

**ALTERATION OF THE TENDER DOCUMENTATION**

<b>Contracting Authority</b>	Fyzikální ústav AV ČR, v. v. i.
<b>Seat</b>	Na Slovance 1999/2, 182 00 Praha 8, Czech Republic
<b>Identification No.</b>	68378271
<b>Public Contract name</b>	<b>Equipment for highly sensitive measurements of magnetic properties</b>
<b>Registration Number</b>	Z2024-014377
<b>Type of public contract</b>	above-threshold public contract for supplies
<b>Type of procurement procedure</b>	open procedure pursuant to Section 56 of the Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter the "Act")
<b>Projects</b>	OP: Jan Amos Komenský Titles: Teraferroics for ultra-high capacity, speed and energy-efficiency of information technology Materials Growth & Measurement Laboratory Reg. No.: CZ.02.01.01/00/22_008/0004594 CZ.02.01.01/00/23 015/0008184

In accordance with Section 99 of the Act, the Contracting Authority alters the Tender Documentation for the public contract "Equipment for highly sensitive measurements of magnetic properties".

The Contracting Authority replies to the request of a supplier delivered via the Tender Arena electronic tool on April 19, 2024.

**Request:**

(...) we would like to open the possibility of changing one point of the contract conditions. It is a paragraph 14.12 of the draft contract: If any part of the Equipment (Device A or Device B) has defects, due to which it cannot be demonstrably used in full for more than 60 days (period of defects) during six or less consecutive months of the warranty period, the Seller is obliged to deliver new part of Equipment without defects within 180 days after being requested to do so in writing, unless the Parties agree otherwise.

This paragraph could be interpreted to mean that even in the event of a defect which will take longer than 60 days to rectify, which may be the case if a special part is required, the Seller may require the delivery of a whole new piece of Equipment (Device A or Device B). To clarify, both devices under consideration contain measurement modules which are independent of each other





and do not prevent the use of the system itself by other measurement modules. Therefore, the requirement to replace the whole device even in case of a failure of one part seems unreasonable. The common practice in such a case is to replace the defective component. Furthermore, with regard to the delivery date, it is not realistic to require delivery of a new device within 180 days.

Is it possible to amend clause 14.12 so that the replacement relates to the defective component? The wording of paragraph 14.12 could then read as follows:

If any part of the Equipment has defects, due to which it cannot be demonstrably used in full for more than 60 days (period of defects) during six or less consecutive months of the warranty period, the Seller is obliged to deliver new part of Equipment without defects within 180 days after being requested to do so in writing, unless the Parties agree otherwise.

**Contracting Authority's response:**

The Contracting Authority admits that considering the base length of the Equipment delivery period (18 months of the Contract conclusion), the Seller's obligation under paragraph 14.12 of the Contract to deliver new part of Equipment (Device A or Device B) without defects within 180 days after being requested by the Buyer may appear unreasonable. Nevertheless, the alternative wording of paragraph 14.12 proposed by the supplier would be redundant and could cause the Contract to be ambiguous, since according to the given description, it is a standard warranty repair, which is regulated in the previous paragraphs of Article 14 of the Contract.

**Therefore, the Contracting Authority deletes paragraph 14.12 of the Contract without compensation, including the reference to this paragraph in paragraph 15.2 of the Contract.**

In connection with the above, the Contracting Authority publishes the second updated Annex No. 3 of the Tender Documentation (file entitled "Annex\_3\_Draft\_Contract\_UPDATED\_v2.docx"). Bidders are obliged to fill in and submit this version of the Draft Contract in their bids.

The Contracting Authority also extends the deadline for submission of bids in accordance with Section 99 of the Act.

The Contracting Authority therefore modifies the terms of reference, namely the first sentence of Clause 2.2 of the Tender Documentation which is now valid as follows:

2.2 Bids shall be submitted no later than on **May 27, 2024** by **11:00 am**.

In Prague



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