295567

banking connection: Československá obchodní banka, a. s.

account No.: 17663193/0300

entered in the Commercial register kept by the Ústí nad Labem Regional Court in Section C,  
File No. 23083

("RWE GasNet, s.r.o.")

Contact address (authorized representative of the Contracting Entity):

**RWE Česká republika a.s.**

Limuzská 12/3135, 100 98 Prague 10 – Strašnice

ID No.: 24275051

entered in the Commercial Register kept by the Prague Municipal Court in Section B, File No. 18556

Relevant field office: Prosecká 855/68, 190 00 Prague 9

Contact person: Ondřej Parkan, Purchaser

phone No.: M +420 731 196 405

e-mail address: [ondrej.parkan@rwe.cz](mailto:ondrej.parkan@rwe.cz)

postal address:

RWE Česká republika a.s.

Prosecká 855/68

CZ-19000 Prague 9

Czech Republic

The above-specified contact person of the Contracting Entity is in charge of liaising the Bidder and the Contracting Entity. Making contact with other personnel of the Contracting Entity within the context of the tender procedure is not permitted.

## 1.2 Basic information and subject matter of performance

Notice of the commencement of the tender procedure was made on ..... in the Public Contract Bulletin under reference No. ....

a) The subject matter of this public contract are:

- (i) Supply of gas volume converters ("electronic volume converters"), a detailed description of which is contained in Annex No. 1 - Technical specification of the electronic volume converters
- (ii) Maintenance of these electronic volume converters for 15 years from delivery.

b) Anticipated quantities of annual deliveries of electronic volume converters (+/- 25%):

Year	2015	2016	2017	2015-2017	2018 - option	2019 – option	2018-2019 option	Total
Pcs	222	411	368	1,001	457	521	978	1,979

c) The Supplier must provide, free of charge, unlimited rights to the non-exclusive use of any and all software ("SW") both of the electronic volume converter itself (firmware) and of the communication protocol and operator control software, and of any other software as may be necessary for the operation of the electronic volume converters over the course of their useful life.

d) Software upgrades:

- The Contracting Entity itself will procure the integration of the converters' communication into the standard metering system of the RWE CZ Group. Upon request, the Supplier must provide

the Contracting Entity with current communication protocols and render the necessary assistance with respect to the integration or upgrade of the communication protocol.

- Upgrade of electronic volume converters' firmware: the firmware shall be upgraded to the latest version on occasion of each individual inspection of the electronic volume converters. If the electronic volume converter allows for remote upgrades of the firmware, the upgrade shall be performed upon the Contracting Entity's request.

All firmware upgrades are included in the price for the electronic volume converters.

- e) The subject matter of performance further comprises the maintenance, inspection (recertification), and repair of electronic volume converters during their entire useful life and their recycling (recovery) by the original Supplier after their useful life has expired - see the Maintenance Agreement.
- f) The actual scope of performance in terms of quantities and deadlines will be specified in the course of performance of the contract by individual orders for partial performances. The Contracting Entity enters into a framework purchase agreement and framework maintenance agreement with one and the same winning bidder. Based on the relevant provisions in the said framework agreements, specific performances will be rendered through partial orders. The Contracting Entity reserves the right to make use of form orders generated automatically in SAP without the Buyer's signature.

## 2 BASIC PARAMETERS OF THE PUBLIC CONTRACT

- a) The tender procedure will be conducted in accordance with the Act. Bidders must familiarize themselves with the current wording of the Act and proceed in accordance with the same when preparing and submitting their bids.
- b) The Contracting Entity does not accept bids which include alternative solutions.
- c) The Specifications are governed by the provisions of the Act on the open procedure.
- d) The language of proceedings for this tender procedure is Czech.
- e) The Contracting Entity demands a five-year warranty on the quality of delivered goods.
- f) The Contracting Entity demands delivery of the goods within four weeks from ordering them.

Classification of the supplied goods pursuant to CPV: 38420000-5

## 3 TIME AND PLACE OF PERFORMANCE

- a) Anticipated period of performance of the public contract: **from 1 August 2015 through 31 December 2017.**
- b) The Contracting Entity reserves the right to call an option for the period from 1 January 2018 through 31 December 2019, on the same unchanged terms (with the exception of the price for the electronic volume converters - see the contract).

The option right lies exclusively with the Contracting Entity. To exercise the option, all that is required is that the Contracting Entity notifies the Supplier in writing no later than three months prior to the expiry of the contract, i.e., prior to 31 December 2017.

- c) The place of performance for individual orders will be determined by the Contracting Entity (or, as it were, the individual members of the joint procurement organization), whereas the

anticipated places of performance for individual performances across the Czech Republic are:

- (i) Delivery of new electronic volume converters – all places of performances lie within the Czech Republic and are specified in the individual order; they may be at any of the following places:

Company name / name of the storage facility	Address
RWE Distribuční služby s.r.o., OTS Čechy západ	U Vlečky 10, Ústí nad Labem
RWE Distribuční služby s.r.o., OTS Čechy východ	Pardubice, Dělnická 392
RWE Distribuční služby s.r.o., OTS Čechy východ	Mladá Boleslav, Štefánikova 1251
RWE Distribuční služby s.r.o., OTS Morava sever	Palkovická 1432, Frýdek - Místek
RWE Distribuční služby s.r.o., OTS Morava sever	Wittgensteinova 6, Olomouc
RWE Distribuční služby s.r.o., OTS Morava Jih	Plynárenská 499/1, Brno

- (ii) Transfer of electronic volume converters for subsequent recertification - the electronic volume converters will be transported to a central collection point within the Czech Republic, to be agreed between the parties prior to entering into the Framework Purchase Agreement and the Framework Maintenance Agreement.
- (iii) Distribution of recertified electronic volume converters - see point (i).
- (iv) Recovery of decommissioned electronic volume converters - see point (ii).

#### 4 DEADLINE FOR THE SUBMISSION OF BIDS

- a) The deadline for the submission of bids is **12. 05. 2014, 10:30 a.m.** The moment in which the Contracting Entity received the bid is authoritative for determining the submission date of the bid.
- b) The Contracting Entity reserves the right to extend the time period for the submission of bids in justified cases. The Contracting Entity will always observe the Act with respect to such extensions of the deadline, and notify the Bidders hereof through its website (see the Profile of the Contracting Entity: <https://profily-zadavatelu.cz/profil/27295567>)
- c) Bids which reach the Contracting Entity only after the above-mentioned date will not be included in the preliminary review, and the relevant Bidders will be sent notice within the meaning of Sec. 71 (5) of the Act.
- d) The Contracting Entity will subsequently use an electronic auction to evaluate the bids; this auction will be launched on 10.6.2015 at 10:00 a.m.

**5 OPENING OF THE ENVELOPES WITH THE BIDS**

- a) The envelopes containing the bids will be opened on **12. 05. 2015 at 10:31 a.m.** at the address of RWE Česká republika a.s., Prosecká 855/68, 190 00 Prague 9 - Prosek (see the contact person mentioned in Article 2 of these Specifications).
- b) Given that the Contracting Entity has decided to use an electronic auction as a means of evaluation of the bids, the bidders will not be physically present at the opening of the envelopes, in accordance with Sec. 71 (7) of the Act.

**6 SUBMISSION OF BIDS**

- a) The venue for the submission of bids is the address of RWE Česká republika a.s., Prosecká 855/68, 190 00 Prague 9 - Prosek (see the contact person mentioned in Article 1.1 of these Specifications). Bidders may submit their bid via registered mail sent to the above address or in person on working days (from 8:00 a.m. through 2:00 p.m.). Bids are considered submitted as of the moment of its handover or delivery to the Contracting Entity. Bids must be submitted in writing, in a single sealed envelope, stamped and signed by the Bidder across the sealed flaps, and bearing this highlighted inscription:

**Tender Procedure – "Electronic Volume Converters 2015-2017" – DO NOT OPEN**

Each Bidder may submit only one bid. The envelope with the bid must contain an address to which to send the notice to bidders within the meaning of Sec. 71 (5) or (6) of the Act.

The Bidder shall submit the bid in Czech or in English in one original counterpart and two copies, and enclose a CD in the envelope which contains the text part of the bid. The text part of the bid consists of all documents which were drafted in their entirety or at least to some extent by the bidder, i.e., it does not include confirmations or other documents which were exclusively issued by a third party.

In the event of discrepancies between the original and the copies (or the contents of the CD), the original counterpart of the bid is authoritative.

- b) The bid shall comprise the following documents, which must be duly completed and signed by a person / by persons authorized to act for or on behalf of the Bidder:
  - (i) Draft framework purchase agreement, signed by a person / by persons authorized to act for or on behalf of the Bidder;
  - (ii) Draft maintenance agreement, signed by a person / by persons authorized to act for or on behalf of the Bidder;
  - (iii) A document evidencing the fact that this person / these persons have the authority to act for or on behalf of the Bidder;
  - (iv) Documents evidencing the qualification required in Article 8 of these Specifications;
  - (v) Other documents required by the Contracting Entity under these Specifications;

Bids which do not contain the above-mentioned documents will be considered incomplete and the relevant Bidder will be disqualified from participation in the tender procedure. This is without prejudice to the right of the Contracting Entity to

ask for supplementary documents evidencing the qualification within the meaning of Sec. 59 (4) of the Act.

- c) The Contracting Entity requires that the bid be structured as follows:
- (i) cover page of the bid, which states the particulars and the contact details of the bidder (business name, seat, full correspondence address, name of the employee in charge of negotiations regarding the substance of this public contract, ID number, VAT number, phone number, e-mail);
  - (ii) table of contents for the dossier;
  - (iii) documents and information evidencing the qualification pursuant to Article 8 of the Specifications;
  - (iv) binding drafts of the purchase agreement and the maintenance agreement, signed by a person / by persons authorized to act for or on behalf of the Bidder;
  - (v) completed Annex No. 7 – Required format of the bid;
  - (vi) completed Annex No. 9 - Price list for standard electronic volume converter services
  - (vii) bank guarantee, unless the Bidder makes use of the option to put a cash security deposit into the Contracting Entity's bank account, or the warranty insurance policy and, as the case may be, a copy of the money transfer order;
  - (viii) information concerning the sub-suppliers and, where applicable, agreement(s) made with the sub-supplier(s) pursuant to Article 15 of the Specifications;
  - (ix) affidavit within the meaning of sub-section 6, letter (e) below;
  - (x) and such other documents as may be required by law or by the Contracting Entity.
- d) The bids must be submitted within the deadline for the submission of bids. In the opposite case, the Contracting Entity will proceed pursuant to Sec. 71 (5) of the Act.
- e) The bid must also include signed Annex No. 3.

The Bidder proves compliance with the requirement set out in letter (e) of this sub-section by presenting an affidavit containing the above information and signed by a person who is authorized to act for, or represent, the Bidder.

## 7 SECURITY DEPOSIT

- a) The Bidder shall provide the Contracting Entity with a CZK 500,000 security deposit so as to secure the discharge of its obligations arising from participation in the tender procedure. The Bidder may make this security deposit in any of the ways anticipated by Sec. 67 of the Act.
- b) If the security deposit is made in the form of a bank transfer of monies, then the amount of the security deposit must be credited to the Contracting Entity's account no later than on the day which precedes the last day of the deadline for the submission of bids, whereas the Contracting Entity's banking details are as follows:

Bank: Československá obchodní banka, a.s.

Account No.: 17663193/0300

IBAN: CZ82 0300 0000 0000 1766 3193



SWIFT: CEKOCZPP

Account holder: RWE GasNet, s.r.o.

Variable symbol: the registration number assigned to the public contract in the Public Contract Bulletin.

A copy of proof of payment of the amount into the said account or of the transfer order forms a part of the bid.

- c) The Bidder may also make the security deposit in the form of a bank guarantee or in the form of a commercial warranty insurance. The Bidder must ensure that both above-mentioned instruments remain valid and in force throughout the entire time period for awarding the contract. If the Bidder decides to make the security deposit using one of the forms anticipated by this paragraph, then the original deed of the bank guarantee or the commercial warranty insurance policy must be a part of the bid.
- d) The bank guarantee or warranty insurance policy must be made out for the welfare of the Contracting Entity within the meaning of Sec. 2029 et seq. of the Czech Civil Code (Act No. 89/2012 Coll. - the "Civil Code") in the case of a bank guarantee and within the meaning of Sec. 2758 et seq. of the Civil Code (i.e., in particular Sec. 2868) in the case of an insurance contract, by a bank with a long-term rating of A- or better from Standard & Poor's (Fitch) or of A3 or better from Moody's, or by a bank which proves the existence of a domination agreement or a profit transfer agreement with a controlling entity that has a long-term rating of A- or better from Standard & Poor's (Fitch) or of A3 or better from Moody's.
- e) A security deposit made in the form of a cash payment into the Contracting Entity's bank account will be returned to the Bidder via cashless transfer, within the statutory time period, and including interest paid by the respective bank. In the event of a security deposit in the form of a bank guarantee or of a warranty insurance, the Contracting Entity released the security deposit by returning the original deed of the guarantee or of the warranty insurance policy to the Bidder.

## 8 QUALIFICATION CRITERIA

The Bidder shall prove that it satisfies the following qualification criteria by presenting the relevant documents (*indicated in italics*):

### 8.1 Basic and professional qualification criteria

The Bidder shall prove, by way of relevant documents (*indicated in italics*), that it satisfies the following basic and professional qualification criteria:

- a) It is not in liquidation (*affidavit*);
- b) No insolvency proceeding over its assets is pending or took place at any time during the past three years in which a decision on bankruptcy was sought, nor was a motion for insolvency dismissed on grounds of insufficient assets to cover the costs of the insolvency procedure, nor was the Bidder's bankruptcy cancelled for lack of assets, nor did the Bidder go into receivership within the meaning of special law (*affidavit*);

- c) It is not blacklisted in the register of entities who are forbidden from the performance of public contracts (*affidavit*);
- d) It is entered in the Commercial Register or another comparable public record (if any) (*copy of the extract from the Commercial Register or other comparable public record*);
- e) It holds (a) business license(s) within a scope corresponding to the subject matter of the public contract, unless such right to do business follows already from the license submitted in accordance with item (v) above (*license / certificate as a non-certified copy*).

The documents evidencing compliance with the basic qualification criteria and the extract from the Commercial Register shall be submitted as (non-certified) photocopies, and must not be older, on the last day of the time period for the submission of bids, than 90 calendar days.

## 8.2 Economic and financial qualification criteria

The Bidder shall further prove, by way of relevant documents (*indicated in italics*), that it satisfies the following economic and financial qualification criteria:

- a) The Bidder has taken out third-party liability insurance with coverage of at least CZK 5,000,000 (five million Czech crowns) (*insurance contract as a non-certified copy, or insurance certificate*). Alternatively, the Bidder may undertake in the bid to enter into the above-referenced insurance contract only after its bid was chosen as the winning bid, in which case it must enter into the insurance contract no later than by the time at which the agreements for performance of the subject matter of the public contract are made (*affidavit*). If the Bidder fails to conclude the insurance contract in accordance with the affidavit by the stated date, the Contracting Entity will consider this a failure on the part of the Bidder to provide proper assistance towards the conclusion of the contract within the meaning of Sec. 82 (4) of the Act.
- b) The Bidder provides proof of its financial and economic capacity in the bid. This criterion of financial and economic capacity is deemed proven by evidence of turnover attained by the Bidder's own business operations (sales of own products and services) of at least CZK 40 million for each fiscal year. The documentary evidence for satisfaction of this qualification criterion is the profit and loss statement for the past three complete fiscal years, in a non-certified copy, signed by the authorized person.

## 8.3 Technical qualification criteria

The Bidder shall further prove, by way of relevant documents (*indicated in italics*), that the manufacturer of the electronic volume converters satisfies the following technical qualification criteria:

- a) Over the course of the past three years, the Bidder has implemented one or several contracts of a similar character, which consisted of the supply of electronic volume converters in a volume (in terms of numbers of units) of at least 30% of the total anticipated scope of supplies under the present public contract (see the number of units for 2015 through 2017).

Note: The Bidder may evidence compliance with this criterion by producing *a list of all duly completed contracts* within the past 3 years, i.e., 2012 through 2014.

- b) As a part of its bid, the Bidder must present a copy of its valid ČSN EN ISO 9001:2001 certificate.

- c) The supplied electronic volume converters satisfy the requirements pursuant to Annex No. 1 - Technical Specification.

In terms of their technical design, all electronic volume converters accepted by the Contracting Entity must satisfy the generally binding provisions of statutory law, the applicable Czech technical standards (i.e., in particular ČSN EN 12 405-1+A2), and the present technical specification, and all electronic volume converters pass the initial certification test by the producer. They must be approved pursuant to metrology standard ČSN EN 12405-1+A2 and 2004/22/EC (MID). The Bidder must evidence this by submitting an affidavit that has been signed by the authorized person.

## 9 TIME PERIOD FOR AWARDING THE CONTRACT

The time period during which the Bidder is bound by its bid is 90 days and begins on the day following the day on which the deadline for the submission of bids expires.

## 10 RESERVED RIGHTS OF THE CONTRACTING ENTITY

- a) The Contracting Entity reserves the right to cancel the tender procedure at any time.
- b) The Contracting Entity reserves the right to verify the truthfulness of statements substantiated by the Bidders as a part of the qualification process.
- c) **In case of any differences in any documents (also annexes) between CZ and EN version CZ version is valid!**

## 11 CONTACT ADDRESS; SUPPLEMENTARY INFORMATION

The Bidder may ask the Contracting Entity for supplementary information regarding the Specifications. The written request must be delivered to the Contracting Entity no later than within 6 business days before the time period for submitting bids expires. The Bidder shall submit such requests (if any) as a physical letter or, as the case may be, via e-mail to the address of the contact person: Ondřej Parkan, as per sub-section 1.1 of these Specifications.

Such enquiries may only be made in Czech or English.

The Contracting Entity will answer any incoming enquiries in writing and make them public on the Contracting Entity's Profile. Any such supplementary information becomes a part of the Specification. The Contracting Entity may also stipulate a reasonable extension of the deadline for the submission of bids if the nature of the supplementary information so requires.

## 12 EVALUATION CRITERION

The Contracting Entity shall first assess whether the qualification criteria set out in these Specifications (Article 8) are met before proceeding to evaluate the price bids proper (of those Bidders who do satisfy the qualification criteria set out in these Specifications).

Price bids will be evaluated pursuant to Sec. 78 (1) (a) of the Act, i.e., based on the criterion of the lowest bid price.

Rules for calculating the lowest bid price:

Total price for evaluation purposes = 1 x price of the electronic volume converter + 1 x subsequent recertification after five years + 1 x subsequent recertification after ten years + 1x battery and its replacement after five years + 1x battery and its replacement after ten years + battery (material) - 1 x disposal of decommissioned electronic volume converters

Item	Unit price
Electronic volume converter	1 x price
Recertification after 5 years	1 x price
Recertification after 10 years	1 x price
Battery and its replacement after 5 years as a part of the recertification process	1 x price
Battery and its replacement after 10 years as a part of the recertification process	1 x price
Recovery of decommissioned electronic volume converters	Zero or negative values are permissible

Annex No. 9 (Price list for standard repairwork) will not be taken into consideration when evaluating the bids.

A preliminary review and evaluation of the bids will be performed first. Only those Bidders who satisfied all statutory requirements and requirements of the Contracting Entity will be invited to participate in the subsequent electronic auction.

The Contracting Entity has decided to use an electronic auction as means for the evaluation of bids, in accordance with Sec. 96 of the Act. The electronic auction will be held in accordance with the rules set out in the manual posted at <https://gov.proe.biz>.

Bidders will supplement their bid price for evaluation purposes directly on the PROe-biz electronic portal. The Contracting Entity will enter into the purchase agreement and the maintenance agreement for performance of the public contract with that Bidder who came out on top in the electronic auction.

## 13 RULES FOR DETERMINING THE BID PRICE

In its bid, the Bidder shall specify the delivery price in Czech crowns (CZK) without VAT, DAP (according to Incoterms 2010):

Place of delivery for (both new and recertified) electronic volume converters – see sub-section 3c of these Specifications.

**14 TERMS OF TRADE; TERMS OF PAYMENT**

The terms of trade and terms of payment are stipulated in the draft service agreement and draft framework purchase agreement which form an integral part of these Specifications.

**15 SUBSUPPLIERS**

A Bidder who is unable to demonstrate full compliance with the qualification required by the Contracting Entity in terms of economic, financial, or technical qualification, or in terms of the license to do business in the given field, the membership in self-governing professional bodies or other industry organizations, or professional qualification, may prove its qualification to the missing extent by way of a subsupplier. In such a case, the Bidder must present the Contracting Entity with a contract made with such subsupplier in which the subsupplier has undertaken to render performances towards the fulfillment of the public contract by the Supplier or towards the provision of things or rights of which the Supplier may dispose in performing under the public contract (at least to the extent to which the subsupplier proved compliance with the qualification criteria). The Bidder must not take recourse to subsuppliers to prove compliance with the qualification criteria concerning the extract from the Commercial Register. Further, the Bidder must in such a case present an extract from the Commercial Register for the subsupplier which, at the date of submission of bids, is not older than 90 days (a non-certified copy suffices), and an affidavit by the subsupplier within the meaning of Sec. 53 (1) (j) of the Act according to which the subsupplier is not blacklisted in the register of entities who are forbidden from the performance of public contracts.

**16 COSTS AND FEES**

The Bidder bears any and all expenses incurred in connection with its participation in the tender procedure, including the costs of preparing the bid.

**17 PROTECTION OF CONFIDENTIAL INFORMATION**

The Contracting Entity must maintain secrecy with respect to any and all information and documents provided by the Bidder. The Contracting Entity may make use of any information or documents provided by the Bidder to the extent that this is necessary for a lawful tender procedure.

Annex No. 1: Technical specification of the electronic volume converters

Annex No. 2: Form for reference contracts

Annex No. 3: Affidavit pursuant to Sec. 68 (3) of the Act

Annex No. 4: Affidavit for the purpose of evidencing basic qualification

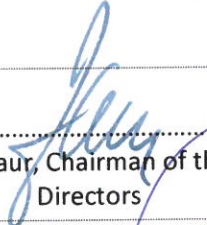


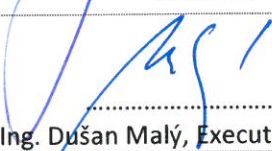
Annex No. 5: Purchase Agreement

Annex No. 6: Maintenance Agreement

Annex No. 7: Required bid format

Annex No. 8: Electronic auction terms

Annex No. 9: Price list for standard repairwork

Contracting entities:	
RWE GasNet, s.r.o.	RWE Distribuční služby, s.r.o.
..... 2015 (Place, date)	..... 2015 (Place, date)
 Ing. Miloslav Zaur, Chairman of the Executive Directors	 RNDr. Jan Valenta, Chairman of the Executive Directors
 Thomas Merker, Executive Director	 Ing. Dušan Malý, Executive Director