



Łukasiewicz
PORT
Polski Ośrodek
Rozwoju
Technologii

TERMS OF REFERENCE (ToR)

in the public procurement procedure conducted on a regular basis with possibility of negotiations to improve the content of tenders, with a value lower than the EU thresholds, referred to in art. 3 of the Act of September 11, 2019 - Public Procurement Law (i.e. Journal of Laws .U. 2023 item 1605), hereinafter referred to as „PPL”, the object of which consists in:

“The supply of an electrophysiology system and a headstage for the Cancer Neurophysiology Research Group”

Case no.: SPZP.271.98.2024

APPROVED BY:

PREAMBLE

Expenses related to the public procurement procedure shall be incurred, inter alia from future projects applied for by the Contracting Authority, which will be able to participate in the financing of expenses covered by the Contract and within the Contracting Authority's own funds.

October 2024

Strona 1 z 17



1. Name and address of the Contracting Authority

- 1.1. Sieć Badawcza Łukasiewicz – PORT Polski Ośrodek Rozwoju Technologii (Łukasiewicz Research Network – PORT Polish Centre for Technology Development) ul. Stabłowicka 147, 54-066 Wrocław
- 1.2. tel. +48 71,734 74 23
- 1.3. The address of the website on which the procedure is conducted and on which all documents relating to the procedure will be available: <https://platformazakupowa.pl/pn/port>.
- 1.4. Email address:
malgorzata.sopanska@port.lukasiewicz.gov.pl
- 1.5. Office hours: working days Monday to Friday, 07:30 am to 2:30 pm, excluding public holidays.

2. Procurement procedure.

- 2.1. This procedure is conducted on a regular basis referred to in art. 275 clause 2 PPL and in accordance with the provisions of these Terms of Reference, hereinafter referred to "ToR".
- 2.2. The Contracting Party provides for the selection of the most advantageous tender with the possibility of conducting negotiations.
- 2.3. Pursuant to art. 310 clause 1 of the PPL Act, the Contracting Party provides for a possibility of cancellation of the contract in question, if public funds that the Contracting Party intended to allocate for the financing of the entirety or part of the contract have not been granted to the Contracting Party.
- 2.4. The Contracting Authority does not envisage an electronic auction:
- 2.5. The Contracting Authority does not envisage tender submission in the form of electronic catalogues or enclosing electronic catalogues with the tender.
- 2.6. The Contracting Authority will not accept variant tenders.
- 2.7. The Contracting Authority is not conducting proceedings with a view to concluding a framework contract.
- 2.8. The Contracting Authority does not reserve the right to compete for the contract to specific Economic Operators, referred to in Article 94 of the PPL.
- 2.9. The Contracting Authority does not envisage options.
- 2.10. The Contracting Authority had not conducted a preliminary market consultation prior to commencing the procedure.
- 2.11. The Contracting Authority does not envisage employment of persons referred to in Article 96(2)(2) of the PPL.

Strona 2 z 17



3. Description of the object of the contract.

- 3.1. The object of the contract is the supply of an electrophysiology system and a headstage compatible with the system.
- 3.2. A detailed description of the object of the contract, along with the Contracting Authority's requirements regarding the object of the contract, have been specified in Appendix 2 to the ToR - Quotation Form and in Appendix 3 to the ToR - Model Contract.
- 3.3. Name and code according to the Common Procurement Vocabulary (CPV):
31700000-3 Electronic, electromechanical and electrotechnical devices
- 3.4. The Contracting Authority does not envisage awarding contracts referred to in Article 214(1) (8) of the PPL.
- 3.5. The subject of the contract has been divided into parts, which are the subject of separate tendering procedures.
- 3.6. Information on the means of proof referring to the subject
The contracting authority does not require the submission of the means of proof referring to the subject.

4. Contract completion date.

Delivery of the object of the contract shall be a maximum of 5 weeks from the date of conclusion of the Contract.

5. Conditions for participation in the procedure and grounds for exclusion from the procedure

- 5.1. Eligible to compete for the contract shall be Economic Operators who are not subject to exclusion pursuant to section 6 of the ToR, and meet the conditions for participation in the procedure defined by the Contracting Authority.
- 5.2. Eligible to compete for the contract shall be Economic Operators who meet the conditions related to:
 - 1) **trading capacity:**
The Contracting Authority does not impose any condition in this respect.
 - 2) **authorisation to pursue specific commercial or professional activities, if it results from separate regulations:**
The Contracting Authority does not impose any condition in this respect.
 - 3) **economic or financial standing:**

Strona 3 z 17



The Contracting Authority does not impose any condition in this respect.

4) **technical or professional capacity:**

The Contracting Authority does not impose any condition in this respect.

6. Grounds for exclusion from the procedure.

- 6.1. Excluded from the procurement procedure shall be Economic Operators in relation to whom any of the circumstances described in **Article 108(1) of the PPL** occur.
- 6.2. The Contracting Authority does not provide for the exclusion of the Economic Operator pursuant to Article 109(1) of the PPL.
- 6.3. Exclusion of the Economic Operator shall take place in accordance with Article 111 of the PPL.
- 6.4. The Economic Operator shall be excluded from the contract award procedure in the cases referred to in Article 7(1) of the Act of 13 April 2022 on special solutions in the field of counteracting the support of aggression against Ukraine and serving the protection of national security (Journal of Laws 2023, item 1497 as amended). Article 7(3) of the Act indicated in the previous sentence shall apply to the Economic Operator subject to exclusion in this respect.

7. Declarations and documents to be provided by the Contractors to confirm eligibility to participate in the procedure and to confirm no grounds for exclusion (qualitative evidence).

- 7.1. The Contractor shall be obliged to attach to the tender the statement referred to in article 125 par. 1 of PPL Act of no grounds for exclusion from the procedure and compliance with the conditions of participation in the procedure – according to Appendix 4 to ToR,
- 7.2. The information contained in the statement referred to in clause 7.1. is a preliminary confirmation (a proof) that the Contractor is not subject to exclusion and meets the conditions for participation in the procedure.
- 7.3. The Contracting Party requests the Contractor whose tender received the highest scores to submit, within the prescribed period, not less than 5 calendar days from the date of the request, qualitative evidence, if submission thereof has been requested in the procurement notice or procurement documents, valid as at the date of submission of the qualitative evidence.
- 7.4. Qualitative evidence required from the Contractor shall include:
 - 1) the Contractor's declaration in the scope of art. 108 par. 1 clause 5 of the Public Procurement Law, on not being the member of the same capital group within the meaning of the Act of February 16, 2007 on

Strona 4 z 17



competition and consumer protection (Journal of Laws of 2021, item 275, consolidated text) with another Contractor who submitted a separate tender, partial tender or application to be able to participate in the procedure, or a declaration of belonging to the same capital group, including documents or information confirming the preparation of the tender, partial tender or application to be able to participate in the procedure, regardless of another Contractor being the member of the same capital group - the template of the declaration is attached as Appendix no. 5 to ToR.

7.5. The Contractor is not obliged to submit the qualitative evidence that the Contracting Party possesses, if the Contractor indicates this evidence and confirms its correctness and validity.

7.6. To the extent not regulated by the PPL Act or these SWZ, the provisions of the Regulation of the Minister of Labour and Technology Development of 23 December 2020 on qualitative means of proof and other documents or statements which may be demanded by the ordering party from the contractor and the Regulation of the President of the Council of Ministers of 30 December 2020 on the manner of preparation and transmission of information and technical requirements for electronic documents and means of electronic communication in a procedure for the award of a public contract or competition shall apply in particular to the statements and documents submitted by the Economic Operator in the procedure.

8. Relying on the resources of other entities.

Not applicable.

9. Information for Economic Operators jointly competing for the contract (consortia).

9.1. Economic Operators may jointly compete for the contract. In such a case Economic Operators shall appoint a proxy to represent them in the proceedings or to represent them and conclude the Public Procurement Contract. The power of attorney shall be attached to the tender.

9.2. In the case of Contractors jointly competing for the award of the contract, the statements referred to in clause 7.1. of ToR, are submitted by each of the Contractors. These declarations confirm the lack of grounds for exclusion and the fulfilment of the conditions for participation in the scope in which each of the Contractors demonstrates compliance with the conditions for participation in the procedure.

10. Means of communication and clarification of the content of the ToR

Strona 5 z 17



- 10.1. Communication in the procurement procedure and in a competition, including submission of tenders, requests to participate in the procedure or competition, exchange of information and transfer of documents or statements between the Contracting Authority and the Economic Operator, subject to the exceptions provided for in the PPL, shall be carried out via electronic communication means. Electronic communication means shall be understood as electronic communication means defined in the Act of 18 July 2002 on the provision of services by electronic means (Journal of Laws of 2020, item 344).
- 10.2. The tender, the statements referred to in art. 125 par. 1 of the Public Procurement Law Act, qualitative evidence, powers of attorney, the commitment of the entity providing resources shall be prepared in electronic form, in generally available data formats, such as .txt, .rtf, .pdf, .doc, .docx, .odt. **The tender, as well as the statement referred to in clause 7.1. ToR are submitted, under pain of nullity, in the electronic form (i.e. with qualified electronic signature) or in the electronic format with trusted electronic signature or certified personal electronic signature.**
- 10.3. Qualified signatures used by the Economic Operators to sign any files must meet the requirements of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC - so-called eIDAS.
- 10.4. If the XAdES external signature format is used, the Contracting Authority requires the inclusion of the appropriate number of files, i.e. signed data files and signature files in XAdES format.
- 10.5. Communication between the Economic Operator and the Contracting Authority as well as transfer of information, statements, requests, notices and documents shall take place via electronic means. Communication between the Contracting Authority and Economic Operators, including all statements, requests, notices and information shall be transmitted electronically via the Platform and the 'Send a message' form available at <https://platformazakupowa.pl/pn/port> or by e-mail of the Contracting Authority indicated in section 10.6 of the ToR.
- 10.6. Persons authorised by the Contracting Authority to contact Economic Operators: for tender documentation: Mrs Malgorzata Sopańska: malgorzata.sopanska@port.lukasiewicz.gov.pl .
- 10.7. The Economic Operator, as a professional entity, is obliged to check messages and communications sent by the Contracting Authority directly on <https://platformazakupowa.pl>, because the notification system may fail or the notification may end up in the SPAM folder.
- The Contracting Authority, in accordance with the Regulation of the Prime Minister of 31 December 2020 on the method of preparing and submitting information and technical requirements for electronic documents and means of electronic communication in a public procurement procedure or competition (Journal of Laws of 2020, item

Strona 6 z 17



2452), specifies the necessary hardware and application requirements to work on platformazakupowa.pl, i.e.:

- 1) permanent access to the Internet with a guaranteed bandwidth of not less than 512 kb/s;
- 2) PC or MAC computer with the following configuration: min. 2 GB Ram, processor Intel IV 2 GHZ or its newer version, one of the operating systems - MS Windows 7, Mac Os x 10 4, Linux, or their newer versions,
- 3) any web browser installed, in the case of Internet Explorer at least version 10.0,
- 4) JavaScript enabled,
- 5) Adobe Acrobat Reader or other software supporting .pdf file format installed.
- 6) Encryption at <https://platformazakupowa.pl> is using TLS 1.3 protocol.
- 7) Indication of data reception time by the purchasing platform is the date and the exact time (hh:mm:ss) generated according to the local time of the server synchronised with the clock of the Central Office of Measures.
- 8) The maximum size of one file sent via dedicated forms for: submission, modification, withdrawal of a tender is 150 MB, while for communication the file size is maximum 500 MB.

10.9. By entering into this public procurement procedure, the Economic Operator:

- 1) accepts the terms and conditions of using platformazakupowa.pl as defined in the regulations placed on the website under the link in the 'Regulations' tab and acknowledges them as binding;
- 2) has read and follows the Instructions for Submission of Tenders available at the [link https://drive.google.com/file/d/1Kd1DttbBeiNwt4q4slS4t76IZVKPbkyD/view](https://drive.google.com/file/d/1Kd1DttbBeiNwt4q4slS4t76IZVKPbkyD/view).

10.10. **The Contracting Authority shall not be liable for submission of a tender in a manner contrary to the instructions for use of platformazakupowa.pl**, in particular for a situation where the Contracting Authority reads the content of the tender before the time limit for submission of tenders (e.g. submission of a tender in the 'Send a message to the Contracting Authority' tab). Such a tender shall be considered by the Contracting Authority as a commercial offer and shall not be taken into account in the proceedings, because an obligation imposed in Article 221 of the Public Procurement Law has not been met.

10.11. The Contracting Authority informs that the instructions for using platformazakupowa.pl regarding in particular logging in, submitting requests for clarification of the content of the ToR, submitting tenders and other actions undertaken in this procedure using platformazakupowa.pl can be found in the 'Instructions for Economic Operators' tab on the website at: <https://platformazakupowa.pl/strona/45-instrukcje>

Strona 7 z 17



- 10.12. In correspondence addressed via e-mail to the Contracting Authority, Economic Operators should use the case number of the procedure. All notices, statements, requests and information submitted by e-mail require immediate confirmation of their receipt at the request of each party. If the receipt of correspondence sent by e-mail is not confirmed, the report confirming the sending of the e-mail shall be deemed to be the confirmation of delivery.
- 10.13. The Economic Operator may request the Contracting Authority for clarification of the content of the ToR.
- 10.14. The Contracting Party is obliged to provide explanations immediately and no later than 2 calendar days before the deadline for submitting tenders, provided that the request for clarification of the ToR content was received no later than 4 calendar days before the deadline for tender submission.
- 10.15. If the Contracting Authority fails to provide explanations within the time limit referred to in section 10.14, the Contracting Authority shall extend the time limit for submission of tenders by the time necessary for all interested Economic Operators to become familiar with the explanations necessary for proper preparation and submission of tenders. If a request for clarification of the content of the ToR was not received within the time limit referred to in section 10.14, the Contracting Authority shall not be obliged to provide explanations to the ToR or to extend the time limit for submission of tenders.
- 10.16. Extension of the time limit for submission of tenders referred to in section 10.15 shall not affect the time limit for submitting requests for clarification of the content of the ToR.
- 10.17. The Contracting Authority shall make the text of the queries along with the explanations available on the platform of the conducted procedure under the link <https://platformazakupowa.pl/pn/port>, without revealing the source of the query.
- 10.18. The Contracting Authority does not intend to convene a meeting of Economic Operators.

11. Description of the method for tender preparation and formal requirements concerning submitted statements and documents

- 11.1. The Contractor may submit only one tender. If the Contractor submits more than one tender, all its tenders will be rejected.
- 11.2. The procedure shall be conducted in Polish and in English. The Contracting Authority agrees to the submission of the tender and other documents in Polish or English. Documents written in a foreign language (other than English) shall be submitted together with their translation into Polish. The proceedings documentation has been drawn up in Polish and English; in the event of any discrepancies or doubts as to interpretation, the Polish version shall prevail.

Strona 8 z 17



- 11.3. The contents of the tender should correspond to the contents of the ToR.
- 11.4. A tender must be signed by persons authorised to represent the Economic Operator (Economic Operators competing jointly for the award of the contract).
- 11.5. The authorisation of the persons signing the tender to sign it must be evident from the appropriate register. This means that if such authorisation does not derive directly from the appropriate register stating the legal status of the Economic Operator, the tender must be accompanied with a power of attorney.
- 11.6. The tender and other statements and documents for which the Contracting Authority has prepared the templates in the form of model forms included in the appendices to the ToR should be drawn up in accordance with these templates as regards the content and description of columns and lines.
- 11.7. If the tender contains information that constitutes a business secret within the meaning of the Act of 16 April 1993 on combating unfair competition (Journal of Laws of 2022, item 1233 as amended), the Economic Operator shall, not later than within the time limit for the submission of tenders, stipulate that it may not be made available and shall demonstrate that the proprietary information constitutes a business secret.
- 11.8. All costs related to the preparation and submission of the tender shall be borne by the Economic Operator.
- 11.9. The tender shall contain:
- 1) A completed and signed **Tender Form** - the model form is attached as Appendix 1 to the ToR.
 - 2) A completed and signed **Quotation Form** - the model form is attached as Appendix 2 to the ToR.
 - 3) Completed and signed declaration referred to in clause 7.1. of the ToR – template of declaration attached as Appendix 4 to ToR;
 - 4) In order to confirm that the person acting on behalf of the Economic Operator is authorised to represent it, the Contracting Authority requires from the Economic Operator a copy or information from the National Court Register, Central Register and Information on Business Activity or other relevant register.
The Economic Operator shall not be obliged to submit the documents referred to in sentence 2 if the Contracting Authority can obtain them using free and publicly available databases, provided that the Economic Operator has indicated the data enabling access to such documents.
 - 5) Appropriate power of attorney(s) - if the power to sign the tender does not derive directly from the appropriate register (if applicable),
 - 6) In the case of Economic Operators jointly competing for the contract, a document appointing a Representative to represent them in the contract award procedure or to represent them in the

Strona 9 z 17



procedure and to conclude the Public Procurement Contract (if applicable).

12. Price calculation method

12.1. The Economic Operator shall indicate in the Tender Form the gross tender price calculated on the basis of the Quotation Form attached as Appendix 2 to the ToR. The net unit prices given in the Quotation Form are lump sum prices and any corrections of obvious calculation errors shall be made on the basis of the net unit prices.

In the Quotation Form, the Economic Operator shall specify the product offered for each item, i.e.: product catalogue number and manufacturer. Should the Economic Operator fail to specify the product offered, its tender shall be subject to rejection on the basis of Article 226(1)(5) of the PPL.

12.2. The Economic Operator shall indicate in its tender the net tender price, the gross tender price and the VAT due, in the manner specified in the Tender Form, which constitutes Appendix 1 to the ToR.

12.3. The tender price is the gross price indicated in the Quotation Form in the scope defined in Appendix 2 to the ToR.

12.4. The tender price should be calculated on the basis of the Quotation Form constituting Appendix 2 to the ToR.

12.5. The tender price indicated in the Tender Form and the prices indicated in the Quotation Form shall include the VAT due, in accordance with the applicable tax regulations at the rate as at the date of submission of the tenders.

12.6. The tender price indicated in the Tender Form, as well as the prices indicated in the Quotation Form should be given in Polish zloty, Euro or USD to two decimal places (i.e. to the nearest 1 grosz). If the calculated prices have more decimal places (fractions of a grosz), they should be rounded in such a way that figures 1 to 4 are rounded down and figures 5 to 9 are rounded up.

12.7. Should the selection of the submitted tender result in a tax liability on the Contracting Authority in accordance with the Act of 11 March 2004 on tax on goods and services (Journal of Laws of 2018, item 2174, as amended), for the purpose of applying the price criterion, the Contracting Authority shall add to the price presented in that tender the amount of tax on goods and services which it would be obliged to settle. In the tender, the Economic Operator is obliged to:

- 1) inform the Contracting Authority that the selection of its tender will result in the tax liability for the Contracting Authority;
- 2) indicate the name (type) of the goods or services whose delivery or provision shall result in the tax liability;
- 3) indicate the value of the goods or services subject to the Contracting Authority's tax liability, without the amount of the tax;

Strona 10 z 17



4) indicate the VAT rate which, to the Economic Operator's knowledge, will apply.

12.8. The Contracting Authority does not envisage granting an advance payment for the execution of the public contract.

13. Deposit requirements.

The Contracting Authority does not require a deposit.

14. Tender validity period.

14.1. The Economic Operator shall be bound by its tender for 30 days, i.e. until 28.11.2024. The period, during which the Economic Operator must maintain its tender, shall commence with the expiry of the time limit for submission of tenders.

14.2. If the most advantageous tender is not selected before the expiry of tender validity period defined in section 1, the Contracting Authority, before the expiry of the tender validity period, shall ask the Economic Operators once to agree to extend that period by a period specified by the Contracting Authority, not longer than 30 days. The extension of the tender validity period requires the Economic Operator to submit a written statement of consent to extend the tender validity period.

14.3. Refusal to agree to an extension of the tender period shall not result in the loss of the deposit.

15. Manner and date of tenders submission and opening.

15.1. The tender together with the required documents should be placed on the Platform at the following address: <https://platformazakupowa.pl/pn/port> on the website of the procedure conducted until 30.10.2024 by 12:00.

15.2. After completing the tender submission form and uploading all required attachments, click the 'proceed to summary' button.

15.3. The date on which the tender is submitted shall be the date on which it is transmitted to the system (platform) in the second step of the tender submission by clicking on the 'Submit tender' button, after a message is displayed that the tender has been encrypted and submitted.

15.4. Detailed instructions for Economic Operators on how to submit, amend and withdraw a tender can be found on the website at: <https://platformazakupowa.pl/strona/45-instrukcje>

15.5. Tenders shall be opened on 30.10.2024 at 12:30.

15.6. No later than before the opening of tenders, information on the amount intended to be spent to finance the contract shall be made available on the Platform.

Strona 11 z 17



15.7. Immediately after opening the tenders, the following information shall be provided on the website of the conducted procedure:

- 1) company names or names and surnames, registered offices or places of business activity or places of residence of Economic Operators whose tenders have been opened;
- 2) prices contained in the tenders.

The information shall be published on the website of the procedure at platformazakupowa.pl in the "Communications" section.

16. Description of the criteria for evaluation of tenders, together with the weights of these criteria and the method of evaluation of tenders.

15.1. The Contracting Authority shall evaluate and compare only those tenders that are not rejected by the Contracting Authority.

15.2. The criteria for selecting the most advantageous tenders shall be:

Criterion 1: **price** - weight of the criterion 100.00 %

15.3. Principles of criteria evaluation - description of the way of calculating the scores:

15.3.1. **Criterion 1: price**, shall be calculated according to the following formula:

lowest gross price*

Number of points = ----- x 100 points x weight of the criterion gross price of the evaluated tender

*of all the submitted tenders not subject to rejection

For the purpose of comparing the tenders, the Contracting Authority shall accept the tender prices including VAT.

It is assumed that 1% = 1 point and this is how the number of points obtained will be calculated.

A maximum of 100.00 points can be obtained for criterion 1.

15.4. Tenders shall be evaluated on a scale from 0.00 to 100.00 points.

15.5. The Contracting Authority shall select one tender which will obtain in total the highest number of points (criterion 1) and which will meet all the requirements of the PPL and the ToR.

16.7. Where the most advantageous tender cannot be selected as two or more tenders represent the same balance of price and other tender evaluation criteria, the Contracting Authority shall choose from among those tenders the one which has received the highest score in the criterion of

Strona 12 z 17



the highest weighting (this refers to the situation when more than one criterion had been defined).

- 16.8. If tenders have received the same score for the criterion of highest weighting, the Contracting Authority shall choose the tender with the lowest price.
- 16.9. If it is not possible to select a tender in the manner referred to in section 16.8 of the ToR, the Contracting Authority shall invite the Economic Operators who have submitted those tenders to submit additional tenders containing a new price within the time limit set by the Contracting Authority.
- 16.10. When submitting additional tenders Economic Operators may not submit tenders with higher prices than those included in their previously submitted tenders.

17. Conducting procedure with negotiations.

- 17.1. The Contracting Party exercises the right provided for in Article 288(1) of the PPL in the matter of limiting the number of Contractors it will invite to negotiate tenders.
- 17.2. In the event of a decision to conduct negotiations, acting according to Article 288(1) of the PPL, the Contracting Party shall limit, by applying the criteria for the evaluation of tenders (i.e. the price), the number of contractors invited to negotiate to three whose tenders meet these criteria to the highest extent.
- 17.3. In the event of a decision to conduct negotiations in the first step, the Contracting Party shall at the same time inform all Contractors who have submitted tenders about the Contractors:
 - 1) whose tenders were not rejected, as well as the points given to the tenders in each tender evaluation criterion and total points,
 - 2) whose tenders were rejected,
 - 3) who did not qualify to the negotiations, as well as the points given their tenders in each tender evaluation criterion and total points, in case referred to in article 288 par. 1 PPL- giving factual and legal justification.
- 17.4. The tender of the Contractor who is not invited to the negotiations is treated as rejected.
- 17.5. If the number of Contractors, who in response to the procurement notice submitted tenders not subject to rejection, is less than 3, the Contracting Party in the case referred to in Article 275 point 2) of the PPL shall continue the procedure.
- 17.6. In the invitation to negotiations, the Contracting Authority shall indicate the place, date and manner of conducting negotiations and the criteria

Strona 13 z 17



for the evaluation of tenders under which negotiations will be conducted in order to improve the content of tenders.

- 17.7. The negotiations are confidential. Neither party may, without the consent of the other party, disclose technical and commercial information related to the negotiations. Consent is given in relation to specific information and before its disclosure.
- 17.8. After completing negotiations with all of the Contractors, the Contracting Party informs about this fact the participants of the negotiations and invites them to submit additional tenders.
- 17.9. The invitation to submit additional tender will contain at least:
 - 1) name and address of the Contracting Party, their telephone number, e-mail address and the website of the conducted procurement;
 - 2) the manner and deadline of submitting additional tenders, and information on language or languages in which they should be prepared, as well as the date of opening these tenders.
- 17.10. The Contractor can submit the additional tender, which contains new proposals regarding the content of the tender to be assessed as part of the tender evaluation criteria indicated by the Contracting Party in the invitation to negotiations.
- 17.11. The additional tender may not be less favourable in any of the tender evaluation criteria indicated in the invitation to negotiations than a tender submitted in response to a procurement notice.
- 17.12. The originally submitted tender shall cease to bind the Contractor in the scope, in which they will submit the additional tender, containing more favourable proposals under each tender evaluation criterion indicated in the invitation for negotiations.
- 17.13. An additional tender which is less favourable in any of the tender evaluation criteria indicated in the invitation to negotiations than a tender submitted in response to the procurement notice shall be rejected.

18. Information concerning formalities which should be met following the selection of a tender in order to conclude a public procurement contract.

- 18.1. The Contract shall be concluded in accordance with the deadlines laid down in Article 308 (2) and (3) of the PPL.
- 18.2. Before signing the Contract, the Economic Operator whose tender has been selected as the most advantageous shall provide the Contracting Authority, if a tender of Economic Operators jointly competing for the contract is selected, with a copy of the agreement regulating the cooperation of those Economic Operators.

Strona 14 z 17



18.3. Failure to provide the above document before signing the Contract shall be treated as the conclusion of the Contract impossible due to reasons attributable to the Economic Operator.

19. Requirements concerning security on due performance of the contract.

The Contracting Authority does not require the security on due performance of the Contract.

20. Information about the content of the Contract to be concluded and the possibility of its amendment.

20.1. The selected Economic Operator shall be obliged to conclude a public procurement Contract on the terms and conditions specified in the Model Contract constituting Appendix 3 to the ToR.

20.2. The scope of Economic Operator's performance resulting from the Contract shall be identical with the commitment undertaken in the tender.

20.3. The Contracting Authority provides for the possibility of amending the concluded Contract in relation to the content of the selected tender within the scope regulated in Articles 454-455 of the PPL and indicated in the Model Contract constituting Appendix 3 to the ToR.

21. Subcontracting.

21.1. The Economic Operator may entrust part of the contract to subcontractor(s).

21.2. The Contracting Authority requires that in the case of entrusting a part of the contract to subcontractors, the Economic Operator indicates in the tender the part of the contract whose performance it intends to entrust to subcontractors and provides (if known at this stage) the names (company names) of these subcontractors.

22. On-site visit.

The Contracting Authority does not envisage the on-site visit.

23. Information concerning foreign currencies in which settlements between the Contracting Authority and the Economic Operators can be made.

Settlements between the Contracting Authority and the Economic Operator shall be made in Polish zloty (PLN). The Contracting Authority also allows for settlements with the Economic Operator in a foreign currency, i.e. in EUR or USD. If the Economic Operator submits a tender in a foreign currency, i.e. in EUR or USD, the Contracting Authority, in

Strona 15 z 17



order to compare the tenders, shall convert the EUR/USD according to the average foreign exchange rate of the National Bank of Poland on the day the procedure is opened.

Should the Economic Operator fail to specify the accounting currency in its tender, the tender shall be subject to rejection on the basis of Article 226(1)(5) of the PPL.

24. Instructions on the legal remedies available to the Economic Operators.

24.1. The Economic Operator, participant in the competition or other entity shall be entitled to legal remedies if it has or has had an interest in being awarded the contract and has suffered or may suffer damage as a result of breach of the provisions of the PPL by the Contracting Authority.

24.2. Legal remedies against the contract notice initiating the procurement procedure and against the contract documents shall also be available to organisations on the list referred to in Article 469(15) of the PPL and to the Ombudsman for Small and Medium Enterprises.

24.3. The appeal shall be available against:

- 1) Contracting Authority's action, non-compliant with the provisions of the Act, taken in the course of the procurement procedure, including the draft contractual provisions;
- 2) failure to act in the procurement procedure, to which the Contracting Authority was obliged under the PPL.

24.4. The appeal shall be lodged with the President of the Chamber. The appellant shall submit a copy of the appeal to the Contracting Authority before the expiry of the final date for the lodging of an appeal in such a way that the Contracting Authority can acquaint itself with the content of the appeal before that deadline expires.

24.5. The appeal against the content of the contract notice or the content of the ToR must be lodged within 5 days from the publication of the contract notice in the Official Journal of the European Union or posting the documents on the website.

24.6. The appeal shall be lodged within:

- 1) 5 days from the date of transmitting the information about the Contracting Authority's activities providing the grounds for its lodging, if the information was transmitted by means of electronic communication,
- 2) 10 days from the date of transmission of information on the Contracting Authority's activities providing the grounds for its lodging, if the information was transmitted in a manner other than that specified in point 1).

24.7. In cases other than those referred to in sections 24.5 and 24.6 the appeal shall be lodged within 5 days from the day of becoming aware, or, acting with due diligence, one could have become aware of the circumstances providing grounds for its lodging.

Strona 16 z 17



- 24.8. The parties and participants of the appeal proceedings shall have the right to lodge a complaint with the court against the ruling of the Chamber and the decision of the President of the Chamber referred to in Article 519(1) of the PPL.
- 24.9. Appropriate provisions of the Code of Civil Procedure of 17 November 1964 concerning appeals shall apply accordingly to procedures pending as a result of a lodged petition, unless the provisions of this Chapter provide otherwise.
- 24.10. The complaint shall be filed with to the Regional Court in Warsaw - Court of Public Procurement, hereinafter referred to as the Court of Public Procurement.
- 24.11. The complaint shall be lodged through the President of the Chamber, within 14 days of the day of delivery of the Chamber's ruling or the President's decision referred to in Article 519(1) of the PPL, sending at the same time its copy to the complaint's opponent. Lodging a complaint at a post office of a designated operator within the meaning of the Act of 23 November 2012. - Postal Law is equivalent to filing a complaint.
- 24.12. The President of the Chamber shall deliver the complaint together with the files of the appeal procedure to the competent public procurement court within not more than 7 days from the date of its receipt.

25. Information obligation under Regulation (EU) 2016/679 of the European Parliament and of the Council.

Detailed information is provided in Appendix 6 to the ToR.

26. List of appendices.

Appendix 1 – Tender form;

Appendix 2 – Quotation Form;

Appendix 3 – Model Contract;

Appendix 4 – Contractor's declaration pursuant to art. 125 sec. 1 of the Public Procurement Law on meeting the conditions for participation in the procedure and no grounds for exclusion from the procedure;

Appendix 5 – Statement of belonging or not belonging to the same capital group;

Appendix 6 – GDPR Information Clause.

Strona 17 z 17

