



Invitation to Tender

and Tender documentation

In accordance with the provisions of § 26 and § 53 of Act No. 134/2016 Coll., on the award of public contracts, as amended (hereinafter the “PPA”)

public procurement procedure for supplies in the simplified below-the-limit procedure, named:

**Thickness Monitor for MBE chamber
(OP JAK - FerrMion)**



CONTENTS

CONTENTS	2
1. Basic data about the public contract.....	3
2. Subject matter of the Public Contract	3
3 Place and Time of Delivery of the public contract performance.....	4
4 Estimated value of the Public Contract	4
5 Suppliers' Qualification	4
5.1 Fulfilment of Qualification Criteria	4
5.2 Proving the supplier's qualification - foreign person	5
5.3 Basic qualification	5
5.3.1 Scope of basic qualification	5
5.3.2 Demonstration of basic qualification	6
5.4 Professional qualification	6
5.5 Changes of the Supplier's qualifications.....	6
6 Access to the Tender documentation, Communication between the Contracting Authority and Suppliers	7
7 Basic instructions for submitting Bids	7
7.1. Bid structure	7
7.2 Requirement on Bid language	7
7.3 Requirements on a joint Bid	8
8 Explanation of Tender documentation.....	8
9 Manner and place for Bid submissions, Bid opening	8
10 Bid price requirements, structure of the Bid price in the Bid.	9
11 Evaluation of the Bids, criteria and method.....	9
12 Commercial, technical and other terms	10
13 Others	10
13.1 Further rights of the Contracting Authority	10
13.2 Binding nature of the Contracting Authority's requirements	11
13.3 Confidentiality of Information.....	11



1. Basic data about the public contract

The contracting authority:	Nuclear Physics Institute of the CAS, p.r.i. Headquarters: Husinec – Řež 130, Řež 25068 ID No.: 61389005, VAT No.: CZ61389005 Represented by: Ing. Ondřejem Svobodou, Ph.D., director (Hereinafter the „ Contracting Authority “).
Contact person for the public contract:	Contact person: Bc. Lucie Smolová, e-mail: smolova@ujf.cas.cz (hereinafter, for the purposes of this tender documentation, only " Contact Person ").
Legal Process:	public procurements procedure for supplies in the simplified below-the-limit procedure (hereinafter the " Public Contract ")
CPV code:	38000000-5 - Laboratory, optical and precision instruments and equipment (except glasses)
The name of the public contract:	Thickness Monitor for MBE chamber (OP JAK - FerrMion)
Estimated value of the contract:	120 000 CZK without VAT
Method of financing:	The subject of performance will be financed from the project: Ferroic Multifunctionalities (acronym FerrMion) registration number CZ.02.01.01/00/22_008/0004591 Program name: Operational program Jan Amos Komenský
Availability of tender documentation according to § 96 PPA	Tender Documentation has been published at the Contracting Authority's website profile in full extent.
Bid submission deadline:	12. 04. 2024 until 08:00 o'clock
Language of the bid:	Czech, Slovak, English or German language

This tender documentation ("**Tender Documentation**") has been prepared in accordance with Sec. 28 (1) letter b) PPA and represents a set of terms and conditions (except for forms pursuant to Sec. 212 PPA) in the level of detail that is necessary for submission of bid to perform the Public Contract (hereinafter the "**Bid**"). The rights and obligations of the Contracting Authority and suppliers / bidders, respectively participants in the tendering procedure (hereinafter, for the purposes of this Tender Documentation, only "**Supplier(s)**") within this procedure which are not expressly stipulated herein shall be governed by relevant provisions of the PPA.

2. Subject matter of the Public Contract

The subject of the procurement procedure is the supply of a Thickness Monitor for MBE system (Molecular Beam Epitaxy).

The Contracting Authority chose the mode of this order (in simplified below-the-limit procedure) for the reason that the requested equipment will be part of the MBE system, which after assembly from several components will form one functional unit and its total procurement value corresponds to the limit for the below-the-limit procedure according to § 26 PPA.



3 Place and Time of Delivery of the public contract performance

Place of performance: headquarter of the Contracting authority, Husinec - Řež 130, Řež, post code 250 68, Czech Republic.

Deadline (delivery date): within 13 weeks from the effective date of the contract.

4 Estimated value of the Public Contract

The estimated value of the Public contract is CZK 120 000 without VAT.

The estimated value of the public contract is not a limit value, but in the event that the supplier who will be evaluated as the selected supplier offers a higher bid price than the estimated value, the contract can be canceled for economic reasons.

5 Suppliers' Qualification

5.1 Fulfilment of Qualification Criteria

Suppliers need to meet requirements relating to qualification as defined in Sec. 73 et seq. PPA. Suppliers shall demonstrate that they meet these qualification requirements in the manner and extent specified herein.

Qualification requirements for this Public Contract shall be met by Suppliers who will duly demonstrate within their Bid the following:

- a) Basic qualification pursuant to Sec. 74 PPA; and
- b) Professional qualification pursuant to Sec. 77 PPA.

In accordance with Sec. 45 (1) PPA, qualification documents may be submitted as a copies or replaced by:

- a unified European certificate for public contracts in accordance with Sec. 87 PPA,
- or by an extract from the list of qualified suppliers according to Sec. 226 PPA,
- or a certificate issued within the approved system of certified suppliers according to Sec. 233 PPA.

The Contracting authority allows the supplier, in accordance with Sec. 86 (2) and also according to Sec. 53 (4) PPA, to replace the qualification documents with the Affidavit. In such a case, the Contracting authority recommends using the sample affidavit, which is Appendix No. 3 of this Tender documentation.

If the supplier submits an affidavit to prove the fulfillment of the qualification, it must be signed by a person authorized to act on behalf of the supplier, i.e. by the statutory representative of the supplier. In the case of a signature by another person, the proper authorization of this person for the relevant legal action must be documented at the same time.

The Contracting authority, In accordance with Sec. 122 (3) and (4) PPA, may require the submission of copies of documents relating to the Supplier's qualifications before the conclusion of the Contract, if the Supplier has not already submitted them as part of this Public contract.

Documents proving the basic qualification according to Sec. 74 and the professional qualification



according to Sec. 77 (1) PPA must declare the fulfilment of required qualification criteria no later than 3 months before the start of the Tender procedure (Public contract).

The supplier is not entitled to declare the fulfilment of the above qualification through other persons.

5.2 Proving the supplier's qualification - foreign person

In the event that the qualification was obtained abroad, the fulfillment of the qualification is proven through documents issued in accordance with the legal order of the country in which it was obtained, to the extent required by the Contracting Authority.

5.3 Basic qualification

5.3.1 Scope of basic qualification

Suppliers who [within the meaning of Sec. 74 (1) PPA]

- a) have been, in the last 5 years prior to commencement of this tendering procedure, finally convicted of a criminal offence listed in Annex 3 to PPA or similar criminal offence(s) under the laws of the Supplier's headquarters country; sentences that had already been struck will not be considered;
- b) have, in the Czech Republic or country of its headquarters, payable tax arrears (outstanding unpaid tax);
- c) have, in the Czech Republic or country of its headquarters, payable insurance arrears or 10 sanction(s) relating to public health insurance;
- d) have, in the Czech Republic or country of its headquarters, payable social security insurance arrears or sanction(s) relating to social security insurance or contributions toward the state employment policy; or
- e) are in liquidation, or subject to insolvency, bankruptcy, under forced Administration (receivership) in accordance with other legal regulation or in similar situation according to the laws of the country where headquartered

WILL BE DEEMED TO HAVE BEEN DISQUALIFIED HEREFROM.

If the Supplier is a legal entity, the conditions imposed by Sec. 74 (1) letter a) PPA shall be met by the legal entity and each member of its statutory body. Should a legal entity be a member of the Supplier's statutory body, the conditions imposed by Sec. 74 (1) letter a) PPA shall be met simultaneously by:

- a) such legal entity,
- b) each member of its own statutory body and
- c) the person representing this legal entity within the statutory body of the Supplier.

Should the participant in the tendering procedure be a branch of an enterprise

- a) of a foreign legal entity, the conditions imposed by Sec. 74 (1) letter a) PPA shall be met by the legal entity and the manager of the branch of such enterprise,
- b) Czech legal entity, the conditions imposed by Sec. 74 (1) letter a) PPA shall be met by persons listed in Sec. 74 (2) PPA and the manager of the branch of such enterprise.



5.3.2 Demonstration of basic qualification

Suppliers demonstrate their fulfilment of basic qualifications under Article 5.3.2 above in relation to the Czech Republic by submitting:

- a) Extract from the Criminal Register in relation to Sec. 74 (1) letter a),
- b) confirmation from the competent financial authority in relation to Sec. 74 (1) letter b),
- c) written affidavit in relation to consumption tax as per Sec. 74 (1) letter b),
- d) written affidavit in relation to Sec. 74 (1) letter c),
- e) confirmation from the competent district social security administration in relation to Sec. 74 (1) letter d),
- f) extract from the Commercial Register or by affidavit in writing in case the person has not been registered with the Commercial Register, in relation to Sec. 74 (1) letter e).

If the Supplier is a person headquartered abroad, it shall demonstrate meeting basic qualification with respect to letter a) above only in relation to the country where it has its headquarters.

In accordance with Article 5.1 hereof Suppliers may use an affidavit (see, for instance, the template that is attached hereto as Annex No. 3 and that can be used by the Suppliers) in place of the documents listed in Article 5.3.2 hereof for the purposes of demonstration of basic qualification within their Bids.

5.4 Professional qualification

The Supplier shall demonstrate its professional qualification in relation to the Czech Republic by submitting an extract from the Commercial Registry or similar registry if the law requires such registration.

Documentation demonstrating professional qualification of Suppliers need not be submitted if the laws in the country where such Supplier is headquartered do not require similar professional qualification. In such a case, however, the Supplier shall submit an affidavit on the non-existence of such records.

In accordance with Sec. 45 (4) PPA, the Supplier is entitled to fulfill the obligation to submit documents by referring to the corresponding information contained in the public administration information system in the sense of Act No. 365/2000 Coll., on public administration information systems, as amended, or in a similar system operated in another member state, which allows unlimited remote access. Such a link must contain the Internet address and data for logging in and searching for the requested information, if such data is necessary.

5.5 Changes of the Supplier's qualifications

If, after the submission of documents or a declaration of qualification, the Supplier's qualification changes during the procurement procedure, the Supplier is obliged to notify the Contracting Authority of this change within 5 working days and to submit new documents or a declaration of qualification within 10 working days of the notification of this change.



6 Access to the Tender documentation, Communication between the Contracting Authority and Suppliers

The Tender documentation is freely accessible in electronic form on the Contracting Authority's profile. All conditions and information regarding the electronic tool for awarding public contracts of the Institute of Nuclear Physics, including information on the use of an electronic signature, are available at: <https://ezak.ujf.cas.cz/>

The Contracting Authority warns the suppliers that registration is not immediate and is subject to approval by the system administrator.

In case of technical problems, you can contact the E-ZAK infoline at tel.: 538 702 719.

The Contracting Authority requires, in order to maintain legal clarity of the tendering procedure, that all communication with the Contracting Authority is conducted solely and exclusively in writing by electronic means.

7 Basic instructions for submitting Bids

7.1. Bid structure

The offer must contain at least the following parts:

- a) The Offer cover sheet (Annex no. 4 of the Tender documentation);
- b) Completed draft Purchase Contract (Appendix No. 1 of the Tender documentation);
- c) Completed Appendix No. 2 of the Tender documentation – technical specification;
- d) Qualification documents with which the supplier will demonstrate the qualification:
 - Basic qualification;
 - Professional qualifications.

In accordance with Article 5.1 hereof Suppliers may use an affidavit (is attached as Annex No. 3 of this Tender documentation) in place of the documents listed in Article 5.3.2 hereof.

- e) Other documents, if required by this Tender documentation or by PPA (for example affidavit to subcontractors, power of attorney, etc.).

7.2 Requirement on Bid language

Bids may be prepared in the Czech, Slovak, English or German language in line with the Contracting Authority's requirements stipulated herein and in the PPA; this requirement does not apply to documents submitted within the Bid outside the Contracting Authority's requirements (e.g. supplementary promotional documents, product sheets to prove the technical specification etc.).

Should the PPA or the Contracting Authority require submission of a document according to the laws of the Czech Republic, Suppliers may submit a similar document according to the laws of the country, where such document is being issued; such foreign documents shall be submitted along with their translation into the above Bid language. Should the Contracting Authority have doubt about the correctness of the translation, it may request that an official translation into the Bid language is procured using a qualified translator who is registered on the list of authorized translators and interpreters. Documents in Slovak or English language and education certificates (diplomas etc.) in Latin may be submitted without translation. Should the requested document not be issued under the laws of the 'issuing' country at all, Supplier may substitute it by an affidavit. The Contracting Authority



states that according to Sec. 45 (3) PPA, he can waive the obligation to submit the above-mentioned documents translated into Czech or English in cases where the documents and the data on them are sufficiently comprehensible and without doubt.

7.3 Requirements on a joint Bid

A joint Bid means a Bid which has been submitted by several Suppliers together. In such a case the Suppliers submitting a joint Bid shall be deemed one Supplier. Submission of a joint Bid shall be considered as a joint commitment of all the Suppliers involved, and the Suppliers shall be liable jointly and severally in accordance with Section 1874 of Act No. 89/2012 Coll., the Civil Code.

Hence the Contracting Authority advises that in the event that the Bid is submitted by more Suppliers jointly, the Contracting Authority will require, in line with Sec. 103 (1) letter f) PPA, that these Suppliers bear the liability for performance of the Public Contract jointly and severally, and to unequivocally demonstrate this joint and several liability for the performance of the Public Contract within their Bid.

8 Explanation of Tender documentation

Explanation of Tender documents will always be published on the profile of the Contracting Authority.

Requests for clarification/explanation of Tender documentation are submitted in the Czech or English language, in writing, in electronic form, on the Contracting Authority's profile of the (EZAK), no later than 4 working days before the deadline for submission of tenders (in accordance with the Rules for public procurements procedure and their controlling within OP JAK).

The Contracting Authority may provide the Suppliers with an explanation or modification of the Tender Documentation even without a prior request from the Supplier. In such a case, the Contracting Authority shall publish an explanation or amendment of the Tender Documentation in the Czech or English language no later than 4 working days before the deadline for submission of Tenders.

9 Manner and place for Bid submissions, Bid opening

Offers are submitted in writing, only in electronic form through the certified electronic tool E-ZAK.

The deadline for submitting Bids ends on the day and time specified in Article 1 above (hereinafter referred to as the "Deadline").

Offers received after this deadline will not be made available through the electronic tool, so the Contracting Authority will not open them and they will not be included in the evaluation.

The opening of Bids will take place after the end of the deadline for submitting bids at the headquarters of the Contracting Authority.

The opening of bids will take place in accordance with Sec. 109 PPA.

Due to the fact that Bids are submitted only in electronic form, the opening of Bids will be not public. Suppliers who submit a Bid within the required period have the right to personally inspect the written report on the evaluation of the Bids after agreement with the Contact person.

Detailed instructions for submitting a Bids via the electronic tool can be found in the "User's Guide", which is available at <https://ezak.ujf.cas.cz/>.



The Contracting Authority is not responsible for the technical conditions on the side of the Supplier.

The Contracting Authority warns the Supplier that the registration in electronic tool (E-ZAK) is not immediate and is subject to approval by the system administrator.

In case of technical problems, you can contact the E-ZAK infoline at tel.: +420 538 702 719.

10 Bid price requirements, structure of the Bid price in the Bid.

Suppliers shall specify the Bid price as the total price for the complete supply of the subject of the Public Contract and all costs relating to the execution of the Public Contract under the terms and conditions defined in the binding draft Contract. The Bid price shall be determined as an absolute amount in CZK or EUR and as non-exceedable price for the entire subject matter of the Public Contract. The costs to be included in the Bid price shall particularly comprise also the following:

production, transport, delivery and handover of the goods, including documentation, warranty service, any customs duties, fees, insurance, exchange rate differences, price developments, packaging and its disposal and all other Supplier's costs required to meet his obligations under the Contract.

The Bid price shall be quoted in the Bid according to the following structure:

- the total Bid price in CZK or EUR excluding VAT,
- the applicable percentage rate of VAT and the amount of VAT in case of Bid in CZK,
- the total Bid price in CZK including VAT in case of Bid in CZK.

The bid price shall be the maximum allowable price except for changes to the obligation under Sec. 222 of the PPA.

The Bid price, processed in the above structure, shall be inserted into the binding draft Contract given in Annex No. 1 and also into the Annex No. 2 - Technical specification.

11 Evaluation of the Bids, criteria and method

Bids to perform the Public Contract will be evaluated strictly in reference to their economic advantage, i.e. in accordance with Sec. 114 et seq. PPA, that constitutes the fundamental criterion for Bids evaluation.

Economical advantage of Bids shall be thus evaluated on the basis of **the lowest quoted Bid price, its total amount in CZK without VAT** is decisive.

If the bid price is stated in EUR, for bid evaluation purposes it will be converted to Czech crowns (CZK) at the exchange rate of the Czech National Bank valid on the day on which the last day of the deadline for submitting bids falls.

The Contracting Authority shall determine the order of Bids according to the quoted Bid price. The winning Bid (first in this order) shall be the bid quoting **the lowest bid price** while respecting / meeting all terms and requirements defined in the Tender Documentation provided that the Supplier demonstrated fulfilment of qualification requirements.

The Contracting Authority shall select the Supplier to conclude the Contract with, whose Bid had been evaluated as the most economically advantageous, i.e. as the bid quoting the lowest bid price.



In the case of the participation of several suppliers, i.e. obtaining several Bids, the Contracting Authority shall produce a report on the Bid evaluation and this report shall form a part of the Notification on the Selection of the Supplier within the meaning of Sec. 123 PPA.

The Contracting Authority will not evaluate Bids if it should evaluate only one Bid supplied by one Supplier.

12 Commercial, technical and other terms

Commercial and other terms within the meaning of Sec. 37 (1) letter c) PPA, defining the future framework for the contractual relationship between the Contracting Authority and the selected Supplier, have been stipulated in detail in the binding draft Contract which is attached hereto as Annex No. 1.

Suppliers shall fill in the required information into this binding draft Contract (especially their own identification data, information relating to evaluation criteria and other data as may be highlighted throughout the text of the draft Contract). The resulting filled-in binding draft Contract, signed by a person authorized to act on behalf of the supplier (or as its representative; in the case of negotiation through a representative, for reasons of legal certainty, the Contracting authority requires the legal title of representation to be explained in the offer, i.e. on the basis of a power of attorney, senior employee, etc, if the legal reason does not follow from other submitted documents, e.g. a prosecutor's office from an extract from the commercial register), shall be then submitted as their own draft Contract within their Bid.

Suppliers shall not be authorized to amend or modify the text of the binding draft Contract with the exception of information that they are required to fill in. Should a Supplier amend or modify any part of the Contract, which the Contracting Authority did not authorize, or enters information that are contrary to the Contracting Authority's requirements, the Bid shall be considered to have failed to comply with tendering terms and conditions

Binding technical conditions in the sense of Sec. 37 (1) letter b) PPA with requirements for the technical characteristics of the subject of performance are detailed in Appendix No. 2 - Technical specification.

The supplier must respect all the technical conditions stated in the Technical Specification annex. Failure to respect these technical conditions will be considered by the contracting authority as non-fulfillment of the procurement conditions, and the supplier may be excluded from the tender by the contracting authority.

13 Others

13.1 Further rights of the Contracting Authority

The Contracting Authority reserves also the following rights and terms:

- a) Given the nature of the subject-matter of the Public Contract, the Contracting Authority will not allow alternative Bid pursuant to Sec. 102 PPA;
- b) Suppliers are obliged to identify those parts of the Public Contract in the Bid which they may potentially execute using subcontractors and provide a list of such subcontractors, that are known to



them, with identification which specific part will be performed within the Public Contract by the subcontractors (Annex No. 3);

c) The Contracting Authority shall not make any payment to Suppliers in connection with their participation in this tendering procedure;

d) The Contracting Authority may assess fulfilment of conditions relating to participation in the tendering procedure before or after the evaluation of the Bids;

e) The Contracting Authority is entitled to cancel the tendering procedure in line with Section 127 (2) c-e) PPA until the Contract conclusion pursuant to Section 124 (1) PPA;

f) The contracting authority warns that if it does not find information about its beneficial owner in the selected supplier, which is a Czech legal entity that has a beneficial owner, in accordance with the law regulating the registration of beneficial owners from the register of beneficial owners, it will exclude such a participant from the procurement procedure;

g) The Supplier, who is a foreign legal entity, shall submit also the following information and documents prior to concluding the Contract:

- a) either an extract from a register similar to the Ultimate Beneficial Owners Register, or, if there is no such register,**
- b) identification data for all persons who are the ultimate beneficial owners of the legal entity, pursuant to the Act No. 253/2008 Coll., on selected measures against legitimisation of proceeds of crime and financing of terrorism, as amended, and documents showing the relationship of all these persons to the Supplier; these documents include but are not limited to:**
 - a. Extract from the Commercial Register or other similar register,**
 - b. List of shareholders,**
 - c. Decision of the statutory body on distribution of profits,**
 - d. Articles of association, bylaws or Founder's Deed.**

h) In case that the selected Supplier has its registered office abroad (i.e. outside the Czech Republic) and is a joint-stock company or has a legal form similar to a joint-stock company, they will be required to submit also an affidavit showing which persons are holders of shares whose aggregate nominal value exceeds 10 % of the registered capital of the Supplier, and indicating the source on which the information on the amount of the share of shareholders is based;

13.2 Binding nature of the Contracting Authority's requirements

The information and data stipulated by the Contracting Authority in various parts of the Tender Documentation constitute mandatory requirements. Each Supplier shall be obliged to fully and unconditionally comply with these requirements when processing / preparing their respective Bids. Non-acceptance of the Contracting Authority's requirements specified in the Tender Documentation may constitute failure to fulfil tender terms and conditions hereof and may result in exclusion of the Supplier from the tendering procedure.

13.3 Confidentiality of Information

Suppliers shall be obliged to treat all information that will be provided to them during the tendering procedure as strictly confidential (except for information that was published). Suppliers shall be obliged to refrain from any act that might disrupt the transparent and non-discriminatory conduct of



the procurement procedure, in particular any act that could result in a distortion of competition between Suppliers within the tendering procedure for this Public Contract. Should parties hereto exchange any information identified as confidential with each other during the Contract negotiations, the receiving party to which the information was provided shall not disclose such information to any third party, nor use it contrary to their purpose for its own needs, regardless of whether the Contract is eventually concluded or not. The party breaching this duty shall be liable to pay damages, in accordance, by analogy, with Sec. 2913 Act No. 89/2012 Coll., Civil Code, as amended.

Annexes:

Annex No. 1 – Binding Draft Purchase Contract – EN

Annex No. 2 - Technical specification – EN

Annex No. 3 - Consolidated Affidavit - EN

Annex No. 4 - The Offer cover sheet - EN

In Řež on 22/03/2024

prof. RNDr. Anna Macková, Ph.D.
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