

PROCUREMENT DOCUMENTATION

for an above threshold public contract for supplies called:

„High-energy diode-pumped nanosecond laser”

awarded in an *open procedure* pursuant to Section 56 of the Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter the „*Act*”),

(hereinafter the “*Procurement Documentation*”, “*Public Contract*” and “*Procurement Procedure*”)

Contracting authority:

Institute of Physics of the Czech Academy of Sciences, public research institution
with its registered office at Na Slovance 2, 182 21 Prague 8, identification No.: 683 78 271
hereinafter the “*Contracting authority*”



Fyzikální ústav Akademie
věd České republiky

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1. Basic data on Contracting authority and Procurement Procedure

1.1. Basic data on Contracting authority

Contracting authority	Institute of Physics of the Czech Academy of Sciences, public research institution
Registered Office:	Na Slovance 2, 182 21 Prague 8, Czech Republic
Identification No.:	683 78 271
Tax Identification No.:	CZ68378271
Person authorised to act on behalf of the Contracting authority:	RNDr. Michael Prouza, Ph.D., Director
Representative of the Contracting authority pursuant to Section 43 of the Act:	Advokátní kancelář Volopich, Tomšíček & spol., s.r.o. registered in the Commercial Register kept by Regional Court in Plzeň, Section C, File 29293, with its registered office at Vlastina 602/23, Severní Předměstí, 323 00 Plzeň, Id. No.: 024 76 649 <u>Contact person:</u> Mgr. Ivan Milev tel.: +420 377 519 999 email: milev@akvt.cz
Type of Public contract:	Pursuant to Section 14 of the Act the Public Contract is an above threshold public contract for supplies. Pursuant to Section 56 of the Act the Contracting authority carries out the Procurement Procedure as an open procedure.

1.2. Access to Procurement Documentation

This Procurement Documentation was published on the profile of the Contracting authority: <https://www.e-zakazky.cz/profil-zadavatele/74e987e1-b4a1-4571-b8b6-2cd93fe6f932>.

The profile of the Contracting authority in the system Tender Arena serves only for the purpose of submitting bids and does not contain this procurement documentation or its annexes. <https://www.tenderarena.cz/profil/detail.jsf?identifikator=FZU>

The information and data listed in this Procurement Documentation and its annexes define the minimum technical and other mandatory requirements of the Contracting authority for the submission of bids and the fulfilment of the Public Contract. The participants are obliged to respect these requirements in their bids.

1.3. Preliminary market consultations

The Contracting authority conducted a preliminary market consultation with the following company:

- **InnoLas Laser GmbH**, Justus-von-Liebig-Ring 8, Krailling, Germany, reg. no. 176659

to gain all the information necessary for the correct and objective preparation of the award criteria. The purpose of the preliminary market consultation was to verify that potential economic operators can fulfil requirements of the Contracting authority within the available budget and that the award criteria are not impossible to be fulfilled.

The following information/requirements included in this Procurement Documentation were subject to the market consultation with the above identified company:

Annex no. 2 to this Procurement Documentation - Purchase Contract

- Art. 1.2 – the laser system shall be delivered EXW Incoterms 2020
- Art. 2.1 – the delivery period is 20 weeks and the period to complete the Related Activities is 3 weeks from the arrival of the laser system to the HiLASE facility

2. Subject-matter of the Public Contract

2.1. Specification of the subject-matter of the Public Contract

The subject matter of the Public Contract is the supply of the high-energy diode-pumped nanosecond laser to the Contracting Authority that is in detail described in Annex no. 1 - Technical Specification of this Procurement Documentation.

2.2. Classification of the subject matter of the Public Contract in accordance with Common Procurement Vocabulary

CPV Code	Description
38636100-3	Lasers
38000000-5	Laboratory, optical and precision equipments (excl. glasses)
31712348-1	Laser diodes

2.3. Maximum permissible total bid price

Maximum permissible Total Bid Price is **253 000 EUR without VAT**.

The Contracting Authority draws attention of economic operators to the fact that total bid price is limited and cannot be exceeded.

Should the participant's Total Bid Price exceed the referred-to maximum value, then the participant shall be excluded for the reason of its failure to meet the award criteria.

2.4. Time and place of delivery of the subject of matter of the Public Contract

Expected ending of performance: as stipulated in the draft of the Purchase Contract.

Place of delivery: as stipulated in the draft of the Purchase Contract

2.5. Technical conditions

Technical conditions for the subject matter of the Public Contract are in detail specified in **Annex no. 1 - Technical Specification** of this Procurement Documentation.

If the technical conditions are set by a direct or indirect reference to the economic operators or products, or patents for inventions, utility models, industrial designs, trademarks or designations of origin, the economic operator may offer another equivalent solution. In this case, the economic operator proves, that the proposed supplies satisfy equivalently the requirements defined by the Contracting Authority in the Technical specification.

The Contracting authority draws attention of all participants to the fact that if a participant fails to meet all the requirements given by Annex no. 1 of this Procurement documentation, such a participant may be excluded for the reason if its failure to meet the requirements stated in the Procurement Documentation and its Annexes.

2.6. Business conditions

Business conditions for the performance of the Public Contract are specified in **Annex no. 2 - Purchase Contract** hereto.

The participant is obliged to fill only the places labelled as follows: [to be filled in by the bidder] within the Purchase Contract.

The participant is not entitled to make any other changes in the Purchase Contract.

The draft of the Purchase Contract must be signed by an authorised person of the participant (either its director or a person empowered or in other way authorised thereto). In the latter case the power of attorney or authorisation must be included in the bid.

The economic operator is entitled to include simple copies of the signed contract and potentially of the power of attorney into the bid.

2.7. Funding of the Public Contract

The subject matter of the Public Contract shall be funded from the Contracting authority's own financial resources.

2.8. Social, ecological and innovative aspects

The Contracting authority will award the Public Contract in accordance with the principles of socially and environmentally responsible procurement. Socially and environmentally responsible procurement also takes into account the related impacts of the Public Contract, especially in the areas of employment, social and labour rights and the environment.

Aspects of socially and environmentally responsible procurement procedure are taken into account in particular in this Procurement Documentation and in the text of the Purchase Contract.

3. Qualification of participants

The economic operator is required to prove the following qualification criteria:

1. Basic qualification criteria
2. Professional qualification criteria
3. Technical qualification criteria

3.1. Basic qualification criteria

An economic operator shall not be qualified if it:

- 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 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 is in a similar situation pursuant to the law of the country of its registered office.

The economic operator shall prove that it fulfils the basic qualification requirements in relation to the Czech Republic by submitting:

- a) a copy of an entry in the Criminal Records in respect of Article 3.1 (a) of this Procurement Documentation; if the economic operator is a legal person, both this legal person and every member of its governing body shall meet the condition specified in Article 3.1 (a) hereof. Where a legal person is a member of the governing body of the economic operator, the condition specified in Article 3.1 (a) hereof shall be met by (i) this legal person, (ii) every member of the governing body of this legal person, and (iii) the person representing this legal person in the governing body of the economic operator;
- b) a confirmation from a relevant tax office in respect of Article 3.1 (b) of this Procurement Documentation,
- c) a written affirmation regarding excise duty in respect of Article 3.1 (b) of this Procurement Documentation,
- d) a written affirmation in respect of Article 3.1 (c) of this Procurement Documentation,
- e) a confirmation from a relevant district social security administration in respect of Article 3.1 (d) of this Procurement Documentation,
- f) a copy of an entry in the Commercial Register, or a written affirmation in the event that the economic operator is not incorporated in the Commercial Register, in respect of Article 3.1 (e) of this Procurement Documentation.

If a participant in the Procurement procedure is a branch of a business of

- a) a foreign legal person, the condition specified in Article 3.1 (a) hereof shall be met by this legal person as well as the head of the branch,
- b) a Czech legal person, the condition specified in Article 3.1 (a) hereof shall be met by (i) this legal person, (ii) every member of the governing body of this legal person, and (iii) the person representing this legal person in the governing body of the economic operator and (iv) the head of the branch.

3.2. Professional qualification criteria

The economic operator shall prove its professional qualification criteria 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.

3.3. Technical qualification criteria

The Contracting authority sets following technical qualification criterion in order to prove experience that is necessary for the Public Contract to be performed to an appropriate level of quality.

The economic operator shall prove its technical qualification by submitting:

- a) **according to Section 79 (2) paragraph b) of the Act: a list of important supplies provided by the economic operator in the past 3 years before the commencement of the Procurement Procedure:**

Minimal extent and specifications of significant supplies:

At least one supply consisting in supply of High-energy diode-pumped nanosecond laser with the following technical properties: energy above 500mJ diode pumped laser, with a pulse width withing the range of 5-20 ns and repetition rate higher than 10 Hz.

The economic operator shall prove that it fulfils this technical qualification requirement by submitting the **list of the significant supplies** including the identification of clients (including their functional contact data), price information and dates of delivery (month and year of delivery) of the supplies and a brief description of the supplies (it is recommended to use a form of an affirmation that is attached hereto as **Annex No. 6 – List of Important Supplies**).

- b) **according to Section 79 (2) paragraph k) of the Act: a technical description of the offered laser**
- economic operators shall include a technical description of the offered device in their bids. The technical description of the offered laser shall be prepared to such extent that the Contracting Authority may verify that the bidder meets the minimal technical requirements stated in the Annex No. 1 - Technical Specification.

3.4. Submission of qualification documents

Where the Contracting authority requires a document to be submitted, the economic operator shall submit a copy of the document. Before the contract is concluded, the Contracting authority shall request the selected economic operator to submit the originals or certified copies of the qualification documents, unless they have already been submitted during the Procurement Procedure.

Where the Contracting authority requires a document to be submitted, the economic operator shall submit it in Czech, Slovak or English language or it shall be submitted along with its translation into one of these languages.

The documents demonstrating basic qualification under Section 74 of the Act shall demonstrate the fulfilment of the required qualification criterion **not later than three months before the date of the commencement of the Procurement Procedure.**

With the exception of the documents according to the Article 3.3 of this Procurement Documentation, the economic operator may substitute the submission of qualification documents in its bid by an affirmation indicating the fulfilment of the required qualification criteria. It is recommended to use a form of an affirmation that is attached hereto as an **Annex No. 3 – Affirmation on Qualification Criteria.** The economic operator may also substitute the submission of qualification documents in its bid by a European Single Procurement Document pursuant to Section 87 of the Act. However, before the contract is concluded, the Contracting authority is entitled to request the selected economic operator to submit the originals or certified copies of the qualification documents, unless they have already been submitted during the Procurement Procedure.

Where qualification has been obtained abroad, it shall be proved by documents issued under the law of the country in which it has been obtained and to the extent required by the Contracting authority.

In case of joint participation of economic operators, the basic and professional qualifications pursuant to Section 77 (1) of the Act shall be proved by each economic operator separately.

An economic operator may prove the technical qualification through other persons. In that case, the economic operator is obliged to submit to the Contracting authority:

- a) documents proving that the professional qualification pursuant to Section 77 (1) of the Act has been fulfilled by the other person,
- b) documents proving that a missing part of the qualification has been fulfilled by the other person,
- c) document proving that the basic qualification was fulfilled pursuant to Section 74 of the Act by the other person, and
- d) a contract or the other person signed confirmation about its existence, which contains a written commitment of the other person to provide performance of the Public Contract or to provide things or rights which the economic operator is entitled to use when performing the Public Contract, at least to the extent to which the other person has proved its qualification instead of the economic operator.

4. Requirements for processing the bid price

The economic operator is required to state **the Total bid price in EUR excluding VAT** in the signed draft of the Purchase Contract (Art. 4.1 of the Purchase Contract).

Value added tax shall be paid in accordance with the applicable legal regulations.

The total bid price is the maximum price that cannot be exceeded during performance of the Public Contract and shall include all costs that the economic operator will incur during performance of the Public Contract.

The total bid price must also include any and all costs even those not explicitly specified but about which the economic operator knew or should and could have known considering its professional knowledge, exercising all professional care.

Payment conditions are specified in the Purchase Contract that is as an **Annex no. 2** integral part of this Procurement Documentation.

5. Evaluation criteria

Bids shall be evaluated pursuant to Section 114 (1) of the Act on the basis of their economic advantageousness.

The Contracting authority evaluates the Total bid price in EUR net of VAT. The price shall be given in the structure and under the conditions defined in the Article 4 herein.

The Contracting authority shall evaluate the economic advantageousness solely on the basis of the lowest bid price. The winning bid will be the bid with lowest Total bid price.

The economic operator shall not be authorised to make the bid subject to any conditions. Any conditions or provision of several different values in the bid in parts that are subject to the evaluation shall constitute a reason to eliminate the bid and exclude the Participant from the Procurement Procedure.

6. Bid processing conditions and requirements

6.1. Conditions for the submission of bids

The Contracting authority shall only accept bids in electronic form. Bids in another form are not permitted.

The time limit for submission of bids:

Bids shall be submitted in the time limit published on the profile of the Contracting authority.

Bids shall be submitted electronically using the eGORDION v. 3.3 - Tender arena (hereinafter “*Tenderarena*”) electronic tool which is available at www.tenderarena.cz. Economic operators may find at this link also a guide for using the Tenderarena electronic tool (via link “*Help*” in footer) and helpdesk contacts.

Bids shall be submitted in electronic form only using the Tenderarena electronic tool within the time limit for the submission of bids.

If the bid is not delivered to the Contracting authority within the time limit for the submission of bids or in the manner required in this Procurement Documentation, it shall not be considered as submitted and it shall not be taken into consideration in the procurement procedure.

Bids in electronic form shall not exceed the size of 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. Acceptable file formats for submission of bids are. Microsoft Office (Word, Excel), Open Office, PDF, JPEG, GIF, or PNG.

For the submission of bids in electronic form the bids must be encrypted with a certificate provided at the Tenderarena electronic tool; the certificate is attached to the Procurement Documentation at www.tenderarena.cz. In the case of encryption with other certificates, such a bid will be considered not delivered to the Contracting authority in the manner laid down in this Procurement Documentation and such a bid will not be considered as submitted to the Contracting authority. The bid encryption with a certificate is carried out automatically in the Tenderarena electronic tool before the bid is submitted to the Tenderarena electronic tool using public certificate provided by the Contracting authority.

The Contracting authority points out that the Contracting authority bears no responsibility for any technical conditions on the economic operator’s side. The Contracting authority recommends economic operators to consider especially the speed of their Internet connection when submitting bids so that bids are submitted within the time limit for submission. This means uploading all attachments of the bid and final submission of the bid to the Tenderarena electronic tool.

To login to the Tenderarena electronic tool and submit a bid via the Tenderarena electronic tool the economic operator shall be registered in Central Economic Operator Database – “*Centrální databáze dodavatelů (CDD)*” at www.fen.cz. Registration is not charged and takes up to 48 hours (on working days) after all required documents have been submitted (either by post or electronically). **Helpdesk contacts are available at www.fen.cz.**

The bid submitted in electronic form must include identification details of the participant, in particular the following: commercial name of the company, registered office, ID No., legal form, person authorised to act on behalf of the participant or a person authorised to represent the participant, contact address for correspondence between the participant and the Contracting authority.

The bid must be written **in Czech, Slovak or English.**

If the bid is submitted jointly by more participants (joint bid), the participant shall specify a person in the bid who shall be empowered to represent these participants for communicating with the Contracting authority during the Procurement Procedure.

Simple copies (scans) of the signed documents provided in the bids are sufficient.

The participant shall submit the bid containing the following documents and parts, whereas the following structure is only recommended:

a) **Cover Bid Note**

The cover bid note shall include the following details: Public Contract name, basic identification details of the Contracting authority and the participant (including persons empowered to be involved in further proceedings and stating an enterprise categorisation in accordance with the Recommendation 2003/361/ES), participant shall state the contact e-mail address for electronic communication with the Contracting authority (the address will be used for the Service of the Contracting authority's electronically signed documents concerning the assessment and evaluation of the bids during this Procurement Procedure), date and signature of the person authorised to act on behalf of the participant.

The cover bid note shall also include the statement of the economic operator that the economic operator fully and without reservations accepts the business and technical conditions stated in the draft of Purchase Contract, which were the integral parts of the Procurement Documentation.

The participant may use Annex No. 4 hereto.

- b) **Documentation proving qualifications prerequisites** meeting in line with art. 3 hereof (the participant may use Annex No. 3 and Annex No. 6 hereto)
- c) **Purchase Contract – Annex No. 2 hereto (signed by a person authorized to act on behalf of the economic operator)**
- d) **Filled Affirmation of the Economic Operator** (on grounds of the Conflicts of Interest Act ad EU Sanctions Regulation) (Annex No. 5 hereto).

The economic operator is entitled to include simple copies of the signed contract and potentially of the power of attorney (see Art. 2.6 hereof) **into the bid**.

In case that the Act or the Contracting authority requires to submit a document in compliance with the Czech law, the participant is entitled to submit a similar document issued pursuant to the legal code of the country where the document has been issued. The document shall be submitted in Czech, Slovak or English language.

The document may be substituted by an affirmation in the case that the document is not being issued pursuant to the legal code of the country of participant's registered office.

6.2. Opening of bids

In accordance with section 109 of the Act, the opening of bids will be carried out in electronic form only. Opening a bid in electronic form shall be understood as granting access to the content of the bid to the Contracting authority. The Contracting authority shall open bids in electronic form after the expiry of the time limit for the submission of bids. When opening bids in electronic form, the Contracting authority shall check whether the bids were submitted within the prescribed time limit and whether the data message containing the bid has not been tampered with before the opening.

7. Other conditions

In accordance with Section 39 (5) of the Act, the Contracting authority may verify the credibility of the data, documents, samples or models provided by the participant and may also acquire them itself.

7.1. Identification of the real owner of the selected economic operator

In relation to the determination of the real owner of the supplier, if the supplier is a legal entity, the Contracting Authority will proceed according to the rules contained in Section 122 (5) of the Act, or

Section 122 (6) of the Act should the supplier be a foreign legal entity. In the latter case, the supplier may be requested to submit the following:

- 1) an extract from foreign evidence of beneficial owners; or
- 2) identification data of all persons that are its beneficial owners, **and**
documents that demonstrate the relation of persons under paragraph 2) to the economic operator; such documents include, but are not limited to:
 - a copy of an entry in the Commercial register or other similar records,
 - a list of shareholders,
 - a decision made by the governing body regarding payment of share in profit,
 - a memorandum of association, a letter of formation or articles of association. The selected economic operator shall submit the aforementioned information and documents in the language stipulated by Article 6.1 hereof.

7.2. Exclusion of a participant on the grounds of its legal form

The Contracting authority draws attention of the economic operator that in accordance with Section 48 (7) and (9) of the Act, the Contracting authority may exclude from the Procurement Procedure a participant that is a joint-stock company or has a legal form similar to a joint-stock company and has issued other than exclusively booked shares. If the selected economic operator has its registered office abroad and is a joint-stock company or has a legal form similar to a joint-stock company, the Contracting authority shall require it to submit an affirmation in writing within a reasonable time limit showing which persons are holders of shares whose aggregate nominal value exceeds 10 % of the registered capital of the participant and indicating the source on which the information on the amount of the share of shareholders is based.

7.3. Explanation to the Procurement documentation

The Contracting authority shall provide explanations of procurement documents based on a written request of participants pursuant to Section 98 of the Act. The requests for explanation of the procurement documents must be delivered in to the following address: zakazky@akvt.cz and in a copy of the e-mail address jan.segl@hilase.cz or in the system Tender Arena. The requests must be delivered in time, which means in the deadline pursuant to Section 98 (3) of the Act.

8. Final provisions

The Contracting authority is entitled to cancel the Procurement Procedure pursuant to Section 127 (2) of the Act.

The Contracting authority does not allow variants of bids.

The Contracting authority shall not reimburse the participants for the costs incurred in connection with their participation in the Procurement Procedure, even if the Procurement Procedure has been cancelled by the Contracting authority.

The list of the annexes:

1. **Technical Specification**
2. **Purchase Contract**
3. **Affirmation on Qualification criteria – Basic, Professional and Technical Qualification Criteria**
4. **Cover Bid Note**
5. **Affirmation of the Economic Operator**
6. **List of Important Supplies**

On behalf of the Contracting authority:

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