

VYSVĚTLENÍ ZADÁVACÍ DOKUMENTACE POŘ. Č. 31

EXPLANATION OF THE TENDER DOCUMENTATION No. 31

V souladu s ustanovením § 98 zákona č. 134/2016 Sb., o zadávání veřejných zakázek, ve znění pozdějších předpisů, a s článkem 2.8.1 Pokynů pro zadání zakázek pro programy spolufinancované z rozpočtu SFŽP ČR, zadavatel poskytuje vysvětlení zadávací dokumentace k veřejné zakázce.

In accordance with Section 98 of Act No. 134/2016 Coll., the Public Procurement Act, as amended, and Article 2.8.1 the Procurement Guidelines for Programmes Co-financed from the Budget of the State Environmental Fund of the Czech Republic, the contracting entity hereby provides explanation to the tender documentation of the public contract.

IDENTIFIKACE ZADÁVACÍHO ŘÍZENÍ / IDENTIFICATION OF THE TENDER PROCEDURE

Zadavatel: / **ŠKO-ENERGO, s.r.o.**
Contracting Entity: tř. Václava Klementa 869, Mladá Boleslav II, 293 01 Mladá Boleslav,
IČO: / Identification No.: 61675938

Název: / Name: „Modernizace teplárny ŠKO-ENERGO – OB2 Kotelny“

Druh zadávacího řízení: / Type of the tender procedure: otevřené řízení / open procedure

ČÁST 1: PŘESNÉ ZNĚNÍ ŽÁDOSTI DODAVATELE O VYSVĚTLENÍ ZADÁVACÍ DOKUMENTACE / PART 1: EXACT WORDING OF THE REQUEST OF A SUPPLIER FOR EXPLANATION OF THE TENDER DOCUMENTATION

Dear Sirs We have 2 options for issuing this guarantee:

1. directly through our bank, Santander Bank
2. as a counter-guarantee by Santander Bank of a guarantee issued by a Czech bank.

The first option – bank guarantee is issued directly through Santander Bank

- It is cheaper because we only bear the costs of Santander Bank.
- In order to ensure that the customer's expectations regarding the bank guarantee text are met, we should receive a draft of such guarantee from the customer. Santander bank will then confirm whether or not it can issue such a guarantee (and whether or not it contains any clauses that are not acceptable to the bank).
- It is also worth noting that since this would be a cross-country bank guarantee, Santander would want to have a reference there to the URDG and we need to confirm with the customer that he accepts this. „This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG), 2010 revision, ICC Publication No. 758.”
- Finally, we would like to confirm with the customer whether the guarantee can be issued in electronic form, with electronic signatures.

Second option - counter-guarantee by Santander Bank of a guarantee issued by a Czech bank (one of the list below).

- This is more expensive, doubling the cost, as we have bank charges from both Santander and the issuing bank.
- However, in this option, if we cannot obtain a draft from the client, Czech banks probably have their own standard templates of tender bank guarantee (bid bond) meeting the requirements of the Czech Act No 134/2016 Coll. on public procurement, which we can use.

List of Czech banks with which Santander cooperates.

I would suggest exploring the possibility of using option 1. First, we need to know the customer's draft of bank guarantee (bid bond) and whether the customer will accept the reference to the URDG in the wording of the guarantee and the electronic form of the guarantee.

ČÁST 2: VYSVĚTLENÍ ZADÁVACÍ DOKUMENTACE / PART 2: EXPLANATION OF THE TENDER DOCUMENTATION¹

Dotaz/request:

Dear Sirs We have 2 options for issuing this guarantee:

- 1. directly through our bank, Santander Bank*
- 2. as a counter-guarantee by Santander Bank of a guarantee issued by a Czech bank.*

The first option – bank guarantee is issued directly through Santander Bank

- It is cheaper because we only bear the costs of Santander Bank.*
- In order to ensure that the customer's expectations regarding the bank guarantee text are met, we should receive a draft of such guarantee from the customer. Santander bank will then confirm whether or not it can issue such a guarantee (and whether or not it contains any clauses that are not acceptable to the bank).*
- It is also worth noting that since this would be a cross-country bank guarantee, Santander would want to have a reference there to the URDG and we need to confirm with the customer that he accepts this. „This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG), 2010 revision, ICC Publication No. 758.”*
- Finally, we would like to confirm with the customer whether the guarantee can be issued in electronic form, with electronic signatures.*

Second option - counter-guarantee by Santander Bank of a guarantee issued by a Czech bank (one of the list below).

- This is more expensive, doubling the cost, as we have bank charges from both Santander and the issuing bank.*
- However, in this option, if we cannot obtain a draft from the client, Czech banks probably have their own standard templates of tender bank guarantee (bid bond) meeting the requirements of the Czech Act No 134/2016 Coll. on public procurement, which we can use.*

List of Czech banks with which Santander cooperates.

I would suggest exploring the possibility of using option 1. First, we need to know the customer's draft of bank guarantee (bid bond) and whether the customer will accept the reference to the URDG in the wording of the guarantee and the electronic form of the guarantee.

Odpověď Zadavatele:

Zadavatel neklade žádné zvláštní požadavky na poskytnutí jistoty prostřednictvím bankovní záruky nad rámec příslušných právních předpisů a zadávací dokumentace. Volba způsobu poskytnutí jistoty obecně i volba způsobu poskytnutí bankovní záruky je ponechána dodavateli.

V případě bankovní záruky tedy může tato být poskytnuta tuzemskou i zahraniční bankou, v každém případě však musí bankovní záruka splňovat požadavky zadávací dokumentace a českých právních předpisů, zejména zákona č. 89/2012 Sb., občanského zákoníku, ve znění pozdějších předpisů, a zákona č. 134/2016 Sb., o zadávání veřejných zakázek, ve znění pozdějších předpisů. Zadavatel nestanoví vzor záruční listiny; dle zkušeností Zadavatele však tuzemské banky zpravidla dokáží vystavit záruční listinu splňující veškeré požadavky. Zadavatel dále v rámci zadávacího řízení obecně (ani v rámci vysvětlení zadávací dokumentace zvláště) nemůže posuzovat, zda konkrétní specifické podmínky jsou či nejsou v souladu s českými právními předpisy, a tedy ani poskytovat jakékoli rady či vyjádření ohledně obsahu specifické bankovní záruky ani záruční listiny.

Záruční listina může mít elektronickou formu.

¹ V souladu se zadávací dokumentací je rozhodujícím zněním poskytnutého vysvětlení zadávací dokumentace výhradně české znění. Překlad do anglického jazyka, pokud je poskytnut, má pouze informativní povahu. / In accordance with the Tender Documentation, exclusively the Czech wording of the provided explanation of the Tender Documentation shall prevail. The translation into the English language (if provided) is of an informative nature only.

INFORMATIVE TRANSLATION FROM THE CZECH LANGUAGE:

The Contracting Entity imposes no specific requirements in respect of provision of the security deposit in the form of a bank guarantee beyond the framework laid down by relevant legal regulations and the Tender Documentation. The choice of the way of providing a security deposit in general and the way of providing the bank guarantee is upon the supplier.

In case of a bank guarantee, such may be provided either by Czech or foreign bank, however, in all instances the bank guarantee must fulfil requirements laid down by the Tender Documentation and relevant Czech legal regulations, namely Act No. 89/2012 Coll., the Civil Code, as amended, and Act No. 134/2016 Coll., on public procurement, as amended. The Contracting Entity does not set a draft of a guaranty instrument; based on the Contracting Entity's experience, however, Czech banks usually are able to issue a guaranty instrument meeting all requirements. Furthermore, within the tender procedure generally (nor within the explanation of the Tender Documentation specifically) the Contracting Entity is not to provide assessment whether or not particular specific conditions meet the Czech legal requirements, nor is to provide any advice or statement in respect of contents of a specific bank guarantee or guaranty instrument.

A guaranty instrument can be of an electronic form.