

TENDER DOCUMENTATION

issued pursuant to Section 28 paragraph (1) letter b) of Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter the “Act”),

for preparation of bids for above-threshold public contract for supplies
contracted within the *open procedure* pursuant to Section 56 of the Act

NAME OF THE PUBLIC CONTRACT:

Molecular-beam Epitaxy System



TENDER DOCUMENTATION

This tender documentation (hereinafter the "TD") forms a basis for bidders (hereinafter "Bidder") to prepare their bids in a procurement procedure seeking public contract pursuant to the Act. The rights, obligations and terms and conditions stipulated herein are governed by the Act.

Public Contract name: Molecular-beam Epitaxy System
Contracting Authority: Fyzikální ústav AV ČR, v. v. i.
Seat: Na Slovance 1999/2, 182 21 Praha 8, Czech Republic
Identification No.: 68378271
Tax Identification No.: CZ68378271
Person authorized to represent the Contracting Authority: RNDr. Michael Prouza, Ph.D., Director

(Hereinafter the "Contracting Authority" for the purposes of this TD and / or "Buyer" for the purposes of the hereto attached Purchase Contract)

Contact person: Mgr. Václav Kafka
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Provision of explanation of TD:

Request for explanation of this TD can be submitted electronically – in particular via the electronic tool **eGORDION v. 3.3 - Tender arena** (<https://www.tenderarena.cz>). Public Contract details can be found at: <https://tenderarena.cz/dodavatel/seznam-profilu-zadavatele/detail/Z0001082>.

The Contracting Authority will not respond to inquiries submitted in any other way than in electronic form in accordance with Section 211 (3) of the Act. Furthermore, the Contracting Authority will not provide an explanation for telephone inquiries.

In response to a request for explanation of this TD, the Contracting Authority publishes it on the Contracting Authority Profile at <https://www.e-zakazky.cz/profil-zadavatele/74e987e1-b4a1-4571-b8b6-2cd93fe6f932>.



1 DEFINITION OF THE SUBJECT-MATTER OF THE PUBLIC CONTRACT

1.1 Classification of the subject matter of the public contract

Classification (CPV) of this public contract corresponds to item:

- CPV code: 38000000-5 – Laboratory, optical and precision equipments (excl. glasses)

1.2 Description of the subject matter of the public contract

The subject matter of this public contract is supply (acquisition) of equipment for growth of layered heterostructures called '2D-sandwiches' using an ultra-high vacuum Molecular Beam Epitaxy system. More detailed specification of the subject matter is provided in Chapter 4 below.

1.3 Term

Anticipated commencement: immediately after Contract conclusion

Anticipated completion: handover no later than 330 days after Contract conclusion
(The time between the submission of technical drawings and the moment the Contracting Authority's approval is granted is not included in this period.)

1.4 Place of Performance

Building 'New Pavilion', Room No. P04 at the premises of the Fyzikální ústav AV ČR, v. v. i. (Institute of Physics of the Czech Academy of Sciences), at Na Slovance 1999/2, Praha 8, Czech Republic.

1.5 Estimated value

Estimated value of the Public Contract is **550 000,- EUR excl. VAT.**

The maximum permissible level for the bid price is 578 000,- EUR excl. VAT. The Contracting Authority stipulates as a condition of the Public Contract that the bid price may not exceed this limit. The Contracting Authority will consider any bids with a bid price exceeding this limit to be unsatisfactory and they will therefore be excluded from any further participation in the procurement procedure.

2 REQUIREMENTS REGARDING THE DRAWING UP OF A BID

2.1 Bids shall be submitted **in electronic form only**, in accordance with the provisions of Section 211 (3) of the Act, using the electronic tool **Tender arena**. Bids in paper form are not permitted. Other form of delivery is not considered proper submission of the bid.

2.2 Bids shall be submitted no later than on **September 13, 2022 by 11:00 am**. The Tender arena electronic tool used for the submission of a bid in electronic form is available at www.tenderarena.cz. Bidders may find at this link also a guide for using the Tender arena electronic tool (via link "Help" in footer) and helpdesk contacts.

2.3 To be able to submit a bid, the Bidder must be registered as a contractor in the **Central Contractor Database** through the **FEN.cz** system. The link to register is <https://fen.cz/#/>. Registration of the bidder takes up to 48 hours (on working days) after all required documents have been submitted (either by post or electronically). Registration in the FEN.cz system is not



charged. Detailed information on the registration to the Central Contractor Database through FEN.cz system is available at <https://fen.cz/#/faq>.

- 2.4** The Bidder must have a personal computer with a minimum of the following performance: CPU 1 GHz, 1024 MB memory, 20 GB hard drive, personal computer must be connected to the Internet at a minimum connection speed of 2 Mbps (DOWNLOAD) / 512 Kbps (UPLOAD), the entrant must have an Internet browser installed on your computer (Mozilla Firefox 73.0 and higher, Google Chrome 80.0.3987.106 and higher, Opera 66.0.3515.72 and higher, Microsoft Edge 80.0.361.54 and higher, Internet Explorer 11.657.18362.0 and higher).
- 2.5** The Contracting Authority points out that it bears no responsibility for any technical conditions on the Bidder's side. The Contracting Authority recommends Bidders to consider especially the speed of their Internet connection when submitting bids so that bids are submitted within the time limit for its submission. This means uploading all attachments of the bid and final submission of the bid to the Tender arena electronic tool.
- 2.6** The bid may be prepared in the Czech or English language.
- 2.7** The bid must include **identification data of the Bidder**, i.e. primarily: business name, registered office, legal form, identification number, if it is a legal person, and the business name or name or forenames, if it is a natural person, as well as the identification number, if assigned to the Bidder.
- 2.8** The bid in electronic form shall not exceed 200 MB; of which a maximum of 100 MB are documents proving qualifications and a maximum of 100 MB are other documents provided in bids. The bid must be processed through acceptable file formats, i.e. Microsoft Office (Word, Excel), Open Office, PDF, JPEG, GIF, or PNG. The bid values as specified in this tender documentation will also be submitted to the procurement procedure by inserting them into the tender form, which will be displayed when submitting the bid in electronic form. This is without prejudice to the obligation to submit other documents making up the bid.
- 2.9** For the submission in electronic form the bids must be encrypted with a certificate provided at the Tender arena electronic tool; the certificate is available at www.tenderarena.cz. In the case of a bid being encrypted with other certificates, such a bid will be considered not delivered to the Contracting Authority in the proper manner and it will not be considered as submitted. The **bid encryption** with a certificate **is carried out automatically in the Tender arena** electronic tool before the bid submission is finalized.
- 2.10** In the case several Bidders jointly participate in the procurement procedure, they will also identify the person who shall be authorized to represent them in contact with the Contracting Authority during the procurement procedure.
- 2.11** The Contracting Authority does not specify the *award period* for this procurement procedure.
- 2.12 The bid must be submitted in the following structure:**
- a) Cover sheet** setting out the basic identification data of the Bidder and the data for evaluation (please refer to Annex No. 1 hereto);
 - b) documents proving fulfilment of the qualification** in the structure as set out in Article 3 of the TD; all documents proving fulfilment of the qualification may be presented in a plain copy or scans OR Bidders may substitute the submission of documents proving fulfilment of



the qualification by an affirmation (for the purposes of the bid, Bidders may use Annex No. 2 hereto) or by the European Single Procurement Document;

- c) statement defining **the bid price** in the structure according to Article 5 hereof;
- d) **description of the subject of performance of the public contract** - the Bidder shall prepare and submit a document describing the actual subject of performance of the public contract and demonstrating that the Contracting Authority's requirements are met;
- e) **draft contract** including annexes with filled marked data (please refer to Annex No. 3 hereto);
- f) **affidavit** of commitment to comply with the principles of socially responsible procurement and environmentally responsible procurement signed by a person authorized to act on behalf of the Bidder (please refer to Annex No. 5 hereto).

3 QUALIFICATIONS

3.1 Bidders must demonstrate the fulfilment of

- a) basic qualification according to Section 74 of the Act,
- b) professional qualification according to Section 77 of the Act and
- c) technical qualification according to Section 79 of the Act

3.2 Time of proving the fulfilment of the qualification

The Bidder is obliged to prove the fulfilment of the qualification within the deadline for submission of bids specified in point 2.2 of this TD.

3.3 Basic qualification

3.3.1 Basic qualification shall **not** be met by Bidder who:

- a) was convicted by final judgement in the country of its registered seat of a crime specified in Annex No. 3 to the Act or another similar crime pursuant to the law of the country of its registered office in the past five years preceding the commencement of the procurement procedure; expunged convictions are disregarded,
- b) has outstanding tax arrears registered in tax records in the Czech Republic or in the country of its registered office,
- c) has outstanding arrears in respect of payments and penalties of public health insurance in the Czech Republic or in the country of its registered office,
- d) has outstanding arrears in respect of payments and penalties of social security contributions and contribution to the national employment policy in the Czech Republic or in the country of its registered office,
- e) is in liquidation, has been declared insolvent, in respect of whom the receivership has been imposed under another legal regulation or it is in a similar situation pursuant to the law of the country of its registered office.

3.3.2 Bidders shall prove fulfilment of the basic qualification in relation to the Czech Republic by submitting:

- a) a copy of an entry in the Criminal Records in respect of Section 74 paragraph (1) point a) of the Act (from the country of residence),
- b) a confirmation from a relevant tax office in respect of Section 74 paragraph (1) point b) of the Act (from the country of residence and Czech Republic),



- c) a written affirmation regarding excise duty in respect of Section 74 paragraph (1) point b) of the Act,
- d) a written affirmation in respect of Section 74 paragraph (1) point c),
- e) a confirmation from a relevant district social security administration in respect of Section 74 paragraph (1) point d) of the Act (from the country of residence and Czech Republic),
- f) a copy of an entry in the Commercial Register, or a written affirmation in the event that the supplier is not incorporated in the Commercial Register, in respect of Section 74 paragraph (1) point e) of the Act.

3.3.3 If the Bidder is a legal person, both this legal person and every member of its governing body shall meet the condition specified in paragraph 3.3.1 point a). Where a legal person is a member of the governing body of the Bidder, the condition specified in paragraph 3.3.1 point a) shall be met by

- a) this legal person,
- b) every member of the governing body of this legal person and
- c) the person representing this legal person in the governing body of the Bidder.

3.3.4 If the Bidder is a branch of a business of

- a) a foreign legal person, the condition specified in paragraph 3.3.1 point a) shall be met by this legal person as well as the head of the branch,
- b) a Czech legal person, the condition specified in paragraph 3.3.1 point a) shall be met by the persons referred to in paragraph 3.3.3 as well as the head of the branch.

3.4 Professional qualification

3.4.1 Bidders shall prove fulfilment of the professional qualification according to Section 77 (1) of the Act in relation to the Czech Republic by submitting a copy of an entry in the Commercial Register or other similar records provided that registration in such records is required pursuant to another legal regulation.

3.4.2 A Bidder is not obliged to submit the document specified in paragraph 3.4.1 if legal regulations in the country of its registered office do not require such professional qualification.

3.5 Technical qualification

Fulfilment of the technical qualification pursuant to Section 79 (2) b) of the Act will be demonstrated by a Bidder, who submits a list with at least 5 significant supplies provided over the past three years before the commencement of this procurement procedure, including price and date of provision and the identification of customer of the supply (supplies). Supply and installation of Molecular-beam Epitaxy System with financial value of at least 500 000,- EUR excl. VAT shall be considered a significant supply (if the value is stated in another currency, it will be converted at the exchange rate published by the European Central Bank on the day of the commencement of the procurement procedure).

3.6 Authenticity and age of documents

3.6.1 The **Bidder** shall submit a scan of the document (a scan of a plain copy of the document is sufficient) and **is entitled**, pursuant to Section 86 (2) of the Act, **to replace these documents with an affirmation** (Bidders may use Annex No. 2 hereto) **or a European Single Procurement**



Document pursuant to Section 87 of the Act, or to submit an extract from the list of qualified suppliers pursuant to Section 228 of the Act.

- 3.6.2 The documents demonstrating basic qualification under Section 74 of the Act and professional qualification under Section 77 (1) of the Act shall demonstrate the fulfilment of the required qualification criterion not later than 3 months before the date of the commencement of this procurement procedure.
- 3.6.3 Where the Contracting Authority requires a document to be submitted, the Bidder shall submit it in Czech, English or German language or it shall be submitted along with its translation into one of these languages.
- 3.6.4 Before the Contract is concluded, the Contracting Authority shall request the selected economic operator to submit the electronic originals or electronic form of certified copies of the qualification documents, unless they have already been submitted during the procurement procedure.

4 TECHNICAL SPECIFICATION OF THE SUBJECT MATTER

- 4.1 The TD specifies the minimum technical requirements in Annex No. 1 of the Draft Contract (Draft Contract forms Annex No. 3 of this TD). It is permitted that Bidders supply the same or higher level solution, than those described in the technical specification, but it must always comply with the minimum requirements as set forth herein.
- 4.2 All equipment which shall form a part of the subject matter must comply with all requirements arising from technical or safety standards valid in the Czech Republic for these types of equipment. Performance required hereunder shall include handover of complete documentation to the equipment. The Contracting Authority requires that the entire subject matter and all its parts will be new, not re-used.
- 4.3 Bidders must always comply with technical requirements stipulated herein; should a Bidder fail to comply with these he shall be excluded from further proceedings. Bidders are obliged to prove guaranteed technical parameters to the Contracting Authority as specified herein, i.e. Bidders shall submit detailed technical specification of the offered solution containing the guaranteed achievable parameters, which must demonstrate compliance with the minimum technical parameters specified in Annex No. 1 to the Contract in the Czech or English language (other language mutations will not be admissible). Specified parameters must be achieved also during installation of the equipment at the place of performance. The submitted documentation shall form Annex No. 2 to the Contract.
- 4.4 Should this TD refer to specific commercial trademarks / products or solution, or other designations or visual presentations having relation to a specific supplier / manufacturer, it shall be understood as delineation of an anticipated characteristics and the Bidders are entitled to propose other technically or qualitatively compliant solution.



5 STRUCTURE OF THE BID PRICE

- 5.1 Bidders are obliged to specify the total bid price, including all required performance; the total bid price is to be quoted in **EUR excl. VAT**.
- 5.2 The total bid price must include the entire subject matter of the public contract and will represent a fixed, binding amount as the maximum amount and maximum admissible price, including all fees and other costs that may be associated with the performance provided hereunder, such as transportation to the place of performance, packaging, custom duties, assembly and installation costs, costs of insurance, etc. At the same time, it cannot exceed **578 000,- EUR excl. VAT** and in the case of a bid being submitted citing a higher bid price than this **maximum** value of the Public Contract, such bid will be **excluded** from the procedure.

6 TERMS AND CONDITIONS, PAYMENT TERMS

- 6.1 Payment terms have been specified in the attached binding Draft Contract, which forms an integral part hereof as Annex No. 3.
- 6.2 Bidders are obliged to accept without reservation or change the text of the Draft Contract, which forms an integral part hereof as Annex No. 3. Bidders are authorized to fill in their identification data, the bid price and other clearly marked information that are to be filled in. Bidders are not authorized to change or add to the Contract in any manner, with exception of those parts which the Contracting Authority highlighted. Any breach of this condition may result in exclusion of the Bidder from the procurement procedure.

7 EVALUATION CRITERIA

- 7.1 The bids will be evaluated on the basis of their economic advantageousness. The Contracting Authority will evaluate the economic advantageousness of the bids on the basis of the criteria below.

7.2 The evaluation criteria are:

- | | | |
|-------|--------------------------------|---------------|
| 7.2.1 | Total bid price | - weight 50 % |
| 7.2.2 | Length of performance period | - weight 24 % |
| 7.2.3 | Length of warranty period | - weight 24 % |
| 7.2.4 | Total number of effusion cells | - weight 2 % |

7.3 Evaluation method:

- 7.3.1 Within the evaluation criterion pursuant to paragraph 7.2.1, the Contracting Authority will evaluate the total bid price in EUR excl. VAT, processed in accordance with Article 5 of the TD. The number of points awarded will be determined according to the formula below:



$$\text{Number of points} = \frac{\text{Lowest bid price of the valid bids in EUR excl. VAT}}{\text{Bid price of the evaluated bid in EUR excl. VAT}} \cdot 50$$

Bidders complete the data for this criterion in paragraph 5.1 of the Draft Contract (Annex No. 3 of the TD) and in the Cover Sheet (Annex No. 1 of the TD). If the Bidder specifies different values in the Cover Sheet and in the Draft Contract, the Contracting Authority will consider the data specified in the Draft Contract binding.

- 7.3.2 Within the evaluation criterion pursuant to paragraph 7.2.2, the Contracting Authority will evaluate the length of performance period, i.e. the period starting with the Contract conclusion and ending with the equipment being finally handed over pursuant to paragraph 10.4 of the Draft Contract (Annex No. 3 of the TD). The time between the submission of technical drawings and the moment the Contracting Authority's approval is granted is not included in this period. The number of points awarded will be determined according to the formula below:

$$\text{Number of points} = (330 - \text{Length of performance period of the evaluated bid in days}) \cdot 0,3$$

The maximum length of the performance period is 330 days - Bidders who specify a longer period will be excluded from the procedure. If any Bidder states a performance period shorter than 250 days, a period of 250 days will be taken into account for the purposes of evaluating the bid, but the period actually stated will be considered legally binding.

Bidders shall state the offered performance period in whole calendar days and fill it in paragraph 4.1 of the Draft Contract (Annex No. 3 of the TD) and in the Cover Sheet (Annex No. 1 of the TD). If the Bidder specifies different values in the Cover Sheet and in the Draft Contract, the Contracting Authority will consider the data specified in the Draft Contract binding.

- 7.3.3 Within the evaluation criterion pursuant to paragraph 7.2.3, the Contracting Authority will evaluate the length of time for which the entire equipment is covered by the warranty. The number of points awarded will be determined according to the formula below:

$$\text{Number of points} = \text{Length of warranty period of the evaluated bid in months} - 12$$

The minimum warranty period is 12 months - Bidders who specify a shorter period will be excluded from the procedure. If any Bidder offers a warranty longer than 36 months, he will gain the maximum number of points within this criterion (24) whereas the warranty period actually stated will be considered legally binding.

Bidders shall state the offered warranty period in whole calendar months and fill it in paragraph 14.1 of the Draft Contract (Annex No. 3 of the TD) and in the Cover Sheet (Annex No. 1 of the TD). If the Bidder specifies different values in the Cover Sheet and in the Draft Contract, the Contracting Authority will consider the data specified in the Draft Contract binding.

- 7.3.4 Within the evaluation criterion pursuant to paragraph 7.2.4, the Contracting Authority will evaluate the number of effusion cells included in the bid price.

- Bidders will receive extra 2 points in case the offered equipment includes 4 or more effusion cells and the same number of PBN crucibles as specified in Tab. 1 in Annex No.



1 to the Draft Contract under item numbers 49 and 50.

Bidders shall provide data on this criterion in table Tab. 2 in Annex No. 1 to the Draft Contract (Annex No. 3 of the TD) and in the Cover Sheet (Annex No. 1 of the TD). If the Bidder specifies different values in the Cover Sheet and in the Draft Contract, the Contracting Authority will consider the data specified in the Draft Contract binding.

7.3.5 The number of points achieved within the individual criteria will be rounded to 2 decimal places. **Finally, bids will be ranked according to the number of points obtained in the sum of all the above criteria from highest to lowest. The winner is the Bidder whose bid gets the most points.**

8 ADDITIONAL REQUIREMENTS AND CONDITIONS

- 8.1** In accordance with Section 105 (2) of the Act, the Contracting Authority requires that the installation of the equipment and training of its users is carried out and that warranty service is provided directly by the Bidder.
- 8.2** The Contracting Authority reserves the right to verify any information provided by Bidders using third parties and Bidders shall be obliged to provide the Contracting Authority all necessary cooperation in this matter.
- 8.3** The Contracting Authority does not admit variants of the bid.
- 8.4** The Contracting Authority reserves the right to change, specify or supplement the conditions of this procurement procedure.
- 8.5** **Conditions for entering into a contract** - the Contracting Authority requires from the selected economic operator, within the framework of cooperation, before signing the Contract the submission of electronic originals or electronically certified copies of the qualification documents of the selected economic operator, unless they have already been submitted within the procurement procedure.
- 8.6** The selected Bidder will be obliged to ensure compliance with all labour law regulations (remuneration, working hours, rest periods between shifts, paid overtime), as well as regulations concerning employment and occupational safety and health, for the entire duration of the contractual relationship established on the basis of this Public Contract, valid in the country of his registered office or place of business, to all persons, which will participate in the performance of the Public Contract (regardless of whether it is the Bidder himself or his subcontractors).
- 8.7** The selected Bidder will be obliged to ensure compliance with environmental law in force in his country of residence or place of business, which meets the environmental policy objectives related to climate change, resource use and sustainable consumption and production, for the entire duration of the contractual relationship based on this Public Contract. The selected Bidder must therefore take all measures that can reasonably be required of him to protect the environment and reduce damage caused by pollution, noise and other activities, and must ensure that emissions, soil pollution and waste water from his activities do not exceed the values laid down in the relevant legislation.



9 OPENING OF BIDS

Opening of bids shall take place immediately after the expiry of the bid submission date. The opening of bids will take place at the Contracting Authority's seat at Fyzikální ústav AV ČR, v. v. i., Na Slovance 1999/2, Praha 8.

10 COMMUNICATION DURING THE PROCUREMENT PROCEDURE

- 10.1** During the procurement procedure, the Contracting Authority will communicate with Bidders in accordance with Section 211 of the Act.
- 10.2** For communication during the procurement procedure, the Contracting Authority prefers the use of the electronic tool **Tender arena**.
- 10.3** Documents within the procurement procedure will be sent by the Contracting Authority through the **Tender arena** electronic tool accounts of the Contracting Authority and the Bidder or via e-mail with a guaranteed electronic signature.
- 10.4** Bidders must be registered in the Central Database of Suppliers in order to be able to communicate with the Contracting Authority via the electronic tool. The registration is carried out in accordance with point 2.4 of this TD.
- 10.5** The Contracting Authority further emphasizes that in the case of communication carried out via the electronic tool, **the document is delivered as soon as the data message is received** to the electronic address of the recipient or recipients of the data message in the electronic tool.

11 PRELIMINARY MARKET CONSULTATIONS

- 11.1** The Contracting Authority conducted market consultations according to Section 33 of the Act via e-mail with following economic operators:
- *Dr. Eberl MBE-Komponenten GmbH (Josef-Beyerle-Str. 18/1, 71263 Weil der Stadt, Germany). Consultation started October 26th 2020*
 - *Měřicí technika Morava s.r.o (Babická 619, 664 84 Zastávka u Brna, Czech Republic). Consultation started March 22th 2022*
 - *Precision & Vacuum Technology PREVAC sp. z o.o. (ul. Raciborska 61, 44-362 Rogów, Poland). Consultation started March 22th 2022*
 - *Scienta Omicron GmbH (Limburger Str. 75, 65232 Taunusstein, Germany) Consultation started April 19th 2022*
- 11.2** The above economic operators were subject to preliminary market consultation on the basis of the result of a market research conducted by the Contracting Authority. Within the market research, the economic operators were identified as suppliers able to provide Molecular-beam Epitaxy systems suitable for research and development. The consultations were reflected in the



TD in the form of determination of equipment function, its limits, optional accessories and maintenance.

12 CONCLUSION

- 12.1** Information and data provided herein (incl. all Annexes) define the binding requirements of the Contracting Authority with respect to the performance of the Public Contract. These requirements must be accepted by the Bidders in full and without reservation, respecting these requirements in preparation of their bid. Non-acceptance of these requirements / conditions (incl. those specified in the respective Annexes) shall be deemed to constitute failure to comply with the tender conditions.
- 12.2** Should this TD or its Annexes refer to specific commercial trademarks / products or solutions, or other designations or visual presentations having relation to a specific supplier / manufacturer, it shall be understood as delineation of an anticipated characteristics and the Bidder is entitled to propose other technically or qualitatively fully compliant solution.
- 12.3** By submitting a bid, the Bidder confirms that he has fully acquainted himself with the TD to this Public Contract (incl. all Annexes), that the assignment is comprehensible and clear and that before submitting his bid, he has clarified any disputed provisions or technical ambiguities and agrees with and respects the conditions of the tender.

On behalf of the Contracting Authority:

LIST OF ANNEXES:

1. Cover sheet
2. Affidavit on compliance with qualification requirements
3. Binding draft contract with annexes
4. List of major supplies
5. Affidavit according to § 6 paragraph 4 of the Act
6. Manual on how to submit a bid through the Tender arena electronic tool