

**Regulations of Preliminary Market Consultations**Łukasiewicz Research Network – PORT Polish Center for Technology Development

**Implemented on 19.01.2021**

Attachment to Decree no. 2/I/2021 of the Director of the Institute Łukasiewicz Research Network – PORT Polish Center for Technology Development based in Wrocław of 14.01.2021 r.

|  |  |  |  |
| --- | --- | --- | --- |
| 1. **Aim of the regulations** | | | |
| Regulations set out the rules for organising Preliminary Market Consultations by the Institute. | | | |
| 1. **Scope of the regulations** | | | |
| Subjective | These regulations set out the rules for the organisation of Preliminary Market Consultations by the Institute, preceding the Public Procurement Procedure in accordance with the provisions of Articles 84 – 85 of the Public Procurement Law. | | |
| Objective | All workers. | | |
| 1. **Approval of the document** | | | |
|  | Position | Name, surname | *Signature* |
| Made by | Head of Purchases Division | Beata Chodyńska |  |
| Accepted by | Director of Organisation Department | Małgorzata Błaszkowska |  |
| Accepted by | Deputy Director of Finances and Operations | Jakub Sojka |  |
| Accepted by | Legal Office | Piotr Jaros |  |
| Accepted by | Director of Research Support Department | Anna Chmura |  |
| Accepted by | Financial Director/Main Accountant | Robert Nowak |  |
| Approved by | Director of the Institute | Andrzej Dybczyński |  |

1. **Scope of the Regulations**

4.1. The regulation defines the rules for conducting preliminary market consultations by the Contracting Party, as mentioned in Articles 84-85 of the Public Procurement Law (PPL), referred to as "consultations", preceding the procurement procedure.

4.2. The selection of the Contractor will be made as a result of a separate Public Procurement Procedure conducted in accordance with the provisions of the PPL act.

4.3. Consultations are conducted based on and in accordance with Articles 84-85 of the PPL act.

4.4. Preliminary market consultations are conducted in a manner that ensures fair competition, transparency, and equal treatment of potential contractors and the solutions offered by them.

4.5. All activities specified in this Regulations are carried out on behalf of and for the Contracting Party by the person or persons designated for this purpose by the Manager of Contracting Party.

1. **Subject of the consultations**
   1. Prior to initiating a procurement procedure, the Contracting Party may conduct preliminary market consultations to prepare for the procedure and inform contractors about their plans and requirements for the procurement. When conducting market consultations, the Contracting Party may, in particular, seek advice from experts, public authorities, or contractors. This advice may be used in the planning, preparation, or implementation of the procurement procedure, provided that it does not disrupt competition or violate the principles of equal treatment of contractors and transparency.
   2. The subject of consultations may include, in particular:
      1. technical, technological, legal, executive, organizational, commercial, economic, and logistic issues related to the implementation of the Order in accordance with the needs of the Contracting Party;
      2. the latest, most advantageous, cheapest, and best technical, technological, legal, executive, organizational, commercial, economic, and logistical solutions in the field that is the subject of the Order;
      3. gathering information to develop the documentation for the Order.
2. **Information on the intention of carrying out consultations** 
   1. The Contracting Party informs about the intention to conduct consultations and their subject on their own website.
   2. The Contracting Party may also inform about the intention to conduct consultations in another form chosen by themselves, including sending written or electronic information about the intention to conduct consultations to selected entities.
   3. In the Information about the intention to conduct consultations, the Contracting Party specifies, in particular:
      1. the subject of the Order and the purpose of conducting the consultations;
      2. the scope of information they wish to obtain from participants;
      3. the procedure, deadline, and place for submitting applications to participate in the consultations, as well as the method of communication with participants;
      4. the expected duration of the consultations.
   4. Non-participation in the consultations does not limit the rights or disadvantage potential Contractors in the procurement procedure.
   5. The announcement and conduct of consultations do not obligate the Contracting Party to conduct a procedure or to award a contract.
3. **Organisation of consultations**
   1. The Contracting Party will invite to consultations participants who submit correctly application template to participate in the dialogue drafted in Polish, along with any additional declarations, statements, or documents that the Contracting Party requests in the information about the intention to conduct consultations, within the timeframe and mode specified in the information, which cannot be shorter than 7 days since the publication of the information about the intention to conduct consultations.
   2. In the information about the intention to conduct consultations, the Contracting Party specifies the application template for participation in the consultations.
   3. Participants invited to participate in the consultations will be informed of this fact by the Contracting Party in a manner specified in the content of the information about the intention to conduct consultations.
   4. The Contracting Party is not obligated to conduct consultations in a specific form with all participants and may decide on different forms of consultations with different participants, depending on the substantive content of the positions presented by the participants in connection with the consultations, while respecting the principles of fair competition and equal treatment of participants.
   5. The Contracting Party communicates with participants through correspondence sent to the address provided by the participant for correspondence, fax, or email address. Confirmation of the delivery of correspondence sent by:
      1. written means (via postal operator) - is confirmation of delivery to the addressee;
      2. fax - is a transmission report;
      3. electronic means - is the date indicated in the electronic confirmation of receipt of correspondence, and in the absence of such confirmation, it is assumed that the delivery occurred 1 day after the date of placing the correspondence in the participant's teleinformatic system.
      4. In justified situations, information about the intention to conduct consultations may specify additional conditions on which admission to the consultations depends. These conditions must not violate the principles of fair competition and equal treatment of participants.
4. **Activities within consultations**
   1. To conduct consultations, the Contracting Party may appoint a Commission.
   2. Consultations are generally conducted in Polish. In justified cases, conducting consultations in English is allowed, especially due to the specificity of the order, which may predominantly attract foreign contractors.
   3. Consultations can be conducted in any form chosen by the Contracting Party, provided it does not violate the principles of fair competition and equal treatment of participants. The form of consultations is decided by the Contracting Party in the information about the intention to conduct consultations or in the invitation to consultations addressed to participants.
   4. Consultations can take various forms, in particular:
      1. exchange of correspondence in written or electronic form;
      2. individual meetings with participants;
      3. group meetings with participants on a topic specified by the Contracting Party and in a manner and within deadlines specified by the Contracting Party.
   5. The Contracting Party may decide to conduct consultations using selected or all of the above forms of communication.
   6. The Contracting Party may withdraw from conducting consultations with a specific participant at any time, if they think that the information provided by the participant is not useful for achieving the purpose of the consultations.
   7. During consultations, the Contracting Party may seek the assistance of experts and advisors with specialized knowledge necessary for conducting consultations. These individuals are obligated to maintain confidentiality according to the rules specified in point 8.10 of the Regulations.
   8. The Contracting Party may decide to extend the time for conducting consultations beyond the time specified in the information about the intention to conduct consultations.
   9. Participants bear the costs associated with participating in the consultations. The costs of participating in the consultations are not refundable by the Contracting Party, even if, despite the conducted consultations, no procedure is initiated or no order is awarded. Participants do not receive compensation from the Contracting Party for participating in the consultations.
   10. The Contracting Party will not disclose, during or after the consultations, information that constitutes a trade secret of the company within the meaning of Article 11(2) of the Act of April 16, 1993 on Combating Unfair Competition (Journal of Laws of 2020, item 1913), if the Participant, no later than when providing information to the Contracting Party, has stipulated that the information provided cannot be disclosed to other entities.
5. **Conclusion of the consultations**
   1. The Contracting Party decides to conclude the consultations, and they are not obligated to provide a justification for their decision.
   2. The Contracting Party will promptly inform about the conclusion of consultations by posting information on their website, and in the case of concluding consultations after inviting selected participants to participate, the Contracting Party will also inform the participants directly.
   3. After concluding consultations, the Contracting Party prepares a protocol containing the following information:
      1. information about conducting the consultations;
      2. entities that participated in the consultations;
      3. information on the impact of consultations on the description of the subject of the procurement, the specification of procurement conditions, or the terms of the contract.
   4. The Contracting Party includes information about the use of consultations in the announcement of the order that was subject to preliminary market consultations.
   5. The information mentioned in point 6.3. of the Regulations constitute an element of the procedure protocol, preceded by consultations.
   6. The protocol of consultations with attachments is public, with the exception of point 8.10. of the Regulations.
   7. Correspondence, protocols, letters, studies, opinions, and any other documents related to the consultations remain at the disposal of the Contracting Party and are not subject to return after the consultations end. The Contracting Party may return to a participant, upon their request, samples, equipment, or other materials provided during the consultations.
   8. If a contractor or an entity belonging to the same capital group as the contractor within the meaning of the Act of February 16, 2007, on Competition and Consumer Protection (Journal of Laws of 2019, item 369, 1571, and 1667), advised or was otherwise involved in preparing the procedure for awarding this order, the Contracting Party takes appropriate measures to ensure that the participation of this contractor in the procedure does not disrupt competition, in particular, they provide other contractors with essential information that they provided or obtained in connection with the involvement of the contractor or that entity in preparing the procurement procedure and set an appropriate deadline for submitting offers. The Contracting Party specifies in the procedure protocol measures aimed at preventing disruption of competition.
   9. A contractor involved in preparing the procedure for awarding the order is excluded from this procedure only if the disruption of competition caused by this involvement cannot be eliminated in any other way than by excluding the contractor from participating in this procedure. Before excluding the contractor, the Contracting Party provides this contractor with the opportunity to prove that its involvement in preparing the procedure for awarding the order will not disrupt competition.