

Notification to enter into negotiations within the framework of a negotiated procedure

1 Basic information on the negotiated procedure

(hereinafter the "**Negotiated Procedure**")

Contracting Authority:	<p>Fyzikální ústav AV ČR, v. v. i. Na Slovance 2 182 21 Praha 8 IČO: 683 78 271 DIČ: CZ68378271 Represented by: doc. Jan Řídký, DrSc., Director Person responsible for technical matters: Ing. Bedrich Rus, PhD Telephone: +420 266 052 871 e-mail: rus@fzu.cz</p> <p>(hereinafter the "Contracting Authority").</p>
Authorized representative:	<p>HOLEC, ZUSKA & Partneři, sdružení advokátů Palác Anděl, Radlická 1c/3185 150 00 Praha 5 IČO: 662 31 051 DIČ: CZ5912220776 Responsible Partner: JUDr. Karel Zuska Contact person: Mgr. Matej Kliman e-mail: mkliman@holec-advokati.cz tel.: +420 296 325 235 fax.: +420 296 325 240</p> <p>(hereinafter the "Authorized Representative").</p>

Legal form:	Above-the-threshold public contract for supplies administered in the form of a negotiation procedure without publication pursuant to Sec 23 (5) a) of the Czech Act No. 137/2006 Coll., as amended (hereinafter the " Act " and " Public Contract ").
Subject matter of the Public Contract (name):	Technology development and delivery of a kilojoule laser for 10 PW beamline operating at augmented shot rate (L4) - Round 2 (public tender for supplies for the purposes of research and development)
Classification of the subject matter (classification of the supply):	CPV - 73000000-2 Research and Development and related services CPV - 73100000-3 Research and experimental applications CPV - 73110000-6 Research CPV - 73120000-9 Experimental applications CPV - 38636100-3 Lasers
Timing:	28 months (anticipated commencement date January, 31st, 2014, and required completion date June 30th, 2016).
Legal issues not expressly regulated herein:	Legal issues related to the awarding procedure and the Public Contract which are not expressly regulated herein shall be governed by the relevant provisions of the Act and in the future documentation for the Negotiated Procedure with participation of applicants in this process.
Deadlines for submitting of Applications to enter the Negotiated Procedure	October 18 th , 2013

2 Substantiation of the usefulness of the tender in accordance with section 86 (2) of the Act. No. 137/2006 Coll. and Section 1 of the Regulation No. 232/2012 Coll.:

2.1 Description of Contracting Authority's needs, which will be met by this public contract:

The Contracting Authority, whose main activities focus on research and development in the field of physics, is the beneficiary of grant provided in connection with the "ELI: EXTREME LIGHT INFRASTRUCTURE" Project (hereafter the "Project").

The Contracting Authority, in its position as the beneficiary, is bound to fulfil the technical aims of the Project as defined in the Project's objectives.

The main objective of the Project is delivery of ultra-short high-energy laser pulses for the generation and applications of high brightness X-ray sources, for particle acceleration, and for research projects in high-field physics and laboratory astrophysics. One of the key components of the ELI-Beamlines facility for the fundamental research is the beamline L4, which is projected to generate pulses with 10 PW peak power.

The laser system sought shall constitute the first stage of the L4 laser beamline and shall address the major user requirements for a system that will allow achieving the following major elements of the ELI-Beamlines mission:

- Laser electron acceleration
- Plasma physics and laboratory astrophysics using ns-duration kilojoule laser pulses, in combination with PW pulses provided by other laser beam(s)
- New coherent X-ray sources
- High-field frontier physics

The generation of highly accelerated (is greater than 10 GeV) electrons requires high-energy pulses with peak power of 10 PW and beyond, with duration of typically 100 to 300 fs. It was identified by top-level user requirements that laser pulses with energy significantly exceeding 1 kJ, delivered in a single beam, are required. In the first phase, the laser system sought will make it possible starting immediately user projects in the field of plasma physics and laboratory astrophysics, other high-profile research fields of ELI-Beamlines. The required technology shall directly enable a beamline generating 10 PW peak power without adding additional laser amplifiers, and shall also allow pumping OPCPA large-aperture amplifiers.

2.2 Description of the public contract's subject matter

The subject matter of this procurement, the flash lamp pumped kilojoule laser, constitutes the first major component of the L4 beamline. Required is a system

capable to deliver pulses with energy is greater than 1.5 kJ in a single aperture, with duration adjustable between approximately 0.5 and 3 ns and with high pulse power contrast. Based on analysis of available solutions with well demonstrated performance, advanced Nd:glass technology has been identified as the most suitable candidate to support technical and operational requirements for the kilojoule nanosecond-pulse L4 laser. Other major components towards completion of the L4 beamline will be subject of separate tender procedures.

2.3 Description of the mutual relation between the public contract subject matter and the Contract Authority's needs:

The subject matter of the public contract will ensure development, manufacture and proper integration of the key system to be delivered to the research centre being built, which in turn will mean that the Contracting Authority fulfils its obligations arising to it from the decision granting aid to the Project.

2.4 Use of Negotiated Procedure without publication

At the IoP request, in relation to the L4 beamline acquisition for the ELI Project, the Ministry of Regional Development and Ministry of Education, Youth and Sports (the Managing Authority) have expressed their consent to apply a procedure defined in Sec. 23 (5) of the Act.

3 The manner and basic terms of the Negotiated Procedure

3.1 Negotiated Procedure. Phasing

The Negotiated Procedure, which is opened by this notification, will be carried out in the following two basic phases:

- **Application phase**, in which the notified applicants may apply to enter the Negotiated Procedure within the prescribed deadline (the applicants who qualify hereinafter the "**Participants**")
- **Negotiations phase**, the purpose of which shall be the elaboration of a detailed tender documentation by the Contracting Authority based on the negotiations with the Participants on the technical, legal and economical aspects of the tender (hereinafter the "**Tender Documentation**"). For the purposes of this phase the Contracting Authority is prepared to conclude a Non Disclosure Agreement with each participant to safeguard their interests.
- **Bidding phase**, in which the Participants will be requested to submit their bids in accordance with the Tender Documentation.

More details on these phases are contained in the Negotiated Procedure overview attached hereto.

As an option, the Contracting Authority reserves the right to implement at any phase of the Negotiated Procedure a **Qualification phase**, the purpose of which shall be to allow Participants to prove their qualification to the Contracting Authority in proportion to the character and extent of the L4 beamline.

3.2 The manner and terms for the provision of Tender Documentation

The Tender Documentation shall be provided by the Contracting Authority to each Participant pursuant to Sec 48 of the Act after the conclusion of the negotiation phase as described above in Art. 3.1 above together with the request to submit the bid.

3.3 The manner and form in which the Negotiated Procedure will take place

The Negotiated Procedure will be carried out **both in writing and in verbal form** with all Participants separately, i.e. the Contracting Authority shall not provide any information received from one Participant to other Participants save for information which shall be included into the Tender Documentation as information defining the actual terms of the tender.

The negotiations **in verbal form** may take place both in the form of personal meetings or in the form of video- or teleconferences. The verbal negotiations shall be recorded for the purpose of documenting the Negotiated Procedure.

The Participants shall be informed about the term of the first meeting after **submitting their applications to participate in the Negotiated Procedure**.

3.4 Completion of Negotiated Procedure – tentative information

The tentative dates for the final meeting(s) shall be 16th of December 2013, from 10:00 to 14:00 hours, at the seat of Contracting Authority (may alternatively be held through videoconference).

3.5 Deadline and place for bid submissions

The deadline and the place for submissions of bids will be defined in the Tender Documentation after the end of the negotiations phase.

3.6 Qualification criteria (tentative information)

The Contracting Authority is notifying all known world leading entities which are in the Contracting Authorities' view qualified and capable of the delivery subject of this Negotiated Procedure. Therefore, in the present phase of the Negotiated Procedure, the Contracting Authority does not stipulate any qualification criteria.

However, should the need arise at any time during the negotiated procedure to check the Participants' qualification, As an option, the Contracting Authority reserves the right to implement a **Qualification phase**, the purpose of which shall be to allow Participants to prove their qualification to the Contracting Authority in proportion to the character and extent of the L4 beamline.

3.7 Remuneration

The Contracting Authority will not pay any remuneration for participation in the Negotiated Procedure. Participation in the Negotiated Procedure is at the sole expense of Participants.

3.8 Evaluation criteria – tentative information

The basic criterion for the selection of the potential contractor shall be, pursuant to Sec 78(2) of the Act, the economic value. Partial evaluation criteria including their individual weight shall be provided in Tender Documentation in accordance with provisions of Sec 78(6) of the Act.

3.9 Additional information

Applicants/Participants are entitled to request additional information on Negotiated Procedure in writing on the Contracting Authority. Requests for additional information from applicants/Participants must be received in writing or via e-mail at the address specified in this qualification documentation.

The Contracting Authority will provide additional information to the procedure at its earliest convenience in accordance with applicable law. Additional information, including the exact wording of the original query, will be sent to all applicants who have received this documentation.

3.10 Rights of the Contracting Authority

The Contracting Authority further reserves the following rights and conditions:

- a) The Contracting Authority will not return submitted Applications nor any other documentation presented by the Participants as part of the Negotiated Procedure;
- b) The Contracting Authority may require that alternative version of the bid are prepared in accordance with Sec 70 of the Act (further requirements in this respect will be indicated in the Negotiated Procedure documentation);
- c) The Contracting Authority will not compensate applicants/Participants for any costs or expenses incurred by the applicants/Participants in connection with their participation in the Negotiated Procedure.

3.11 Confidentiality of information

Applicants shall treat all information provided to them during the Negotiated Procedure as confidential (except for information that are publicly available) and the Applicants shall issue a Declaration to this effect. The Applicants shall be obliged to refrain from any action which might undermine transparency and non-discriminatory nature of the negotiation process, especially any acts, which could result in a distortion of competition between Applicants within the award procedure.

3.12 Inspection of the place of performance

The Contracting Authority will not organize any inspections of the place of performance.

4 The method of processing Applications and their form

4.1 Recommended requirements for structuring and processing of applications and the documents to assess compliance with the qualification criteria

The term Application means a written request by an Applicant to participate in the Negotiated Procedure supported by documents proving required by this Notification. The Application and all other documents and data will be provided in the Czech or English language (documents in a language other than Czech or English will be accompanied by an official translation into Czech or English) in writing and request shall be signed by a person authorized to act on behalf of the Applicant in accordance with the extract from the Commercial Register or a person duly authorized by the statutory body; the power of attorney must be included in the application.

4.2 Recommended structure of Applications

The Contracting Authority recommends that the Application is divided in accordance with the following outline.

The Application shall contain the following sections:

- a)** Cover sheet according to Annex No. 1 of this qualification documentation
- b)** An extract from the Commercial Registry, if registered therein or an extract from any other similar corporate records-keeper if registered therein (requested as a formal attachment to Application not as proof of qualification criteria);
- c)** A document proving authorization to carry out business activities under special legal regulations to the extent corresponding to the subject matter of the present Public Contract, in particular, a document demonstrating the appropriate trade license or an extract from the Trade Registry, including individual branches of trade; documents demonstrating the authorization to provide at the least the following activities which are necessary to the fulfilment of the subject matter of the public contract pursuant to Sec 2.6. hereof (requested as a formal attachment to Application not as proof of qualification criteria);
- d)** Confidentiality declaration in accordance with Article 3.11 above.
- e)** Should the Applicant act as a member of a consortium established for the purposes of participation in the Negotiated procedure, the Application shall contain a written information about the consortium (including business name, address, ID Nr., the authorized representative, nomination of the party entitled to act on behalf of the consortium within the Negotiated Procedure, and each partner's tentative share in the fulfilment of the tender) and the Application shall contain the documents ad b) to c) from all members of the consortium therein (requested as a formal attachment to Application not as proof of qualification criteria);
- f)** Should the Applicant anticipate to fulfil the tender with the use of a subcontractor(s) the Application shall contain a written information about such subcontractor(s) (including business name, address, ID Nr., the authorized representative and tentative subcontractor's share in the fulfilment of the tender) and the Application shall contain the documents ad b) to c) from any subcontractors (requested as a formal attachment to Application not as proof of qualification criteria).

Recommended formal requirements for processing Applications

- a)** The Application will be submitted in hard copy in 1 (one) original submitted. Additionally, 1 (one) paper copy and a CD or other electronic media containing the scanned form of the Application documents shall be welcome by the Contracting authority;

- b)** The original of the Application must be clearly labelled "ORIGINAL" on the front page in the upper right corner; the copy of the Application will be labelled the front page in the upper right corner as a "COPY";
- c)** The Application will be printed / scanned so that is clearly legible and in case of Application submitted in hard copy, the paper shall be firmly bound, including all attachments. The Application shall not contains corrections, crossed out words and other irregularities, which could be misleading;
- d)** Original Application will be secured against tampering with single pages, e.g. tied with a string, with loosed ends of the string taped over and sealed. If the Application is submitted in loose-leaf binder (or a similar) it must be secured against possible manipulation of individual sheets, but so that it is possible to turn the pages in the Application without obstacle;
- e)** All sheets of the original Application will be numbered by uninterrupted ascending numerical series beginning with number 1 on the table of contents of the Application (may be handwritten). The title page of the Application or leaves separating individual sections shall not be numbered. If the Applicant inserts into the Application a separate document, which is already numbered, the Applicant shall number these clearly and distinctly again to maintain uninterrupted sequence;
- f)** The Application shall be submitted in the prescribed number of copies in a single, non-transparent, sealed and completely intact envelope or other container as specified in Article 5 hereof.
- g)** If an Application is made jointly by several Applicants, it shall clearly specify the person who is authorized to represent these Applicants vis-a-vis the Contracting Authority during the Negotiated Procedure.
- h)** The Applicant shall not participate in the selection process more than once, such as in a joint Application made by several Applicants or as a subcontractor of another contractor for the purposes of fulfilment of qualification. In the event of a breach of this condition, the Contracting Authority shall have the right to excludes such Applicant, respectively all Applications / bids in which the Applicant participates.

5 Place, time and manner of submission of Applications

The Application in hard copy / paper form shall be submitted in a sealed envelope as follows:

The upper left front corner of the envelope (package) will be marked with Applicant identification data and the full name of the award procedure ("High repetition rate advanced petawatt laser beamline - Round 2") and below the text "Do not open before the opening session!"

The address for the submission of Applications
HOLEC, ZUSKA & Partneři, sdružení advokátů
Palác Anděl, Radlická 1c/3185
150 00 Praha 5, Czech Republic

will be normally given in the lower right corner. The Application in hard copy / paper form will be delivered personally, by registered mail or courier to the address of an authorized person during office hours, i.e. Monday □ Friday 9:00 to 6:00 p.m.

The deadline for submissions of Applications shall expire on **Friday, October 18th, 2013 at 12:00 hours (noon) CET** □ **Prague local time** (the "Deadline").

The delivery time for submissions in hard copy / paper form shall be considered the time when the Authorised representative takes receipt of the Application from the person making delivery.

Applications submitted or received after the expiry of the deadline will not be unsealed /opened. The Contracting Authority shall promptly notify the Applicant that his Application was submitted after the Deadline, in accordance with Sec 71(6) of the Act.

6 Date, place and procedure for opening envelopes with Applications

Opening of envelopes with applications will be held on October 18th, 2013 at 12:15 hours □ Prague local time at the address of the Authorized Representative: HOLEC, ZUSKA & Partneři, sdružení advokátů, Palác Anděl, Radlická 1c/3185, 150 00 Praha 5 in a meeting room No. 1.

Representatives of Applicants whose Applications have been duly received by the Deadline shall have the right to attend the opening of the envelopes.

For organizational reasons, the number of representatives for each Applicant shall be limited to one individual. Representatives from the Contracting Authority will require the Applicant's representative to submit their ID card or other proof of identity, powers of attorney and an extract from the Commercial Registry, or a similar document showing the composition of the statutory body. If the statutory representative of the Applicant attends the opening session, he shall prove his authorization only an excerpt from the Commercial Registry (or similar document showing the composition of the statutory body of the Applicant) and identity card. The above documents shall be submitted in an original or a certified copy, and may not be older (except for official identity documents) than 90 calendar days. The Contracting Authority shall keep the

powers of attorney and registration certificates / extracts (or their equivalent) for archiving.

The commission for the opening the envelopes established in accordance with the Act shall proceed in accordance with Sec 71 et seq of the Act. Envelopes of the Applicants who duly submitted the Application will be opened in the order they were received by the Contracting Authority. After opening each envelope, the commission shall check the completeness of the Application and notify suppliers whether the Application is deemed to have been submitted complete.