

DCT Gdańsk S.A.

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192967316

**CONDITIONS OF PARTICIPATION IN TENDER
UNDER ARTICLE 70¹ – 70⁵ OF THE POLISH
CIVIL CODE
REGARDING
TENDER No. 06/EU/2014/OHF
FOR
PURCHASE AND DELIVERY OF ONE UNIT OF
OVER HEIGHT FRAME**

CONDITIONS OF TENDER PROCEDURE

I. GENERAL PROVISIONS

1. The Ordering Party is DCT Gdańsk S.A., ul. Kontenerowa 7, 80-601 Gdańsk, woj. pomorskie (Pomerania Province), phone no. (+48 58) 737 9000; fax no. (+48 58) 737 6350, e-mail address: postbox@dctgdansk.com, <http://www.dctgdansk.pl>, NIP (Tax Identification Number): 2040000183, Regon (Statistical Number): 192967316.
2. The person entitled to contact Contractors is:
*Mr. Cezary Osipuk, Purchasing Coordinator (+48 58) 737 9167,
cezary.osipuk@dctgdansk.com*
3. The tender procedure is conducted in compliance with the provisions on the award of the contract under Article 70¹ – 70⁵ of the Polish Civil Code.
4. As a result of the tender procedure the Ordering Party intends to select one Contractor to conclude an agreement regarding the subject of the contract with.

II. GENERAL PRINCIPLES OF PARTICIPATION IN THE TENDER PROCEDURE

1. The obligation to lodge a tender guarantee is indicated in pt. III of the notice of invitation to tender.
2. The language of the tender procedure is Polish and English, treated equivalently.
3. The tender may be submitted by a natural person, legal person, entity validly established under law of the relevant country of origin or an unincorporated association and the above-mentioned entities may submit a tender jointly, provided that they meet the conditions defined in the notice of invitation to tender, the technical specification and these conditions of participation in the tender.
4. Each Contractor may submit only one tender.
5. It is permissible to contact the Ordering Party in writing, including by e-mail and phone, save that only documents submitted in writing or in the electronic form and within the time limits provided for in the notice of invitation to tender will be subject to formal evaluation. All correspondence to the Ordering Party related to this tender procedure should be directed to the address indicated in pt. I.2 of these conditions of participation in the tender.
6. Statements, applications/requests, notices and information may be provided by parties by fax or e-mail, post or courier service.
7. Statements, applications/requests, notices and information provided to the Ordering Party by fax or e-mail are deemed as provided on time if their content reaches the Ordering Party's address indicated in pt. I.1 of these conditions prior to the set date.

III. INFORMATION ON THE SUBJECT OF THE TENDER

1. The subject of the tender is defined in pt. II of the notice of invitation to tender and in the technical specification constituting an annexe to the notice of invitation to tender.
2. The date of the completion of the contract is defined in pt. II of the notice of invitation to tender.
3. The Ordering Party accepts extending the time limits for tender submission. Information on the above-mentioned extension will be immediately published in the place of publication of information on the contract.

IV. FORMAL CONDITIONS OF PARTICIPATION IN THE TENDER AND CRITERIA OF EVALUATION OF TENDERS

1. Formal conditions of participation in the tender are defined in pt. III of the notice of invitation to tender.
2. Tender selection criteria are defined in pt. IV of the notice of invitation to tender, and in the event that selection criteria have not been specified, the only selection criteria will be the price.
3. Tender validity term is defined in pt. IV of the notice of invitation to tender. In case where there are difficulties in signing a contract with the selected contractor or the tenders evaluation term has been extended by specific date and time of the tender applicable to those who take part in the proceedings may be extended at the request of the Contractor or the Employer, by the individually expressed consent of the Contractor. The new proposed date of the tender validation must be equal for all participants.
4. Contractors may submit questions and require clarifications regarding the content of the notice of invitation to tender by 6 June 2014.
5. The Ordering Party answers Contractors' questions regarding the content of the notice in the form of a reply directed individually to the Contractor or in the form of a question and a reply. By publishing the question, the Ordering Party will not reveal data of Contractors.
6. In the event of receipt of a big number of questions, the Ordering Party may extend the time limits for tender submission. Point III.3 of these conditions is applied appropriately.

V. DESCRIPTION OF THE WAY OF PREPARING THE TENDER AND FORM OF THE TENDER

1. The tender must be prepared in English and/or Polish.
2. The tender must be submitted in writing, in the paper form and/or in the electronic form (CD/DVD).
3. The tender must be signed by persons authorised to represent the Contractor, and in the event of submission of tenders in the electronic form, the sender of the e-mail containing the tender must be the Contractor's employee. The Ordering Party bears no liability for the Contractor's sending of the tender that was not accepted by authorised persons. The said tender is binding for the Ordering Party and the Contractor.
4. The Contractor bears all costs related to preparation and submission of the tender.
5. Submitted tenders must meet formal requirements indicated in the notice of invitation to tender and these conditions as well as technical requirements indicated in the notice of invitation to tender and the technical specification.

VI. FORM OF THE TENDER

1. Tenders may be prepared in any graphic form, provided that the Contractor contains in the tender all required elements, including in particular: the Contractor's name and address, tender corresponding, in the substantive and technical aspects, to the content of the contract, including additional information, if the provision of such information is required by the Ordering Party, the price and other conditions of performance of the contract (if applicable). In the event that the Ordering Party requires that additional documents confirming the fulfilment of the defined criteria or possession of relevant qualifications and experience be submitted, the Contractor is obliged to provide the required documents.

2. The submitted tender must be transparent and legible.
3. In the event of tenders submitted in the paper form, it is recommended to number pages of the tender and connect all sheets of the tender in a permanent way..
4. The tender should contain all statements required by the Ordering Party and documents referred to in pt. III of the notice of invitation to tender.
5. The tender should include:
 - a) the form of the proper tender containing all elements required in the notice of invitation to tender and these conditions of participation in the tender and, furthermore, it should meet the requirements defined in the technical specification constituting an annexe to the notice of invitation to the tender
 - b) required statements and documents referred to in pt. III of the notice of invitation to tender, if applicable
 - c) the technical specification of the offered tractors All offered items must be included in the offer price
 - d) optionally, additional documents which will be, in the Contractor's opinion, helpful at the stage of tender evaluation
6. At the request of the Ordering Party and within the reasonable time limits set by the Ordering Party, the Contractor is obliged to provide clarifications regarding the content of the tender and/or to supplement the tender with additional documents.

VII. PLACE, DATE AND WAY OF SUBMITTING TENDERS

1. The tender should be submitted to the address indicated in pt. I.1 of these conditions of participation in the tender.
2. By bidding, the Contractor accepts the conditions of participation in the tender, technical specifications and additional documents (if applicable), and if the Ordering Party also included the model contract in tender documentation, the terms of the transaction result from the model contract.
3. The Contractor may propose changes to the model contract by 6 June 2014. Changes may not affect the elements on which the tenders are evaluated, in accordance with the evaluation criteria adopted for the proceeding. In case of changes Ordering Party shall inform the Contractor and all involved entities in the proceedings, and publish relevant information on its website.
4. Changes to the model contract proposed by other contractors after submission of a bid by the Contractor shall also apply to the Contractor, provided that they are more favorable for him. Contractor may also require the signing of model contract, which expired at the time the Purchaser has received the offer.
5. The tender should be submitted by the non-negotiable date indicated in pt. IV of the notice of invitation to tender, with a stipulation to point III.3 and IV.6 of these conditions.
6. The tender submission date is deemed as the date of receipt of the tender by the Ordering Party, confirmed by the accepting employee, or the time of receipt of the e-mail containing a tender in DCT's IT system.
7. Tenders submitted after the tender submission date or tenders that do not meet formal or substantive (technical) requirements will not be considered and will not be returned to the Contractor. In the above-mentioned event, the Ordering Party will notify the Contractor.

8. A specification of Contractors that submitted tenders will be placed on the Ordering Party's announcement board and website within seven days of the tender submission date.
9. Further activities of the Tender Committee will be carried out in compliance with internal procedures of the Ordering Party, on the basis of the conditions of participation in the tender and tender selection criteria provided in the notice of invitation to tender.

VIII. SELECTION OF TENDERER AND NOTIFICATION OF THE RESULTS OF THE TENDER PROCEDURE

1. While selecting the tender the Ordering Party will only use the principles described in these conditions of participation in the tender and the Ordering Party will fully comply with the provisions of the notice of invitation to tender.
2. After the tender submission date referred to in pt. IV of the notice of invitation to tender the Ordering Party will inform on closure of the tender procedure on its website.
3. Immediately upon the selection of the best tender the Ordering Party will notify, at the same time, all Contractors that submitted the tender of the selection of the best tender and provide name of the Contractor whose tender was selected.
4. An agreement with the Contractor whose tender is evaluated as the best tender will be concluded on the date and in the place established by mutual agreement.
5. If the selected Contractor fails to conclude the contract, the Ordering Party has the right to choose the best tender among the remaining tenders without their re-examination and evaluation, unless there are indications for invalidity proceedings referred to in these conditions. In the case of non-use of the rights referred to in the preceding sentence, the Ordering Party may cancel the the proceedings.
6. In the event that in reply to the notice of invitation to tender published by the Ordering Party only one tender meeting the requirements provided in the notice is submitted, the Ordering Party may conclude an agreement with the Contractor that submitted the tender or annul the tender procedure.
7. At each stage of the tender procedure the Ordering Party has a right to annul the tender procedure.
8. The Ordering Party will notify, at the same time, all Contractors applying for the award of the contract of the annulment of the tender procedure in the event of annulment of the tender procedure prior to the tender submission date, and in the event of annulment of the tender procedure after the tender submission date, the Ordering Party will notify the Contractors that submitted tenders.
9. The Ordering Party reserves the right to change the data contained in the technical specifications or tender notice in case of detection in the tender procedure an error in description of the order subject or technical specification. Ordering Party shall immediately publish the decision to change the parameters of the order in all the places where the order was published and shall distribute such information to any Contractors who asked to send a technical specification or asked questions about the order before the publication of such information. If the changes result in inadequate tenders submitted in the proceedings, the Ordering Party is obliged to accept the offer from the same subjects, adapted to the changed requirements and parameters.

IX. FINAL PROVISIONS

To matters not provided for in these conditions of participation in the tender the provisions of the Polish Civil Code are applicable.