



SPECIFICATION OF TERMS OF REFERENCE

for
the delivery of 12 pcs. of microwave complete three-port ferrite isolators and 3 pcs. of microwave
water loads

carried out as part of the project "PoFEL - Polish Free Electron Laser" co-financed by the European Regional Development Fund

*as part of the Intelligent Development Operational Programme 2014-2020, Priority IV: Enhancement of the Research Potential, Measure
4.2: Development of Modern Research Infrastructure of the Science Sector*

and

*as part of the Regional Operational Programme of the Mazovian Voivodeship for 2014-2020, Priority Axis I: Utilisation of Research and
Development Activities in the Economy, Measure 1.1: Research and Development Activities of Research Units*

Procedure number no. IZP.270.3.2022

AS AMENDED 22.07.2022

Otwock, 28.06.2022





The Specification of Terms of Reference are hereinafter referred to as the "Terms of Reference" or "Specification" and include:

Volume I: INSTRUCTIONS FOR ECONOMIC OPERATORS INCLUDING FORMS

Chapter 1 Instruction for Economic Operators (Polish - IDW):

Chapter 2 Forms relating to the Tender:

Form 2.1. Tender

Form 2.2. "Non-price criteria"

Form 2.3. List of technical parameters

Chapter 3 Forms relating to the Economic Operator's fulfilment of the conditions for participation in the procedure/demonstration of lack of grounds for exclusion of the Economic Operator from the procedure:

Form 3.1. Single European Procurement Document (ESPD) (A document pre-prepared by the Awarding Entity available on the website of the conducted procedure both in xml format - to be imported in the eESPD service, and in pdf format - for reference);

Form 3.2. Declaration concerning the validity of the information in the ESPD

Form 3.3. Declaration of non-membership or affiliation to the same capital group within the meaning of the Act of 16 February 2007 on competition and consumer protection.;

Form 3.4. Declaration on sanctioning provisions related to the war in Ukraine

Volume II Economic Operator provisions of the Agreement (separate appendix)

Volume III: DESCRIPTION OF THE SUBJECT OF THE TENDER CONTRACT

Volume IV: PRICE FORM



Volume I INSTRUCTIONS FOR ECONOMIC OPERATORS

Chapter 1

Instructions for Economic Operators (Polish -IDW)

1. AWARDING ENTITY

National Centre for Nuclear Research
Ul. Andrzeja Sołtana 7,
05-400 Otwock
tel. + 48 22 273 16 30;
e-mail: zp@ncbj.gov.pl
NIP: 532-010-01-25, REGON 001024043

2. THE WEBSITE OF THE TENDER PROCEDURE

2.1 The tender procedure shall be carried out using the Procurement Platform: platformazakupowa.pl at the following address <https://platformazakupowa.pl/pn/ncbj> (hereinafter: Platform). Whenever the Terms of Reference or the regulations on public procurement refer to the website of the conducted procedure, this shall also be understood to mean the Platform.

2.2 Amendments and clarifications to the content of the ToR and other procurement documents directly related to the contract award procedure will be available at: <https://platformazakupowa.pl/pn/ncbj>.

3. REFERENCE NUMBER OF THE PROCEDURE

The procedure to which this document relates are marked with a (reference number):

IZP.270.3.2022.

Economic Operators shall in all their contacts with the Awarding Entity refer to the reference number given above.

4. MODE OF AWARDING THE CONTRACT

4.1 The procurement procedure is conducted by means of an open tender pursuant to Article 132 of the Public Procurement Law¹ hereinafter referred to as the "PPL Act".

4.2 The Awarding Entity **shall apply** the procedure referred to in Article 139(1) of the PPL Act (i.e. the so-called reverse procedure).

4.2.1 First of all, the Awarding Entity will examine and evaluate the tenders and then perform the subject qualification of the Economic Operator whose tender was awarded the highest mark in terms of lack of grounds for exclusion and fulfilment of the conditions for participation in the procedure.

4.2.2 In connection with application of the procedure referred to in Article 139 (1) of the PPL Act, the Awarding Entity does not require submission with the Tender of the declaration referred to in point 10.2. OF IDW. The Awarding Entity shall require submission of this declaration only from the Economic Operator whose tender was awarded the highest mark.

4.2.3 If the Economic Operator whose tender was awarded the highest mark has grounds for exclusion, does not meet the conditions for participation in the procedure, does not submit subjective evidence or the declaration referred to in point 10.2. of IDW confirming the absence of grounds for exclusion or meeting the conditions for participation in the procedure, The Awarding Entity shall re-examine and evaluate the tenders of the other Economic Operators, and then qualify the Economic Operator whose tender was awarded the highest mark with respect to the absence of grounds for exclusion and compliance with the conditions for participation in the procedure.

¹ Act of 11 September 2019. - Public Procurement Law (Journal of Laws of 2021, point 1129, as amended).

4.2.4 The Awarding Entity shall continue the procedure referred to in item. 4.2.3. of the IDW until the selection of the most advantageous offer or cancellation of the contract award procedure.

5. SOURCES OF FUNDING

The tender contract is part of the implementation of the PolFEL - Polish Free Electron Laser project co-financed by the European Regional Development Fund:

- as part of the Operational Programme Intelligent Development 2014-2020, Priority IV: Enhancement of Scientific and Research Potential, Measure 4.2: Development of Modern Research Infrastructure of the Science Sector, on the basis of Grant Agreement POIR.04.02.00-00-B002/18-00;
- as part of the Regional Operational Programme of the Mazovian Voivodeship for 2014-2020, Priority Axis I: Utilisation of Research and Development Activities in the Economy, Measure 1.1: Research and Development Activities of Scientific Units, on the basis of Subsidy Agreement RPMA.01.01.00-14-e217/20-00.

The Awarding Entity envisages the possibility of invalidating the award procedure pursuant to Article 257 of the PPL Act if the public funds which the Awarding Entity intended to allocate for financing the whole or part of the tender contract are not awarded to him.

The Awarding Entity envisages granting an advance payment to the Economic Operator in the amount of 30% of the contract value for the performance of the Subject of the tender contract. Detailed information on granting an advance payment is specified in VOLUME II ToR - Economic Operator contractual provisions.

6. DESCRIPTION OF THE SUBJECT OF THE TENDER CONTRACT

6.1 The subject of the tender contract is the **delivery of 12 microwave complete three-port ferrite insulators and 3 microwave water loads.**

The subject of the tender contract shall be the procurement of similar deliveries to be awarded as partial tender contracts, each to be executed as the subject of a separate procedure.

The tender contract has not been divided into parts for the following reason:

the components to be procured will be used for operation within a single microwave system. They will be used to validate the microwave amplifiers manufactured and supplied for the project. This test will require prolonged operation at full load for each amplifier supplied. Port one of the insulator will be connected to the output of the microwave amplifier and the water load will be connected to port two of the insulator, acting as a receiver. It is important in this application that both components come from the same Economic Operator. If the insulator fails, the microwave amplifier may be damaged or even destroyed. A malfunction or failure of the water load could result in damage to both the insulator and the water load. If such an event occurs, it will be impossible to determine the cause. If both components come from two different Economic Operator, there will be a risk of passing responsibility for the damage to each other. When delivering the two components of the system, it is the Economic Operator who must ensure that they are correctly matched, aligned so that they can work together safely.



CPV (Common Procurement Vocabulary):

Main subject of the tender contract: 31711422-7 - microwave equipment

The performance of the tender contract is subject to Polish law, including in particular the Construction Law², the Civil Code³ and the Public Procurement Law⁴.

6.2. The subject of the tender contract is described in detail in Volume III of the ToR.

6.3 The minimum required warranty period for the subject of the tender contract is 12 months from the date of final acceptance.

² Act of 7 July 1994. - Construction Law (Journal of Laws of 2020, point 1333, as amended).

³ Act of 23 April 1964. - Civil Code (Journal of Laws of 2020, point 1740)





⁴ Act of 11 September 2019. - Public Procurement Law (Journal of Laws of 2021, point 1129, as amended).

6.4 The Contracting Authority does not specify the requirements for employment of persons referred to in Article 96(2)(2) of the PPL Act.

6.5 The Contracting Authority does not provide for:

- 1) an on-site inspection by the Contractor or
- 2) for the Contractor to check the documents necessary for the performance of the contract available at the Contracting Authority's premises.

6.6 The Awarding Entity **does not reserve** the obligation for the Economic Operator to personally perform the key tasks.

6.7 The Awarding Entity does not envisage the possibility of awarding to the existing supplier - a contract for additional supplies as referred to in Article 214(1)(8) of the PPL Act.

6.8. Pursuant to Article 5k of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's destabilising actions in Ukraine⁵, it is prohibited to execute a public tender contract with the participation of subcontractors, suppliers or entities whose capacity is relied upon within the meaning of Directive 2014/24/EU if they account for more than 10% of the contract value.

7. DEADLINE FOR EXECUTION OF THE SUBJECT OF THE TENDER CONTRACT

7.1 Deadline for the execution of the tender contract:

- 1) delivery of 2 units of complete three-port ferrite insulators within 11 months from the date of conclusion of the contract
- 2) delivery of 10 pieces of complete three-port ferrite insulators and 3 pieces of microwave water loads within 15 months from the date of conclusion of the contract.

8. CONDITIONS FOR PARTICIPATION IN THE PROCEDURE

8.1 Economic Operators who are not subject to exclusion and who meet the conditions for participation specified by the Awarding Entity may apply for the award of the tender contract.

8.2 **Economic Operators who meet the conditions concerning:**

8.2.1 **capacity to act as an economic Operator:** not applicable

8.2.2 **authorisation to conduct a specific economic or professional activity, if this results from separate regulations:** not applicable

8.2.3 **economic or financial standing:** not applicable

8.2.4 **technical or professional capacity:**

1. **concerning the Economic Operator:** not applicable

2. **concerning persons:** not applicable

9. GROUNDS FOR EXCLUSION OF ECONOMIC OPERATORS

9.1 An Economic Operator in respect of whom any of the circumstances referred to above apply shall be excluded from the procurement procedure:

- a) in Article 108(1) of the PPL Act;





⁵ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (OJ EU L 229 of 31.7.2014, p.1 as amended).

b) in Article 7(1) of the Act on special arrangements for counteracting the promotion of aggression on the Ukraine and to protect national security⁶

c) referred to in Article 5k of Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's destabilising actions in Ukraine (OJ EU No L 229, 31.7.2014, p. 1 as amended) as amended by Regulation 2022/576 (OJ EU No L 111, 8.4.2022, p. 1.).

The Awarding Entity indicates that, with regard to the exclusion ground referred to in point b) above, the Economic Operator shall submit a declaration in Part III Section D of the Single Document "Grounds for exclusion of a purely domestic nature".

In addition, the Awarding Entity, in the course of verifying the grounds for exclusion referred to above, reserves the possibility of calling on the Economic Operator to provide explanations.

9.2 The Awarding Entity does not provide for exclusion of the Economic Operator on any of the grounds indicated in Article 109(1) of the PPL Act.

9.3 Depending on the occurrence of the grounds for exclusion specified in point. 9.1. letter a of IDW (obligatory grounds), the Economic Operator shall be excluded for the relevant period indicated in Article 111 of the PPL Act.

9.4 An Economic Operator may be excluded by the Awarding Entity at any stage of the procurement procedure.

9.5 An Economic Operator shall not be subject to exclusion under the circumstances specified in Article 108(1)(1), (2) and (5) of the PPL Act if he proves to the Awarding Entity that he fulfils all of the following conditions:

- 1) he has made good or has undertaken to make good the damage caused by the offence, misdemeanour or his or her wrongful conduct, including through monetary compensation;
- 2) he has fully explained the facts and circumstances surrounding the offence, the misconduct or his wrongful conduct and the damage caused thereby, cooperating actively with the competent authorities, including the law enforcement authorities or the Awarding Entity, as appropriate;
- 3) he has taken specific technical, organisational and personnel measures that are appropriate to prevent further offences, misconduct or improper conduct, in particular:
 - a) he has severed all links with persons or entities responsible for the wrongful conduct of the Economic Operator,
 - b) he reorganised the staff,
 - c) he implemented a reporting and control system,
 - d) he set up internal audit structures to monitor compliance with legislation, internal regulations or standards,
 - e) has introduced internal regulations on liability and compensation for non-compliance with laws, internal regulations or standards.

9.6 The Awarding Entity shall assess whether the actions taken by the Economic Operator as specified in point 9.5. of the IDW are sufficient to demonstrate his reliability, taking into account the importance and special circumstances of the Economic Operator's act. The Awarding Entity shall exclude the Economic Operator if the actions taken by the Economic Operator as specified in point 9.5. of the IDW are not sufficient to demonstrate his reliability.

⁶ Act of 13 April 2022. - On specific solutions to prevent support for aggression against Ukraine and to protect



national security (Journal of Laws of 2022, item 835)

10. THE EVIDENCE IN QUESTION

10.1 The Awarding Entity requires evidence in question to prove no grounds for exclusion.

10.2 The declaration referred to in Article 125(1) of the PPL Act is not the evidence in question and constitutes provisional evidence of the absence of grounds for exclusion and of the fulfilment of the conditions for participation in the procedure as at the date of submission of tenders.

10.3 The declaration referred to in point. 10.2. of the IDW (in the form of a Single European Procurement Document drawn up in accordance with the model of the standard form set out in the Implementing Regulation of the European Commission issued pursuant to Article 59(2) of Directive 2014/24/EU, hereinafter referred to as the "Single Document" or "SEPD"), shall be sent by the Economic Operator to the Awarding Entity in electronic form (i.e. bearing a qualified electronic signature), in accordance with the rules specified in point. 14 OF THE IDW.

The Economic Operator shall complete the SEPD by creating an electronic document. He may use the ESPD tool or other available tools or software to complete the SEPD and create the electronic document.

The single document pre-prepared by the Awarding Entity for the procedure in question (in xml format - to be imported into ESPD) is available on the Platform in the place where this ToR is posted.

With regard to "Part IV Eligibility Criteria" of the SEPD, the Economic Operator may limit himself to completing the section α , in which case the Economic Operator shall not complete any of the other sections (A-D) in Part IV of the SEPD.

The Awarding Entity stipulates that in Part III Section C of the single document "Grounds relating to insolvency, conflict of interest or professional misconduct" in subsection "Has the Economic Operator, to the Economic Operator's own knowledge, breached its obligations in the field of environmental, social and labour law" The Economic Operator shall make a declaration regarding:

- the offence referred to in Article 9 or Article 10 of the Act of 15 June 2012 on the effects of delegating work to foreigners unlawfully residing on the territory of the Republic of Poland (Journal of Laws, point 769, as amended).

Due to the fact that the Awarding Entity does not apply the optional grounds referred to in Article 109(1)(2)(b) and (c) and (3) in respect of point. 2) letter b) of the PPL Act in Part III Section C of the uniform document "Grounds for insolvency, conflict of interest or professional misconduct", the Economic Operator shall submit a declaration with regard to the above-mentioned offences, which constitute an obligatory ground for exclusion referred to in Article 108(1)(1)(f) and (h) and (2) of the PPL Act.

The Awarding Entity indicates that with regard to the exclusion premise referred to in point 9.1(b) of the IDW, the Economic Operator shall submit a declaration in Part III Section D of the single document "Grounds for exclusion of a purely domestic nature".

10.4. Before selecting the most advantageous tender, the Awarding Entity shall call upon the Economic Operator whose tender has been awarded the highest mark to submit, within the designated time limit, which shall not be shorter than 10 days, up-to-date evidence and previously the declarations referred to in point 10.2. of the IDW.



10.5 At the request of the Awarding Entity, the Economic Operator referred to in point. 10.4 of IDW shall be obliged to submit:

- **the declaration(s) referred to in point 10.2. of the IDW;**
- subjective evidence referred to in points. 10.6., 10.7., 10.8. IDW.

10.6 In order **to confirm that there are no grounds for exclusion** from participation in the procurement procedure, the Economic Operator shall submit:

a) information from the National Criminal Register regarding:

- Article 108(1)(1) and (2) of the PPL Act,
- Article 108(1)(4) of the PPL Act, concerning an order prohibiting a person from competing for a public contract as a penal measure,
prepared not more than six months before its submission;

b) declaration of the Economic Operator, within the scope of provisions of art. 108 point 1 point 5 of the PPL Act, on not being a member of the same capital group, within the meaning of the Act of 16 February 2007 on competition and consumer protection (Journal of Laws of 2020 point. 1076 and 1086), with another Economic Operator who submitted a separate tender, a partial tender or a declaration on affiliation to the same capital group, together with documents or information confirming preparation of a tender, a partial tender independently of another Economic Operator belonging to the same capital group; - a specimen of which constitutes the Form 3.8;

c) a declaration by the Economic Operator that the information contained in the declaration referred to in Article 125(1) of the PPL Act as regards the grounds for exclusion from the procedure indicated by the Awarding Entity referred to in:

- Article 108(1)(3) of the PPL Act,
- Article 108(1)(4) of the PPL Act relating to the imposition of a prohibition to tender for a public contract as a preventive measure,
- Article 108(1)(5) of the PPL Act regarding entering into an agreement with other Economic Operators to distort competition,
- Article 108(1)(6) of the PPL Act.

10.7.1 If the Economic Operator has his registered office or place of residence outside the Republic of Poland, instead of:

1) information from the National Criminal Register, referred to in point 10.6. 10.6. letter a) of IDW - shall submit information from a relevant register such as court register or, in case there is no such register, other equivalent document issued by a competent court or administrative authority of the country in which the Economic Operator has his registered seat or place of residence, within the scope of art. 108 point 1 points 1, 2 and 4 of the PPL Act;

10.7.2 The document referred to in point 10.7.1(1), should have been issued no earlier than 6 months prior to its submission.

10.7.3 If, in the country in which the Economic Operator is established, the documents referred to in point. 10.7.1. of IDW, or if such documents do not refer to all cases mentioned in art. 108 point 1, 2 and 4 of the PPL Act. 1, point 1, 2 and 4 of the PPL Act, they shall be replaced in whole or in part, respectively, by a document containing a declaration of the Economic Operator, indicating the person or persons authorized to represent him, or a declaration of the person to whom the document refers, made under oath, or, if in the country where the Economic Operator has his seat or place of residence there are no provisions on making such a declaration under oath, made before a court or administrative body, notary public, professional or economic self-government body proper for the seat or place of residence of the Economic Operator. The provision of point. 10.7.2. of IDW shall apply.



10.8 If the declaration submitted by the Economic Operator, referred to in point. 10.2. IDW or evidence in question gives rise to doubts of the Awarding Entity, it may ask directly to the entity which is in possession of information or documents relevant in this respect for the assessment of compliance of the Economic Operator with the conditions for participation in the procedure or lack of grounds for exclusion, to present such information or documents.

10.9 The Awarding Entity shall not call for evidence in question if:

1) he may obtain them using free and generally accessible databases, in particular public registers within the meaning of the Act of 17.02.2005 on the computerisation of entities performing public tasks, provided that the Economic Operator indicated in the single document data enabling access to these means;

2) the evidence in question shall be a declaration, the content of which corresponds to the scope of the declaration referred to in point. 10.2 OF THE IDW.

10.10 The Economic Operator is not obliged to submit the evidence in question that the Awarding Entity has in his possession, if the Economic Operator indicates this evidence (by giving the reference number of the procedure or the name of the procedure) and confirms that it is correct and up-to-date.

10.11 If this is necessary to ensure the proper conduct of the procurement procedure, the Awarding Entity may, at any stage of the procedure, call upon Economic Operators to submit all or some of the evidence in question current as of the date of their submission.

If there are reasonable grounds for believing that previously submitted evidence in question is no longer current, the Awarding Entity may at any time call upon the Economic Operator or Economic Operators to submit all or some of the evidence in question current as at the date of submission.

11. PROVISION OF RESOURCES

Not applicable

12. SUBCONTRACTING

12.1 The Economic Operator may entrust a subcontractor with the performance of a part of the tender contract, except for the key tasks specified in point. 6.7 IDW.

12.2 The Awarding Entity **requires** that the Economic Operator indicates the parts of the tender contract which he intends to entrust to subcontractors, as well as the names of any subcontractors , if they are already known. The Economic Operator intending to entrust a part of the contract to subcontractors at the stage of the public procurement procedure:

a) shall be required to complete Part II, Section D of the single document, including, where known, the names of subcontractors;

b) shall not be required to provide, for each subcontractor, the information required in Part II Sections A and B and Part III of the single document.

c) is obliged to indicate in the Tender the parts of the contract which he intends to entrust to subcontractors.

12.3 Other subcontracting requirements are set out in Volume II of the ToR.

13. INFORMATION FOR ECONOMIC OPERATORS COMPETING JOINTLY FOR THE AWARD OF A TENDER CONTRACT

13.1 Economic Operators may jointly apply for the award of the tender contract. In such a case, Economic Operators shall appoint a proxy to represent them in the procurement procedure or to represent them in the procedure and conclude the public contract.

13.2 In the case of Economic Operators jointly applying for the tender contract, none of them shall be subject to exclusion pursuant to Art. 108 point 1 of the PPL Act, and in the cases referred to in point . 9.1. sub-points b) and c), while the fulfilment of the conditions of participation in the procedure shall be demonstrated by the Economic Operators pursuant to point 8.2. of the IDW.

13.3 In the case of Economic Operators jointly applying for the tender contract, the declaration referred to in item. 10.2. IDW, shall be submitted by each Economic Operator. Such declarations shall confirm the absence of grounds for exclusion.

13.4 In the case of Economic Operators jointly applying for the tender contract, they are obliged to submit, upon the Awarding Entity's request, valid on the date of submission of the evidence in question referred to in item 10 the evidence in question referred to in point 10.6 of the IDW shall be submitted by each of them.

13.5 The Awarding Entity **has not specified different requirements** related to the performance of the tender contract with respect to Economic Operators applying jointly for the tender contract.

14. METHOD OF COMMUNICATION IN THE PROCEDURE

14.1 The procedure shall be conducted in the Polish language by means of electronic communication via the Procurement Platform at: <https://platformazakupowa.pl/pn/ncbj>.

The Awarding Entity has indicated the type of documents that may be submitted in English in paragraphs 16.8.5 and 16.8.6

The Economic Operator intending to participate in a procurement procedure shall have an account on the Procurement Platform. The registration and maintenance of an account on the Procurement Platform and the use of the Platform by the Economic Operator shall be free of charge.

14.2 In the procedure, communication between the Awarding Entity and Economic Operators, including the submission of tenders and the transmission of documents or declarations, shall take place using the Platform. The date of receipt of declarations, requests, notifications and information shall be the date on which they are uploaded to the Platform.

14.3 The Awarding Entity designates Ms Małgorzata Radomska to be the contact person for Economic Operators.

14.4 Instructions on how to use the Platform are available at <https://platformazakupowa.pl/pn/ncbj> (for the procedure in question).

14.5 The Awarding Entity's recommendations regarding qualified electronic signatures:
– for documents in "pdf" format, a signature in PAdES format is recommended,
– for documents in a format other than 'pdf', an XAdES signature is recommended.

14.6 Necessary hardware and application requirements to work on the Platform:

- permanent access to the Internet with a guaranteed bandwidth of not less than 20/4 Mbps;
- PC or MAC computer with the following configuration: min. 4GB RAM, Intel IV 4GHZ processor, one of the operating systems - MS Windows 7, Mac OS x 10.4, Linux or newer versions;
- any web browser supporting TLS 1.2 installed, in its latest version, in the case of Internet Explorer, at least version 11.0;
- JavaScript enabled;
- Acrobat Reader or other program supporting ".pdf" format files installed.

14.7 The Awarding Entity accepts the submission of data in formats permitted by the relevant legislation, i.e. .doc, .docx, .txt, .xls, .xlsx, .ppt, .csv, .pdf, .jpg, .gif, .png, .tif, .dwg, .ath, .kst, .zip, with the Awarding Entity recommending the use of .pdf files.

14.8 The tender, the ESPD, the obligation referred to in point 11.3. of the IDW, the evidence in question and other documents must be uploaded as Appendices on the Platform, according to the Instructions for Use of the Platform.

14.9 Where an electronic document is transmitted in a compressed format in procedure, affixing a qualified electronic signature to the file containing the compressed documents shall be equivalent to affixing a qualified signature to all the documents contained in that file.

14.10 In the case of modification or withdrawal of the Tender referred to in clause. 16.10 of the IDW, the Economic Operator, via the Platform, may independently remove the Tender (appendix(appendices) he has uploaded.

15. CLARIFICATION OF THE CONTENTS OF THE TERMS OF REFERENCE

15.1 An Economic Operator may request the Awarding Entity to clarify the content of the ToR. The request should be sent via the Platform and the "Send a message to the Awarding Entity" form.

The Awarding Entity asks that the questions also be submitted in editable form, as this will reduce the time taken to provide clarification.

15.2 The Awarding Entity is obliged to provide clarification immediately, but no later than 6 days before the deadline for submission of tenders - provided that the request for clarification of the content of the ToR was received by the Awarding Entity no later than 14 days before the deadline for submission of tenders.

15.3 If the Awarding Entity fails to provide clarification within the time limit referred to in point 15.2. he shall extend the deadline for submission of tenders by the time necessary for all interested Economic Operators to familiarise themselves with the clarification necessary for proper preparation and submission of tenders.

15.4 The extension of the deadline for the submission of tenders shall not affect the deadline for the submission of a request for clarification of the content of the ToR referred to in point. 15.2.

15.5 If a request for clarification of the content of the ToR has not been received by the deadline referred to in point 15.2, the Awarding Entity is not obliged to provide explanations of the ToR and is not obliged to extend the deadline for submission of tenders.

15.6 The Awarding Entity will make the contents of the queries, together with the explanations, available to Economic Operators, via the Platform, without disclosing the source of the query.

15.7 In justified cases, the Awarding Entity may, before the deadline for submission of tenders, change the content of the ToR. The Awarding Entity will make the amendment to the ToR available on the Platform.



15.8 In the event of any discrepancy between the content of this ToR and the content of the clarifications or amendments to the ToR provided, the content of the subsequent statement by the Awarding Entity shall prevail.

15.9 In the event that an amendment to the content of the TOR modifies the contract notice, the Awarding Entity shall transmit to the Publications Office of the European Union the notice referred to in Article 90(1) of the PPL Act.

15.10 In the case referred to in point 15.9., making the amendment to the content of the ToR available on the Platform cannot take place before the publication of the announcement referred to in Article 90(1) of the PPL Act, except in the case when the Awarding Entity has not been notified of the publication within 48 hours from the confirmation of receipt of that announcement by the Publications Office of the European Union.

15.11 If the changes to the content of the ToR are significant for preparing a tender or require additional time from Economic Operators to familiarise themselves with the changes to the ToR and prepare tenders, the Awarding Entity shall extend the deadline for submission of tenders by the time necessary to familiarise themselves with the changes to the ToR and prepare a tender. The provisions of point 15.9. and 15.10. of the IDW shall apply.

15.12 If the amendments to the content of the ToR would lead to a significant change in the nature of the contract as compared to the one originally specified, in particular would lead to a significant change in the scope of the tender contract, the Awarding Entity shall invalidate the procedure pursuant to Article 256 of the PPL Act.

15.13 The Awarding Entity does not intend to convene a meeting of Economic Operators to clarify the content of the Terms of Reference.

16. DESCRIPTION OF TENDER PREPARATION

16.1 The Economic Operator may submit only one tender.

16.2 The Awarding Entity **does not accept** variant tenders.

16.3 The Awarding Entity **does not accept** partial tenders.

16.4 The tender must be secured by a security deposit.

16.5 The tender consists of completed "Tender" Form and the following completed documents:

- 1) Price form (Volume IV of the ToR);
- 2) "Non-price criteria" Form.

16.6 Together with the Tender, the Economic Operator shall submit via the Platform:

- 1) an extract or information from the National Court Register, Central Registration and Information The Economic Operator shall be obliged to provide information on the Economic Operator's business activity or other relevant register, unless the Awarding Entity is able to obtain such documents using free and publicly available databases, and the Economic Operator indicated in the Tender Form the data allowing access to such documents with regard to the Economic Operator, the Economic Operator applying jointly for the tender contract, as well as with regard to entities making available the resources;
- 2) power of attorney or other document confirming the authorization to represent the Economic Operators or entity making available the resources, unless the authorization to represent results from the documents referred to in point 16.6. point 1) of the IDW;
- 3) power of attorney or other document confirming the power to represent all Economic Operators jointly applying for the award (e.g. contract on cooperation). The representative may be appointed to represent Economic Operators in the procedure or to represent them in the procedure and conclude the contract;
- 4) Declaration on the sanctioning provisions related to the war in Ukraine on Form 3.4. (to be submitted by: Economic Operator, each of the Economic Operator jointly applying for the tender



contract, the entity providing the resources). This declaration shall be submitted in electronic form and accompanied by a qualified electronic signature.

16.7 The Awarding Entity requires that the evidence in question - a list of technical parameters - Form 2.3 - is submitted with the Tender.

If an Economic Operator fails to submit the said evidence in question or if the submitted evidence in question are incomplete, the Awarding Entity shall call upon an Economic Operator to submit or supplement them by the deadline specified.

16.8 Formal requirements for the following to be submitted in the procedure: tenders, ESPD declarations, evidence in question and other documents or declarations:

16.8.1 The tender and the Single European Procurement Document shall be submitted, under pain of nullity, in an electronic form (i.e. bearing a qualified electronic signature). These documents shall be signed by a person authorized to represent the Economic Operator in accordance with the form of representation of the Economic Operator as specified in the register or another document appropriate for a given organizational form of the Economic Operator or by an authorized representative of the Economic Operator.

16.8.2 Where evidence in question, other documents or documents evidencing authority to represent, have been issued by authorised parties:

- 1) as **an electronic document** - the Economic Operator shall transfer that document;
- 2) as **a paper document** - the Economic Operator **shall provide a digital reproduction of that document bearing a qualified electronic signature** certifying the conformity of the digital reproduction with the paper document;

The certification of the conformity of the digital reproduction with the paper document referred to in (2) above shall be carried out by a notary public or:

- a) in the case of the evidence in question and documents confirming the power of representation - respectively the Economic Operator, the Economic Operator applying jointly for the tender contract, the entity providing the resources, each to the extent of the document which concerns them;
- b) in the case of other documents, respectively the Economic Operator or the Economic Operator jointly applying for the tender contract, each in respect of the document which concerns him;
- c) in the case of evidence in question, the Economic Operator or the Economic Operator jointly applying for the tender contract, respectively.

16.8.3 Evidence in question that has not been issued by authorised entities and the required powers of attorney:

- 1) shall be **submitted by the Economic Operator in electronic form and bear a qualified electronic signature**;
- 2) when they have been prepared as a paper document and bear a handwritten signature, the Economic Operator shall provide a **digital reproduction of these documents bearing a qualified electronic signature** certifying the conformity of the digital reproduction with the paper document.

The certification of the conformity of the digital reproduction with the paper document referred to in (2) above shall be performed by a notary public or:



- a) in the case of evidence in question - respectively the Economic Operator, the Economic Operator jointly applying for the award of the tender contract, the entity providing the resources, each to the extent of the document that concerns them;
- b) in the case of the declaration referred to in point 16.6. 16.6. point 6) IDW, obligation of the entity providing resources - the Economic Operator or the Economic Operator jointly applying for the tender contract - respectively;
- c) in the case of a power of attorney, the principal.

16.8.4. The tender should be prepared in Polish. Pursuant to Article 20(3) of the PPL Act, the Awarding Entity allows submitting a tender, declarations or other documents in a language commonly used in international trade - English.

16.8.5 Evidence in question and other documents or declarations may be drawn up in Polish or in English.

16.8.6 The tender and the other declarations and documents for which the Awarding Entity has specified specimens in the form of forms in Chapter 2 and Chapter 3 of Volume I of the ToR should be drawn up in accordance with those specimens as regards content and description of columns and lines.

16.9 The Awarding Entity hereby informs that pursuant to provisions of Article 18 point 3 of the PPL Act, information constituting a trade secret as defined by provisions on combating unfair competition shall not be disclosed⁷, if the Economic Operator, together with submitting such information, stipulated that it may not be disclosed **and proved that the information so stipulated constitutes a trade secret**. The Economic Operator may not reserve information referred to in Article 222 (5) of the PPL Act. Any information constituting a business secret within the meaning of the Act on Combating Unfair Competition, which the Economic Operator wishes to reserve as a business secret, shall be attached on the Platform in a separate **file with a simultaneous marking of "Appendix constituting a business secret"**.

16.10 An Economic Operator may not effectively amend or withdraw its tender (appendices) after the deadline for submission of tenders

17. CALCULATION OF THE TENDER PRICE

17.1 The Tender price shall be calculated by the Economic Operator on the basis of the Price Form drawn up on the form constituting an integral part of the ToR - Volume IV.

17.2 The price form referred to in point 17.1. should be filled in strictly according to the order of items specified in this form, calculating individual net unit prices. The Economic Operator should determine the net unit prices and net values for all items listed in this form, and then calculate the net price in total.

When calculating the tender price, the Economic Operator must take into account all items described in the Price Form. The Economic Operator may not make any changes to the Price Form by himself.

17.3 Each unit price included in the Tender shall include the total cost of performing the item in the Price Form.

⁷ Act of 16 April 1993. - on Counteracting Unfair Competition (Journal of Laws of 2020, item 1913).





17.4 All calculated costs shall be added up by the Economic Operator and inserted in the item "Total Net Price". The "Total Net Price" calculated in this manner shall be increased by VAT. The "Gross tender Price" calculated in this manner shall then be transferred to the Tender Form contained in Chapter 2 of the IDW.

17.5 The values in particular items of the Price Form and the price of the Tender should be expressed in Polish zloty (PLN) to two decimal places. The Awarding Entity accepts submission of an offer (expression of the offer price in a currency other than PLN).

In the case of submitting a tender in a currency other than PLN, the Awarding Entity, for the purpose of bid comparison, shall convert it into PLN according to the average exchange rate of the National Bank of Poland of the day on which the announcement was published in the Official Journal of the European Union.

17.6 The prices indicated by the Economic Operator in the Price Form shall not be changed during the execution of the subject of the tender contract, except as provided for in the material provisions of the tender contract constituting Volume II of the ToR.

17.7 If the tender is submitted, the selection of which will lead to the creation of a tax obligation for the Awarding Entity pursuant to the provisions on value added tax⁸, for the purpose of applying the price criterion, the Awarding Entity will add to the price presented in the Tender the amount of value added tax that it would be obliged to calculate pursuant to these provisions. In the Tender, the Economic Operator is obliged to:

- inform the Awarding Entity that the selection of his tender will lead to a tax liability for the Awarding Entity,
- indicate the name of the (type of) good or service the delivery of which will give rise to liability to tax,
- indicate the value of the goods or services for which the purchaser is liable for tax, exclusive of the amount of tax,
- indicate the rate of value added tax which, to the knowledge of the Economic Operator, shall apply.

18. TENDER BOND REQUIREMENTS

The Awarding Entity does not require a tender bond to be deposited.

19. SUBMISSION AND OPENING OF TENDERS

19.1 Tenders should be submitted via the Platform **10.08.2022 until 12.00 p.m.**

19.2 The Economic Operator shall submit the Tender on the Platform as follows:

1) in the Tender Submission Form or the application he adds the appendices specified in points 16.5., 16.6. of the IDW in electronic form (i.e. signed with a qualified electronic signature) and then click on the "Proceed to Summary" button. Then, in the second step of submitting a tender or application, the correctness of the submitted tender, the attached files and their quantity should be checked. To complete the tender submission step, click on the Submit Tender button; in the case of a business secret reservation, the Economic Operator is required to submit the documents in a separate and appropriately marked file;





2) The system then encrypts the tender or the Economic Operator's application so that it is inaccessible to the Awarding Entity until the deadline for opening tenders or submitting applications to participate in the procedure in accordance with Article 221 of the Public Procurement Law. As a final step, a message will be displayed and an email will be sent from platformzakupowa.pl with information about the bid or application.

19.3 The deadline for submitting a Tender is determined by the time it takes for the transaction to be fully processed on the Procurement Platform.

19.4 **The opening of the Tenders will take place on 10.08.2022 at 13.00** through the Platform. In the event of a failure of the Platform, which will result in the inability to open the Tenders on the above date, the opening of the Tenders will take place as soon as the failure is remedied.

19.5 The opening of the Tenders shall be made on the Platform by decrypting and opening the Tenders. The information from the opening of the Tenders shall be published on the Platform under the tab "Appendices" and shall contain the data specified in Article 222(5) of the PPL Act.

20 PERIOD OF VALIDITY OF THE TENDER

20.1 The Economic Operator shall be bound by the tender from the deadline for submission **of tenders until 07.11.2022.**

20.2 In the event that the selection of the most advantageous tender does not take place before the expiry of the tender validity period referred to in point 20.1., the Awarding Entity shall, prior to the expiry of the tender validity period, request consent from the Economic Operators to extend this period by the indicated period, not exceeding 60 days.

20.3 Extension of the tender period requires a written declaration of consent by the Economic Operator to extend the tender period.

20.4 An extension of the period for which a tender is bound shall be permissible only with a simultaneous extension of the validity period of the tender bond or, if possible, with the deposit of a new tender bond for the extended period.

21. TENDER EVALUATION CRITERIA

21.1 In selecting the most advantageous tender, the Awarding Entity will apply the following tender evaluation criteria:

Price "C" - 90% = 90
Inter-port insulation "I" 10% = 10

21.1. The 'Price' criterion:

The "Price" criterion will be considered on the basis of the gross price for the execution of the subject matter of the contract, given by the Contractor on the Offer Form.

The Contracting Authority shall award 90 points to the offer with the lowest price among the evaluated offers, and each subsequent offer shall be assigned a number of points proportionally lower, according to the formula:

⁸ Act of 11 March 2004 on Value Added Tax (Journal of Laws of 2020, item 106 as amended).



$$C = \frac{C_{\min}}{C_o} \times 90$$

Where: C_{\min} - lowest gross price of the evaluated tenders (PLN)
 C_o - gross price of the evaluated tender (PLN)

NOTE: If the price of an offer is expressed in a currency other than PLN, the Awarding Entity, for the purpose of comparison of the offers, shall convert it into PLN according to the average exchange rate of the National Bank of Poland of the day on which the announcement was published in the Official Journal of the European Union.

21.1.2 The "Inter-port isolation in isolator for minimum band i.e. 1300±10 MHz" criterion:

The "Inter-port isolation" criterion will be considered on the basis of the indication of its value on the subject of the tender contract, given by the Economic Operator in the Tender Form.

The Awarding Entity Authority will award a maximum of **10 points** to the evaluated tender, and the number of points for the evaluated tender will be awarded according to the scores shown in the table below:

No	Inter-port insulation in isolator for minimum bandwidth i.e. 1300±10 MHz parameter	Score
1	18dB 0	0
2	24dB 5	5
3	Above 24dB 10	10

If the value of the parameter is not indicated in Form 2.2 - Non-price criteria, the Awarding Entity shall consider that the Economic Operator offers an isolator for which the Interport Isolation for minimum bandwidth i.e. 1300±10 MHz is 18dB, thereby awarding 0 points in this criterion.

If a device is offered for which the inter-port isolation in the isolator for minimum bandwidth i.e. 1300±10 MHz in Form 2.2 - Non-price criteria less than 18dB. The Awarding Entity will reject the tender.

21.2 The tender which obtains the total of the highest number of points (P), being the sum of the points awarded under each of the given criteria, calculated according to the following formula, will be considered the most advantageous:

$$P = C+I$$

Where: **C** - number of points awarded to the evaluated tender under the "Price" criterion
I - number of points awarded to the evaluated tender in the "Inter-port insulation" criterion

21.3 The Awarding Entity **does not provide** for an electronic auction.

21.4 Immediately after the selection of the most advantageous tender, the Awarding Entity shall simultaneously inform all Economic Operators who submitted tenders of:

1) the selection of the most advantageous tender, indicating the name or business name, registered office or place of residence, if this is the place of business of the Economic Operator whose tender was selected, and the names or business names, registered offices or places of residence, if these are the places of business of the Economic Operators who submitted tenders, as well as the scores awarded to the tenders for each tender evaluation criterion and the total score

2) unsuccessful Economic Operators,
- giving reasons in fact and in law.

21.5 The Awarding Entity will make the information referred to in point. 21.4. point 1) IDW, on the Platform.

21.6 The Awarding Entity may withhold the information referred to in point 21.4 of the IDW, if their disclosure would be contrary to an important public interest.

22. INFORMATION ON FORMALITIES TO BE COMPLETED FOLLOWING TENDER SELECTION WITH A VIEW TO CONCLUDING THE CONTRACT

22.1 The Awarding Entity shall sign the Contract for the performance of the tender contract with the selected Economic Operator, within the time limit specified in Article 264(1), subject to Article 264(2) of the PPL Act.

22.2 If the tender of the Economic Operators applying jointly for the tender contract is selected as the most advantageous one, before the contract is signed the Economic Operator, upon the request of the Awarding Entity, will submit a copy of the agreement regulating the cooperation of the Economic Operators, in which, among others, the representative authorised to contact the Awarding Entity and to issue documents related to payments will be identified.

22.3 Prior to signing the Contract, the selected Economic Operator shall provide the Awarding Entity with the information necessary to be included in the content of the Contract, e.g. names of authorised persons who will represent the Economic Operator at the signing of the contract, coordination, etc

23. PERFORMANCE BOND

23.1 The Awarding Entity Authority shall not require a performance bond.

24 INFORMATION ON LEGAL REMEDIES

24.1 The Economic Operator, as well as any other entity which has or had an interest in obtaining the tender contract and has suffered or may suffer damage as a result of an infringement of provisions of the PPL Act by the Awarding Entity, shall be entitled to the remedies specified in Section IX of the PPL Act. Organisations on the list referred to in Article 469 point 15 of the PPL Act and the Ombudsman for Small and Medium-Sized Enterprises shall also be entitled to legal remedies against the procurement notice and the tender contract documents.

24.2 The appeal is against:



- 1) action taken by the Awarding Entity in the procurement procedure which is incompatible with the provisions of the PPL Act, including the draft contractual provisions;
- 2) failure to take any action in the procurement procedure which the Awarding Entity was obliged to take under the PPL Act.

24.3 The appeal includes:

- 1) first name and surname or name, address, telephone number and e-mail address of the Appellant and the name of his representative(s);
- 2) name and registered office of the Awarding Entity, telephone number and e-mail address of the Awarding Entity;
- 3) PESEL [personal identity number] or VAT number of the Appellant who is a natural person, if he is obliged to have it or has it without being obliged to have it;
- 4) number in the National Court Register [KRS] or, failing that, the number in any other relevant register or record, or the NIP [VAT] of the Appellant who is not a natural person and who is not required to be entered in a relevant register or record, if he is obliged to have one;
- 5) definition of the subject of the tender contract;
- 6) indication of the publication number in the Official Journal of the European Union;
- 7) indication of the action or omission of the Awarding Entity's action allegedly incompatible with the Act;
- 8) concise summary of the claims;
- 9) demand as to how the appeal should be resolved;
- 10) indication of the facts and legal grounds on which the appeal is based and the evidence in support of those grounds;
- 11) signature of the Appellant or his representative(s);
- 12) list of appendices.

24.4 The Appeal shall be accompanied by:

- 1) proof of payment of the appeal fee in the required amount;
- 2) proof of delivery of the appeal or a copy thereof to the Awarding Entity, as appropriate;
- 3) document confirming the Appellant's power of representation.

24.5 The Appeal shall be lodged with the President of the Chamber either in writing or in electronic form with a trusted signature.

24.6 The Appellant shall submit to the Awarding Entity the appeal filed in electronic form or in electronic form, or a copy thereof if filed in writing, before the deadline for lodging an appeal in such a way that he could have read its contents before that deadline. It shall be presumed that the Awarding Entity could have read the contents of the appeal before the expiry of the time limit for lodging an appeal, if the communication of the appeal or a copy thereof, as the case may be, was effected by means of electronic communication before the expiry of the time limit for lodging an appeal.

24.7 The Appeal shall be lodged within the following time limits:

24.7.1 10 days from the date of sending information on the Awarding Entity's actions constituting the basis for lodging the Appeal, if the information was transferred by means of electronic communication, or within 15 days - if the information was transferred in a different manner;

24.7.2 10 days from the date of publication of the procurement notice in the Official Journal of the European Union or of the posting of the tender contract documents on the Platform against the content of the procurement notice or against the content of the tender contract documents;





24.7.3 The appeal in cases other than those specified in points 24.7.1. and 24.7.2. of the IDW shall be lodged within 10 days of the day when the circumstances constituting grounds for lodging the appeal came to light or could have come to light with due diligence.

24.7.4 If the Awarding Entity has not sent the Economic Operator a notice of selection of the most advantageous tender, the Appeal shall be lodged no later than within the time limits:

- 1) 30 days from the date of publication of the procurement notice in the Official Journal of the European Union;
- 2) 6 months from the date of conclusion of the contract, if the Awarding Entity has not published a procurement notice in the Official Journal of the European Union.

24.8 Detailed rules for procedure after the Appeal has been lodged are set out in the relevant provisions of Section IX of the PPL Act.

24.9 The judgment of the National Appeal Chamber and the decision of the President of the Chamber referred to in Article 519(1) of the PPL Act may be appealed to the court by the parties and participants in the appeal procedure.

24.10 The Appeal shall be brought before the Warsaw Regional Court - Public Procurement Court.

24.11 The Appeal shall be brought through the President of the National Appeal Chamber within 14 days of the day of delivery of the decision of the National Appeal Chamber or the decision of the President of the Chamber referred to in Article 519(1) of the PPL Act, at the same time sending a copy of the Appeal to the opponent of the Appeal. Lodging the Appeal with the postal service of the Operator designated within the meaning of the Act of 23 November 2012 Postal Law⁹ shall be tantamount to lodging the Appeal.

24.12 The Appeal in cassation to the Supreme Court may be brought against the court's judgment or the decision terminating the case.

25. PROTECTION OF PERSONAL DATA

25.1 The Controller of your personal data processed in connection with the conduct of the public procurement procedure is the National Centre for Nuclear Research (hereinafter referred to as the Controller or NCBJ) with its registered office in Otwock, ul. Andrzeja Sołtana, 05-400 Otwock.

25.2 If you have any questions about the manner and scope of the processing of your personal data or your rights, you may contact the Data Protection Officer at NCBJ at the address above or by email at iod@ncbj.gov.pl or at tel. 22 273 22 31.

25.3 The Controller processes your personal data on the basis of the applicable legal provisions, i.e. in particular:

- 1) Act of 11 September 2019. Public Procurement Law and its implementing acts, including on the types of documents that the Awarding Entity may require from the Economic Operator
- 2) the Act of 14 July 1983 on National Archive Resources and Archives

25.4 Your personal data is processed for:

⁹ Act of 23 July 2012 - Postal Law (Journal of Laws of 2020, item 1041)





Purpose of processing	Legal basis for processing
Conduct of public procurement procedure	necessity of the processing for compliance with a legal obligation to which the controller is subject (Article 6(1)(c))
Implementation of contracts concluded with Economic Operators	necessity of the processing for the performance of the contract (Article 6(1)(b) GDPR)
Handling tender contract activities	the necessity of the processing for the performance of the contract (Article 6(1)(b) GDPR) in order to comply with a legal obligation (Article 6(1)(c))
Processing of data on the basis of consent	the legal prerequisite for processing is consent given through the act of participation in a public procurement procedure (Article 6(1)(a) GDPR)

25.5 In relation to the processing of personal data for the purposes referred to in point 4, your personal data shall be disclosed to interested entities and persons, as, in principle, the public procurement procedure is open to the public. Moreover, recipients of personal data may be other entities and persons who, on the basis of relevant agreements signed with NCBJ, process personal data for which NCBJ is the Controller.

25.6 Your personal data will be stored pursuant to Article 78 of the Public Procurement Law, i.e. for a period of 4 years from the date of completion of the procurement procedure, and in the case of the conclusion of a public contract whose duration exceeds 4 years, the duration of storage will be in accordance with the duration of the contract and consistent with the achievement of the purposes set out in point 4 above.

25.7 You have the following rights in relation to the processing of your personal data:

- 1) Article 15 of the GDPR - the right to access and obtain a copy of personal data,
- 2) Article 16 GDPR - the right to request rectification or supplementation of personal data, with the proviso that such a request may not have the effect of altering the outcome of the procurement procedure or changing the provisions of the public procurement contract to an extent contrary to the Act (Article 19(2) PPL).
- 3) Article 17 GDPR - the right to request the erasure of personal data (the so-called right to be forgotten), unless erasure is not possible pursuant to Article 17(3) b), d) or e) GDPR.
- 4) Article 18 GDPR - the right to request the restriction of the processing of personal data, as long as the restriction of processing does not have the effect of limiting the processing of personal data until the end of those procedure (Article 19(3) PPL)

25.8 If you become aware of unlawful processing of your personal data at the NCBJ, you have the right to lodge a complaint with the supervisory authority competent for data protection.





25.9 With regard to your personal data, decisions will not be taken by automated means, pursuant to Article 22 of the GDPR.

25.10 The above rights should be addressed to NCBJ in accordance with the details provided at the outset. If NCBJ is unable to determine the content of the request or to identify the applicant on the basis of the notification made, NCBJ will ask the applicant for additional information. The application will be responded to promptly, no later than one month after its receipt. If it is necessary to extend this deadline, NCBJ will inform the applicant of the reasons for such an extension. The reply will be sent to the e-mail address from which the application was sent or, in the case of applications sent by letter, by registered mail to the address indicated by the applicant, unless it is clear from the content of the letter that the applicant wishes to be contacted by e-mail (in which case the e-mail address must be provided).





CHAPTER 2

FORMS RELATING TO THE TENDER





**Form 2.1.
TENDER**

**National Centre for Nuclear Research,
ul. Andrzeja Sołtana 7, 05-400 Otwock**

Referring to the procurement notice in the public procurement procedure conducted as an open tender for:

The delivery of 12 pcs. of microwave complete three-port ferrite isolators and 3 pcs. of microwave water loads.

Reference number: **IZP.270.3.2022**

I/WE THE UNDERSIGNED

.....
.....

acting for and on behalf of
(name (company), exact address of Economic Operator(s), VAT)

(in the case of tenders submitted by entities acting jointly, the names and exact addresses of all partners in the civil partnership or consortium members have to be given)

being a micro enterprise *
being a small enterprise*
being a medium enterprise *.
sole trader *
being a natural person not exercising an economic activity *
other type *

* please tick/indicate as appropriate

The definition of micro, small and medium entrepreneur can be found in Article 7(1)(1), (2) and (3) of the Act of 6 March 2018. Entrepreneurs' Law (i.e. Journal of Laws of 2021, point 162).

1. **SUBMIT a TENDER** for the execution of the subject of the tender contract in accordance with the Terms of Reference for this procedure (ToR).

2. **DECLARE** that we have familiarised ourselves with the Terms of Reference and the clarifications and amendments to the ToR communicated by the Awarding Entity and we consider ourselves bound by the provisions and rules of procedure set out therein.





3. **OFFER** to perform the subject of the tender contract for the **gross price of:**
PLN (EUR/USD) (in words), according to the Price Form attached to the Tender

4. **INFORM** that¹⁰ :

1) the selection of the tender **will not*** lead to any tax liability for the Awarding Entity.

2) the selection of the tender **will*** lead to tax liability for the Awarding Entity

- for the following goods/services (depending on the subject of the tender contract):.....

- the taxable value of the goods/services (depending on the subject of the tender contract) for the Awarding Entity is PLN (EUR/USD) net

- value added tax rate%, which, to the knowledge of the Economic Operator shall apply.

5. **INTEND**¹¹ to subcontract the following parts of the tender contract:
.....

6. **UNDERTAKE** not to perform the tender contract with the participation of subcontractors, suppliers or entities whose capacity is relied upon within the meaning of Directive 2014/24/EU, as referred to in Article 5k of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's destabilising actions in Ukraine, where they account for more than 10% of the contract value.

7. **UNDERTAKE** to perform the tender contract within the time limits specified in the Terms of Reference.

8. **ACCEPT** the terms of payment specified by the Awarding Entity in the Terms of Reference.

9. **ARE** bound by the tender for the period indicated in the ToR.

10. **DECLARE** that the information and documents contained in a separate appendix, duly marked and named (Insert name of appendix) constitute a business secret within the meaning of the provisions on combating unfair competition, as we have demonstrated in the appendix to the Tender (indicate the name of the appendix) and stipulate that they may not be disclosed.

11. **DECLARE** that we have familiarised ourselves with the material provisions of the contract, as specified in the Terms of Reference, and We undertake, should our tender be selected, to conclude a contract in accordance with this tender, on the terms and conditions specified in the ToR, at the place and date designated by the Awarding Entity.

12. **DECLARE** that we are not an entity referred to in Article 5k of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's destabilising actions in Ukraine, i.e.
a) Russian citizen or a natural or legal person, entity or body based in Russia;



- b) a legal person, entity or body in which more than 50 % of the ownership rights are directly or indirectly held by an entity referred to in point (a) above; or
- c) a natural or legal person, entity or body acting on behalf of or at the direction of an entity referred to in points (a) or (b) above.

13. **DECLARE** that we have fulfilled the information obligations provided for in Article 13 or 14 of the GDPR¹² towards the natural persons from whom we have directly or indirectly obtained personal data in order to apply for the award of a public contract in this procedure and whose data has been provided to the Awarding Entity as part of the tender contract ¹³

14. THE AUTHORISED CONTACT PERSON for these tender procedure is:

First name & surname tel.
..... e-mail:

15. LIST of enclosed declarations and documents: (list all declarations and documents submitted, etc.):

.....
.....
.....
.....
.....

.....dated:.....

** delete as appropriate*

.....
(electronic signature of the person authorised to represent the Economic Operator)

¹⁰ applies to Economic Operators whose tenders will generate the liability to add VAT to the net value of the tender, i.e. in the case of:

- intra-Community acquisition of goods,
- the importation of services or the importation of goods, which implies an obligation on the part of the Awarding Entity to add VAT when comparing tender prices.

¹¹ Note: The declaration should be consistent with the declaration made in the single document Part II Section C and D.

¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the EU L 119 of 04.05.2016, p. 1).

¹³ Where the Economic Operator does not provide personal data other than that directly concerning him or there is an exclusion of the application of the information obligation, pursuant to Article 13(4) or Article 14(5) GDPR the content of the declaration shall not be submitted by the Economic Operator (removing the content of the declaration, e.g. by deleting it).



Form 2.2.

(name of Economic Operator(s))	FORM "NON-PRICE CRITERIA"
--------------------------------	--

The delivery of 12 pcs. of microwave complete three-port ferrite isolators and 3 pcs. of microwave water loads.

Reference number: **IZP.270.3.2022**

we declare that

Non-price criteria Maximum number of points for the non-price criteria - 10 points	
Criterion: Inter-port isolation in isolator for minimum band i.e. 1300+10 MHz (maximum number of points - 10)	
Taking into account the description of the criterion in point 21 of the IDW - Volume I of the ToR, I declare the parameter value of "inter-port isolation in isolator for minimum band i.e. 1300+10 MHz" (to be filled in by the Economic Operator) dB	*Economic Operator's declaration (indicate as appropriate - in accordance with the principles described in point 21 of the IDW) The minimum required value of the parameter "Inter-port isolation in an isolator for the minimum band i.e. 1300+10 MHz is 18dB. The number of points for the examined offer shall be awarded according to the score presented in the table in point 21.1.2 of IDW - Volume I of ToR. <u>If the value of the parameter is not specified in Form 2.2 - Non-price criteria, the Awarding Entity shall deem that the Economic Operator offers an isolator for which the inter-port isolation for the minimum band, i.e. 1300+10 MHz is 18dB. and thus will receive 0 points in this criterion.</u> <u>In the event of offering a device for which the inter-port</u>





isolation in the isolator for the minimum band i.e. 1300+10 MHz in Form 2.2 - Non-price criteria is less than 18dB. The Awarding Entity will reject the tender.

.....
(electronic signature/person authorised to represent the Economic Operator)





Form 2.3 List of technical parameters





Three-port microwave isolator with matching water load (Name, model, manufacturer)				
	Name of parameter	Required	Confirmation of fulfilment of the requirements indicated in column 3 (to be filled in by the Economic Operator - delete as appropriate)	Offered (Economic Operator enters offered parameter)
1	2	3	4	5
1	Type	3 port ferrite insulator with full power water load installed on 3rd port	Yes/No	
2	Centre frequency	1300 MHz	Yes/No	
3	Minimum required bandwidth	±10MHz		
4	Peak power transmission required	minimum 8kW		
5	Average power transmission required	minimum 8kW		
6	Transmitted pulse width (minimum range)	from 200µs to continuous wave (CW)		
7	Pulse repetition rate (minimum range)	From 0Hz (CW continuous wave) to 5kHz		
8	Power transmission losses	≤0.25 dB		
9	Waveguide connector type	WR650F flat	Yes/No	
10	Flange type	UDR14	Yes/No	
11	Water connectors	2x ½ "	Yes/No	
12	Additional connectors required	1x directional measurement connector (direct and reflected wave) installed on port 1 and 1x non-directional measurement connector installed on port 3 Connector type: N-female Coupling: -45 to -40dB	Yes/No	
13	Cooling	Liquid - demineralised water	Yes/No	
14	Coolant temperature	30 to 36°C		







Microwave water load: (Name, model, manufacturer).....				
	Name of parameter	Required	Confirmation of fulfilment of the requirements Indicated in column 3 (to be filled by the Economic Operator - delete as appropriate)	Offered (Economic Operator enters offered parameter)
1	2	3	4	5
1	Type	Full power water load		
2	Centre frequency	1300 MHz	Yes/No	
3	Minimum required bandwidth	±10MHz		
4	Peak power transmission required	minimum 8kW		
5	Average power transmission required	minimum 8kW		
6	Transmitted pulse width (minimum range)	from 200µs to continuous wave (CW)		
7	Pulse repetition rate (minimum range)	From 0Hz (CW) continuous wave) to 5kHz		
8	Power transmission losses	≤ 0.15dB		
9	Waveguide connector type	WR650	Yes/No	
10	Flange type	Compatible with insulator port 2	Yes/No	
11	Water connectors	2x ½ "	Yes/No	
12	Additional connectors required	1 x non-directional measurement connector installed on the flange Type: N-female Coupling: -45 to -40dB		
13	Cooling	Liquid - demineralised water	Yes/No	
14	Coolant temperature	30 to 36°C		

(qualified electronic signature of the person authorised to represent the Economic Operator)





Chapter 3

Forms relating to the Economic Operator's fulfilment of the conditions for participation in the procedure/demonstration of lack of grounds for exclusion of the Economic Operator from the procedure:

Form 3.1. Single European Procurement Document (JEDZ/ESPD)

(A document pre-prepared by the Awarding Entity available on the website of the conducted procedure both in xml format - to be imported in the eESPD service, and in pdf format - for reference)

Form 3.2. Declaration concerning the validity of the information in the JEDZ

Form 3.3. Declaration of non-membership or affiliation to the same capital group within the meaning of the Act of 16 February 2007 on competition and consumer protection.;

Form 3.4. Declaration on sanctioning provisions related to the war in Ukraine





Form 3.1.

Single European Procurement Document (ESPD)

(The document pre-prepared by the Awarding Entity is available on the website of the conducted procedure both in .xml format - to be imported in the eESPD service, and in pdf format - for reference).





Form 3.2

Declaration concerning the validity of the information in the ESPD

Reference number: **IZP.270.3.2022**

In connection with the public procurement procedure conducted by means of an open tender for:

delivery of 12 pcs. of microwave complete three-port ferrite insulators and 3 pcs. of microwave water loads

I declare,

that the information contained in the JEDZ with regard to the following grounds for exclusion referred to in:

- 1) Article 108 (1) (3) and (6) of the PPL,
- 2) Article 108(1)(4) of the PPL concerning the imposition of a ban on applying for a public contract as a preventive measure,
- 3) Article 108 (1) (5) of the PPL concerning entering into an agreement with other contractors aimed at distorting competition,

are up-to-date.

(qualified electronic signature of the person authorised to represent the Economic Operator)





DECLARATION

concerning the capital group

Reference number: **IZP.270.3.2022**

In connection with the public procurement procedure conducted as an open tender for:

delivery of 12 pcs. of microwave complete three-port ferrite insulators and 3 pcs. of microwave water loads

Economic Operator:

Name:

Address:

NIP:

KRS:

1. I declare that I do not belong to the same capital group within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection (consolidated text: Journal of Laws of 2021, point 275) with the Economic Operators who submitted tenders in this procedure for the award of a public contract.

2. I declare that I belong to a capital group within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection (consolidated text: Journal of Laws of 2021, point 275) with the following Economic Operators who submitted tenders in this procedure for the award of a public contract:

1).....(name/business name and address)

2)

I submit the following evidence attached

1)

confirming the preparation of a tender independently of another Economic Operator belonging to the same group.

.....
(electronic signature/person authorised to represent the Economic Operator)



Form 3.4

Declaration on sanctioning provisions related to the war in Ukraine In connection with the public procurement procedure conducted as an open tender for:

delivery of 12 pcs. of microwave complete three-port ferrite insulators and 3 pcs. of microwave water loads

Reference number: **EZP.270.3.2022**

I/WE:

(name of person(s) authorised to represent)

acting for and on behalf of

(name of Economic Operator*

Economic Operator (s) applying jointly for the award of the tender contract* Entity providing the resources*)

I. In connection with Article 7 (1) of the Act of 13 April 2022 on special solutions to prevent support for aggression against Ukraine and to protect national security,

I DECLARE that:

- 1) the Economic Operator **is*** / **is not*** included in the lists set out in Regulation 765/2006 and Regulation 269/2014 or included in the list on the basis of a decision on inclusion in the list determining the application of the measure referred to in Article 1(3) of the aforementioned Law;
- 2) the Economic Operator's beneficial owner within the meaning of the Act of 1 March 2018 on the prevention of money laundering and terrorist financing (Journal of Laws of 2022, item 593 and 655) **is*** / **is not*** a person included in the lists set out in Regulation 765/2006 and Regulation 269/2014 or included in the list or being such a beneficial owner as of 24 February 2022, provided that it has been included in the list on the basis of a decision on inclusion in the list conclusive on the application of the measure referred to in Article 1(3) of the aforementioned Act;
- 3) the Economic Operator's parent entity, within the meaning of Article 3(1)(37) of the Accounting Act of 29 September 1994 (Journal of Laws of 2021, item 217, 2105 and 2106), **is*** / **is not*** an entity listed in the lists set out in Regulation 765/2006 and Regulation 269/2014 or listed or being such a parent entity as of 24 February 2022, insofar as it has been included in the list on the basis of a decision on inclusion in the list ruling on the application of the measure referred to in Article 1(3) of the aforementioned Act.

II. In connection with Article 5k(1) of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's destabilising actions in Ukraine,

I DECLARE that:

- a) I **am*** / **am not*** a Russian citizen or a natural or legal person, entity or body based in Russia,
- b) I **am*** / **I am not*** a legal person, entity or body whose ownership rights directly or indirectly in more than 50% belong to the entity referred to in point a),



c) I **am*** / I **am not*** a natural or legal person, entity or body acting on behalf of or at the direction of the entity referred to in points (a) or (b);

* delete as appropriate

(qualified electronic signature of the person authorised to represent the Economic Operator)



Reference number: IZP.270.3.2022

	Name	Required parameter
1	2	3
1	Type	3 port ferrite insulator with full power water load installed on 3rd port
2	Centre frequency	1300 MHz
3	Minimum required bandwidth	±10MHz
4	Peak power transmission required	minimum 8kW
5	Average power transmission required	minimum 8kW
6	Transmitted pulse width (minimum range)	from 200µs to continuous wave (CW)
7	Pulse repetition rate (minimum range)	From 0Hz (CW continuous wave) to 5kHz
8	Power transmission losses	≤0.25dB
9	Waveguide connector type	WR650F flat
10	Flange type	UDR14
11	Water connectors	2x ½ "
12	Additional connectors required	1 x directional measuring connector (direct and reflected wave) installed on port 1 and 1x non-directional measuring connector installed on port 3 Type connector: N-female Coupling: -45 to -40dB
13	Cooling	Liquid - demineralised water
14	Coolant temperature	30 to 36°C



	Name	Required parameter
1	2	3
1	Type	Full water load
2	Centre frequency	1300 MHz
3	Minimum required bandwidth	±10MHz
4	Required transmitted peak power	minimum 8kW
5	Required transmitted average power	minimum 8kW
6	Transmitted pulse width (minimum range)	from 200µs to continuous wave (CW)
7	Pulse repetition rate (minimum range)	From 0Hz (CW) continuous wave) to 5kHz
8	Power transmission losses	≤0.15dB
9	Waveguide connector type	WR650
10	Flange type	Compatible with insulator port 2
11	Water connectors	2x ½ "
12	Additional connectors required	1 x non-directional measuring connector installed on the flange Type: N-female Coupling: -45 to -40dB
13	Cooling	Liquid - demineralised water
14	Coolant temperature	30 to 36°C





Volume IV: PRICE FORM

Reference number: IZP.270.3.2022

Name of Economic Operator/Economic Operators:

Price Form

Delivery of 12 pcs. of microwave complete three-port ferrite insulators and 3 pcs. of microwave water loads

No	Name of the subject of the tender contract	Quantity (pieces)	Net value per piece. (PLN/EURO, USD)	VAT - if applicable	* Gross price (PLN, EURO, USD)
1	Microwave complete three-port ferrite isolator	12			
2	Microwave water load	3			
Total					

*total gross price to be specified

(qualified electronic signature of the person authorised to represent the Economic Operator)

