



Łukasiewicz
Instytut
Mikroelektroniki
i Fotoniki

F2/45/2022/ZP

Warsaw, date 08.06.2022 r.



Concerns: open procedure for delivery of a chemical wet benches for 150-200 mm wafers – 6 pcs.

The Contracting Entity on base of art. 137 paragraph 1 of the Act Public Procurement Law of 11 September 2019 (Official Journal of 2019, item 2019, with later changes) we make change in the Terms of Reference in:

I. **Chapter VI. Terms and conditions for participating in the procedure and bases for exclusion in paragraph 2, the following point 6 is added):**

“6) The Contracting Authority shall exclude from the Procedure those Contractors who are subject to the grounds for exclusion specified in Art. 109, item 1 (7) of the PPL Act, i.e. who/which, for reasons attributable thereto, to a considerable extent or degree failed to perform or improperly performed or was improperly performing in the long run a significant obligation under a previous public procurement agreement or a contract for a concession, which led to termination by notice of or withdrawal from the agreement/contract, indemnity, substitute performance or exercising of the rights under warranty for defects;

II. **Chapter VI. Terms and conditions for participating in the procedure and bases for exclusion paragraph 3 point 1) shall read as follows:**

„1) In the circumstances specified in Art. 108, item 1 (1), (2) and (5) or Art. 109, item 1 point 4 and 7 of the PPL Act, the Contractor shall not be excluded if it proves to the Contracting Authority that it has met all of the following conditions.”

III. **Chapter VII Subjective And Objective Evidence, Other Statements And Documentation paragraph 2 point 1) (1.4.) shall read as follows:**

“1.4. **Statement of the Contractor** confirming that the information provided in the statement specified in Art. 125, item 1 of the PPL Act on the grounds for exclusion specified by the Contracting Authority and foreseen in:

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- Art. 108, item 1 (3) of the PPL Act,
- Art. 108 item 1 (4) of the PPL Act on the decision forbidding to apply for public contracts as a preventive measure,
- Art. 108, item 1 (5) of the PPL Act on entering into an agreement with other Contractors with the aim to disturb competition,
- Art. 108, item 1 (6) of the PPL Act,
- Art. 109, item 1 (7) of the PPL Act,
- to Art. 7 para. 1 item 1-3 of the Act of April 13, 2022 on special solutions in the scope of counteracting the support of aggression against Ukraine and serving the protection of national security and Art. 5 k of the Regulation 833/2014 according to Council Regulation (EU) 2022/576 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (EU Official Journal L 111, 8.4.2022, p. 1 (which has general scope, shall be binding in its entirety and directly applicable in all EU Member States)

Pursuant to [Appendix No. 4 to these Terms of Reference]

IV. Chapter VII Subjective And Objective Evidence, Other Statements And Documentation paragraph 6 point 1) shall read as follows:

“1) In order to confirm the fulfilment of the conditions for participating in the procedure on terms provided in Art. 118 – 123 of the PPL Act, the Contractor may rely on the technical or professional abilities or the economic or financial standing of entities that provide access to its resources, regardless of the legal nature of the relationship between them and the Contractor. The entity, whose resources the Contractor references in order to demonstrate the fulfilment of the conditions for participating in the procedure cannot be subject to exclusion based on 108, item 1 and 109, items 1 and 4 and 7 of the PPL Act.”

- V. **The Contracting Authority changes Appendix No. 2 to the Terms of Reference in Part III Exclusion grounds section C: GROUNDS RELATING TO INSOLVENCY, CONFLICTS OF INTERESTS OR PROFESSIONAL MISCONDUCT,** by removing the deletion of the question: *Has the contractor experienced that a prior public contract, a prior contract with a contracting entity or a prior concession contract was **terminated early**, or that damages or other comparable sanctions were imposed in connection with that prior contract?*

If yes, please provide details:

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VI. The Contracting Authority changes Appendix No. 4 to the Terms of Reference shall read as follows

**STATEMENT OF THE CONTRACTOR CONFIRMING THE VALIDITY OF
INFORMATION PROVIDED IN THE STATEMENT SPECIFIED IN ART. 125 1 OF
THE PPL ACT.**

By placing a bid in the procedure for awarding a public Contract conducted in the open tender mode by Łukasiewicz Research Network – Institute of Microelectronics and Photonics for

the delivery of:

I/we*, the undersigned hereby represent that:

The information provided in the statement placed pursuant to Art. 125, item 1 of the Act of September 11 2019 – Public Procurement Law, with respect to the grounds for exclusion specified by the Contracting Authority, stipulated in:

- a) Art. 108, item 1 (3) of the Act,
- b) Art. 108 item 1 (4) of the Act on the decision forbidding to apply for public contracts as a preventive measure,
- c) Art. 108 item 1 (5) of the PPL Act on entering into an agreement with other Contractors with the aim to disturb competition,
- d) Art. 108, item 1 (6) of the Act,
- e) Art. 109, item 1 (7) of the Act,
- f) Art. 7 para. 1 of the Act of April 13, 2022 on special solutions in the scope of counteracting the support of aggression against Ukraine and serving the protection of national security (Journal of Laws of 2022, item 835) and Art. 5 k of the Regulation 833/2014 of July 31. 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (EU Official Journal L 229 of 31.7.2014, p. 1)

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I hereby represent that any and all information provided in this Statement are up-to-date and accurate and that they I/we are fully aware of the consequences of providing the Contracting Authority with misleading information.

NOTE: THIS STATEMENT SHALL BE MADE *SEPARATELY* BY EACH OF THE CONTRACTORS WHO JOINTLY APPLY FOR THE CONTRACT. IF THE CONTRACTOR RELIES ON THE RESOURCES OF A THIRD PARTY ENTITY, THE STATEMENT SHALL ALSO BE MADE BY THE ENTITY THAT PROVIDES RESOURCES

Note!

The current Appendixes 2 and 4 to the ToR are available on the procedure website

The Contracting Entity informs that the above change is an integral part of the Terms of Reference. The remaining statements of the Terms of Reference remain without changes.

The Contractors are required to take into account the above changes while preparing and submitting tenders.

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