



## BIOLOGICKÉ CENTRUM AV ČR, v. v. i.

adresa: Branišovská 1160/31, 370 05 České Budějovice

telefon: +420 387 771 111 (ústředna)

+420 387 775 051 (ředitelství)

IČ: 60077344 | DIČ: CZ60077344

číslo účtu: 6063942/0800, Česká spořitelna, a.s.

www.bc.cas.cz | e-mail: bc@bc.cas.cz

### TENDER DOCUMENTS

relating to the below-threshold public contract for supplies awarded in an open procedure pursuant to Section (§) 56 of the Act No. 134/2016 Coll., on public procurement (hereinafter also "PPA" or the "Act")

#### Supply of a multifrequency broadband echolocation system

A complete set of tender documents (hereinafter also "TD") is also available at:

[https://www.tenderarena.cz/profil/Biologickecentrum\\_AVCR](https://www.tenderarena.cz/profil/Biologickecentrum_AVCR) via remote access for 24 hours a day

This public contract is intended to meet the needs of the project

"Research of key soil-water ecosystem interactions at the SoWa Research Infrastructure".

Project registration number: CZ.02.1.01/0.0/0.0/16\_013/0001782

The project is co-financed by the European Union from the Operational Programme Research, Development and Education 2014 – 2020.



EUROPEAN UNION  
European Structural and Investment Funds  
Operational Programme Research,  
Development and Education

**MSMT**  
MINISTRY OF EDUCATION,  
YOUTH AND SPORTS



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## CONTENTS:

1. CONTRACTING AUTHORITY INFORMATION
2. TERMS RELATING TO THE TENDERING PROCEDURE
3. SUBJECT MATTER OF THE PUBLIC CONTRACT
4. TIME AND PLACE OF PERFORMANCE
5. INSPECTION OF THE PLACE OF PERFORMANCE
6. EXPLANATIONS, CHANGES OR AMENDMENTS TO TENDER DOCUMENTS
7. BID PRICE
8. OTHER REQUIREMENTS OF THE CONTRACTING AUTHORITY FOR THE BID
9. SECURITY
10. CONTRACTING CONDITIONS
11. AWARD PERIOD
12. ABNORMALLY LOW BID PRICE
13. METHOD OF BID EVALUATION
14. BID
15. COMMUNICATION BETWEEN THE CONTRACTING AUTHORITY AND THE BIDDER
16. DEADLINE AND PLACE FOR BIDS SUBMISSION
17. OPENING OF ENVELOPES WITH BIDS
18. OTHER RIGHTS, REQUIREMENTS AND CONDITIONS OF THE CONTRACTING AUTHORITY
19. REQUIREMENTS FOR QUALIFICATION



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## 1. CONTRACTING AUTHORITY INFORMATION

Name: **Biologické centrum AV ČR, v. v. i.**  
Registered address: **Branišovská 1160/31, 370 05 České Budějovice**  
Identification No. (IČO): **60077344**  
Tax Identification No. (DIČ): **CZ60077344**  
Represented by: **prof. RNDr. Libor Grubhoffer, CSc., Director**  
(hereinafter "the Contracting Authority")

## 2. TERMS RELATING TO THE TENDERING PROCEDURE

The following terms shall have the following meaning for the purposes of the Act and this tender document:

- PPA shall mean the Act No. 134/2016 Coll., on public procurement,
- the public contract shall mean a public contract for supplies pursuant to Section (§) 14, paragraph 1 of PPA,
- awarding of a public contract shall mean conclusion of an agreement between the Contracting Authority and the Bidder imposing the obligation on the Bidder to provide supplies. The agreement shall be in conformity with the award criteria and with the bid of the Selected Bidder and it shall be concluded in writing,
- the Bidder shall mean a person offering provision of supplies or several such persons jointly. The term Bidder shall also mean a subsidiary of an organization; in that case the address of the Bidder shall be the address of the subsidiary,
- the Selected Bidder shall mean a participant in the Tendering Procedure selected by the Contracting Authority to conclude the agreement with,
- the Bid shall mean data or documents submitted by the Bidder to the Contracting Authority based on the tender documents,
- identification data shall include a trade name or name, registered address, legal form of a legal entity and trade name or name(s) of a natural person,
- qualification shall mean qualification and capability of the Bidder to perform the public contract,
- award criteria shall mean all requirements specified by the Contracting Authority, i.e.:
  1. requirements for the course of the Tendering Procedure,
  2. conditions of participation in the Tendering Procedure,
  3. rules for evaluation of bids,



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## 4. other requirements for conclusion of a public contract under Section (§) 104 of PPA,

- the tender documents shall mean all written documents containing award criteria, communicated or disclosed to participants in the Tendering Procedure at the opening of the Tendering Procedure, including forms under Section (§) 212 of PPA,
- documents about the Tendering Procedure shall mean all documents about the Tendering Procedure in a documentary or electronic form and outputs from oral communications, the acquisition of which in the course of the Tendering Procedure or after its completion, is required by law, including full wording of original Bids of all the Bidders,
- the Contracting Authority Profile is an electronic tool allowing unlimited remote access and used by the Contracting Authority to disclose information and documents relating to its public contracts.

By submitting a Bid in the Tendering Procedure the Bidder accepts fully and without reservations the award criteria, including all annexes and potential amendments to such award criteria, and the Bidder hereby undertakes to comply with all indicated instructions. It is assumed that before submitting its Bid the Bidder has carefully read all instructions, forms, deadlines and specifications contained in the award criteria and shall comply with them. Provided the Bidder fails to provide all required information and documentation in a timely manner or if the Bidder's Bid fails to meet in all respects the award criteria then the Bid , and subsequently the Bidder, will be excluded from the Tendering Procedure.

The Contracting Authority has issued this tender documentation in two language versions, i.e. in Czech and in English. In case of any discrepancy between the two the Czech version hereof shall prevail.

## 3. SUBJECT MATTER OF THE PUBLIC CONTRACT

### 3.1 Subject matter specification

The subject matter hereof shall be a below-threshold public contract for supply of equipment for research and development.

Brief description of the equipment:

Three scientific echosounder systems for modern multi-frequency measurements of fish and zooplankton abundance estimation in rivers and open lake conditions with the vessel moving at standard surveying speed or in stationary situations. The systems should be able to measure the acoustic target strength through the split beam principle. The transducers should be fully waterproof till the depth of 10 m and equipped with the cables at least 20 m long. The system must be able to emit and receive acoustic signals in the form of (1) narrow band continuous wave and (2) in the form of wide band chirp. It should be powered at least by the 12 V DC power supply. The system should include postprocessing software capable of 3D visualisation data and calculation targets size structure, abundance and biomass.

CPV code

**38113000-0 Sonars**



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**3.2 More detailed information about the subject matter is provided in Annex No. 3 to the tender documents.**

- 3.2.1.** In addition to the general description of each subject matter of performance, the Contracting Authority has also provided technical conditions relating to the subject matter in the form Annex No. 3 to the tender documents, entitled "Absolute (minimum) technical performance parameters "
- 3.2.2.** A failure to meet any of such absolute (minimum) technical requirements shall mean exclusion of the respective participant in the Tendering Procedure under Section (§) 48 PPA. Meeting of such parameters will be also required by the Contracting Authority in the course of installation and acceptance of the equipment. The Contracting Authority will accept an offer with better parameters, properties or functions.
- 3.2.3.** The Contracting Authority requests new equipment which has not been previously used. The Contracting Authority will not accept any offer of second-hand or reconditioned items, either for the whole equipment or any parts thereof.
- 3.2.4.** Provided the award criteria and, particularly the absolute (minimum) technical performance parameters contain requests of or references to specific trade names, names or names and surnames, specific identification of goods and services relating to a particular person or its organizational unit, patents to inventions, utility models, industrial designs, trademarks or appellations of origin, the Bidder shall have the right to propose other solutions that are technically and qualitatively similar, as long as they meet technical and functional requirements of the Contracting Authority as indicated in these tender documents.

### **3.3 Expected value of the public contract**

The expected value of this public contract has been set at

**2 600 000 CZK excl. VAT.**

The bid price excluding VAT shall not exceed the expected value of the public contract set by the Contracting Authority for the public contract. The bid price is final, it shall not be exceeded and it shall include all works, activities and supplies necessary to meet the subject matter of the public contract. The bid price shall also include all costs (freight charges, insurance premium, customs duties etc.) necessary for all activities associated with the handover and takeover of the subject matter of the public contract.

### **3.4 Specification of technical conditions**

All offered products shall meet applicable provisions of the Act No. 22/1997 Coll., on technical requirements for products and on changes in and amendments to some other acts, as amended.



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3.5 Before submitting its Bid the Bidder shall become familiar with all generally binding legal regulations and applicable standards relating to the subject matter of the public contract. The Bidder shall be responsible for conformity of the public contract performance with general binding legal regulations and applicable standards relating to the subject matter of the public contract.

## 4. TIME AND PLACE OF PERFORMANCE

### 4.1 Performance time

The subject matter of this public contract will be performed by the Selected Bidder at the time specified in 6.1. of the Purchase Agreement, the binding example of which is provided in Annex No. 2 to the tender documents. The starting date of the performance of the public contract is conditional on completion of the Tendering Procedure and on conclusion of the Purchase Agreement with the Selected Bidder.

The expected performance time is: **within 2 months after the contract signing by both parties**

### 4.2 Place of performance

The place of performance of the public contract is: Na Sádkách 7, 370 05 České Budějovice.

## 5. INSPECTION OF THE PLACE OF PERFORMANCE

No inspection of the place of performance will be organized by the Contracting Authority for the purposes of this public contract.

## 6. EXPLANATIONS, CHANGES OR AMENDMENTS TO TENDER DOCUMENTS

### 6.1 Explanations to tender documents

- 6.1.1 Pursuant to Section (§) 98, paragraph 3 of PPA, the Bidders shall have to right to demand written explanations to the tender documents from the Contracting Authority.
- 6.1.2 Requests for additional information shall be made in Czech or in English by e-mail: pravni@bc.cas.cz or through a written request delivered to the registered address of the Contracting Authority.
- 6.1.3 The Contracting Authority shall explain the tender documents using the procedure under Section (§) 98 of PPA, including publishing of an accurate wording of the request, without identifying the requesting Bidder.

### 6.2 Change of or amendment to tender documents

- 6.2.1 Any potential changes of or amendments to the tender documents shall be made by the Contracting Authority in agreement with Section (§) 99 of PPA.

## 7. BID PRICE

### 7.1 Requirements for a uniform structure of the bid price



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**7.1.1** The Bidder shall indicate the bid price as the total price for a complete supply of the subject matter of the public contract, including all related costs (fees, secondary costs, e.g. exchange rate variations, general development of prices, increased costs resulting from commercial terms etc.), as an absolute amount in Czech crowns.

**7.1.2** The bid price shall be set as the maximum permissible price for performance of the whole subject matter of the public contract and it shall be structured as follows:

- total bid price excl. VAT in CZK,
- percentage rate of VAT and the amount of VAT in CZK,
- total bid price incl. VAT in CZK.

Each participant in the Tendering Procedure shall be responsible for indication of the correct VAT rate.

## **7.2** Conditions of price exceeding

The bid price shall be set as the maximum price which shall not be exceeded and it shall be up-to-date for performance of the public contract at the given place and time. The price can be exceeded only if, in the course of the performance, the tax regulations are changed with a provable impact that increases the bid price. The Contracting Authority will not permit any other condition of the bid price exceeding.

## **8. OTHER REQUIREMENTS OF THE CONTRACTING AUTHORITY FOR THE BID**

### **8.1 General definitions and requirements**

**8.1.1** In the tender documents the Contracting Authority has provided all data, requirements and conditions it had available for the planned performance of the public contract at the time when the tender documents were prepared. If the Contracting Authority acquires any additional information necessary for preparation of the Bids it will be promptly provided to all the Bidders through the Contracting Authority Profile in the form of explanations, changes of or amendments to tender documents.

**8.1.2** The tender documents are provided only for the purposes of elaboration of the Bids for this Tendering Procedure; the Bidder shall not be allowed to use them for any other purposes whatsoever.

**8.1.3** The procedure to be followed by this public contract, regardless of any provisions hereof, shall be governed by the Public Procurement Act (PPA) and the Bidder shall comply with PPA while developing its Bid and in the course of the Tendering Procedure.

**8.1.4** The public contract notice (hereinafter the "contract notice ") and the tender documents, including all its enclosures, mutually complement one another and they shall be interpreted in mutual connections, while the contract notice shall prevail. The award criteria shall be binding on all participants in the Tendering Procedure.

**8.1.5** The deadlines indicated as particular times of the day in the tender documents use the local time in the Czech Republic.



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8.1.6 Pursuant to Section (§) 107, paragraph 3 of PPA, each Bidder may submit only one Bid in the Tendering Procedure. Pursuant to Section (§) 107, paragraph 4 of PPA, a Bidder which has submitted its Bid in the Tendering Procedure shall not be at the same time be a person used by another Bidder in the same Tendering Procedure to prove the latter's qualification.

8.1.7 In the sense of Section (§) 107, paragraph 5 of PPA, the Contracting Authority will exclude from the Tendering Procedure any Bidder which has submitted more than one Bid individually or jointly with other Bidders or which has submitted its Bid and, at the same time, acted as a person used by another participant in the Tendering Procedure in the same Tendering Procedure to prove the latter's qualification.

## 8.2 Requirements for a joint Bid

8.2.1 A joint Bid shall mean a Bid submitted by several Bidders jointly. In that case the Bidders submitting a joint bid are seen as one participant in the Tendering Procedure.

8.2.2 If the subject matter of the public contract is to be performed jointly by several Bidders then such Bidders shall submit to the public Contracting Authority an agreement stating a commitment that all the Bidders will be bound jointly and severally in relation to the public Contracting Authority and to third parties in any legal relations arising in connection with the public contract, throughout the whole time of performance of the public contract and throughout duration of other obligations resulting from the public contract.

## 9. SECURITY

9.1 The Contracting Authority requires **no security** in the sense of provisions of Section (§) 41 PPA.

## 10. CONTRACTING CONDITIONS

10.1 The contracting conditions are defined in the binding example of the Purchase Agreement that forms Annex No. 2 which is an integral part hereof and which shall be used by the Bidder to develop a draft of the Purchase Agreement included in its Bid. The Bidder shall not change or amend the binding requirements of the Contracting Authority stated in Annex No. 2 to the tender documents – Binding Draft Purchase Agreement, except where the content of the binding requirements implies the obligation to provide additional data, unless established otherwise in the tender documents. The data to be added by the Bidder are marked in Annex No. 2 to the tender documents – Binding Draft Purchase Agreement, as follows: "[[TO BE FILLED OUT BY THE PARTICIPANT IN THE TENDERING PROCEDURE]]", XXX or with a similar instruction provided by the Contracting Authority.

10.2 The Bidder shall not be allowed to change in the text of the Binding Draft Purchase Agreement any data provided by the Contracting Authority with the exception of provisions where the Contracting Authority has authorized the Bidder to make certain changes. Such changes, however, shall be always in favor of the Contracting Authority or they shall not be at its expense.

10.3 The Draft Purchase Contract shall be signed on behalf of the Bidder by a person authorized to act in the name or on behalf of Bidder or by another person authorized for the purpose.



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- 10.4 If a Bid is submitted jointly by several Bidders, as well as if a Bid is submitted by a foreign Bidder or Bidders then the Bidder shall have the right to adapt the Binding Draft Purchase Contract under Annex No. 2 to the tender documents only and exclusively with regard to such facts.
- 10.5 The Draft Purchase Contract shall not exclude or limit in any way the powers of the Contracting Authority as specified in the tender documents.
- 10.6 If any changes occur in the data provided in the Bid before conclusion of the agreement with the Selected Bidder the Selected Bidder shall promptly inform the Contracting Authority accordingly. For changes in the qualification see 18.3. hereof.
- 10.7 All award criteria specified by the Contracting Authority in the tender documents shall be binding and mandatory.
- 10.8 The Contracting Authority shall have the right to withdraw from the Agreement if the performance cannot continue without violation of the rules specified in Section (§) 222 of PPA. Moreover, the Contracting Authority may also withdraw from the Agreement under Section (§) 223 of PPA.
- 10.9 The reserved changes in obligations pursuant to Section (§) 100 of PPA, further conditions for conclusion of the Agreement under Section (§) 104 of PPA and changes in obligations under Section (§) 222 of PPA, as well as termination of obligations under Section (§) 223 of PPA, have been specified in detail in the Binding Draft Purchase Contract.

## 11. AWARD PERIOD

The Contracting Authority has not established any award period under Section (§) 40 of PPA.

## 12. ABNORMALLY LOW BID PRICE

The Contracting Authority will evaluate amounts of the bid prices in relation to the subject matter of the public contract. If any Bid contains an abnormally low bid price the Contracting Authority will proceed pursuant to Section (§) 113 of PPA.

The Contracting Authority will request the respective participant in the Tendering Procedure a written explanation of the method of setting the abnormally low bid price. The request for explanation of the abnormally low bid price is considered a request under Section (§) 46 of PPA and it can be amended and made repeatedly.

## 13. METHOD OF BIDS EVALUATION

The bids will be evaluated based on their economic advantageousness.

The economic advantageousness will be evaluated in agreement with Section (§) 114, paragraph 2 of PPA based on the **lowest bid price**.

For the purposes of evaluation based on the said criterion each participant in the Tendering Procedure shall submit in its Bid the overall bid price excl. VAT for the subject matter of the public contract. The evaluated item shall be the total bid price excl. VAT. The most advantageous Bid evaluated by the evaluation commission will a Bid of that participant in the Tendering Procedure with the total bid price excl. VAT lower than the total prices excl. VAT of the other participants in the Tendering Procedure. The items to be



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evaluated will be the total bid price excl. VAT for the entire subject matter of the public contract, which shall be elaborated in agreement with the award criteria. The best evaluated Bid shall be the one with the lowest bid price excl. VAT. The Contracting Authority will identify the order of the Bids based on amounts of the bid prices excl. VAT, from the lowest to the highest one.

### 14. BID

#### 14.1 The bids shall be submitted:

in a documentary form in a sealed envelope provided with a stamp or signature of the participant in the Tendering Procedure across the sealed parts if the participant is a physical person, or with a stamp or signature of a person authorized to act on behalf or in the name of the participant in the Tendering Procedure if the participant is a legal person, or using another suitable form (e.g. seals), clearly marked as „**VEŘEJNÁ ZAKÁZKA**“ (**PUBLIC CONTRACT**): **Supply of a multifrequency broadband echolocation system**”, and marked with the inscription “**NEOTVÍRAT!**” (“**DO NOT OPEN!**”). If the scope of the Bid exceeds content of one envelope then each envelope shall bear information about the order of that envelope from the total number of envelopes.

#### 14.2 The Bid shall be developed in Czech or in English or in a combination of the two languages and signed by a person authorized to act on behalf or in the name of a participant in the Tendering Procedure.

#### 14.3 In its Bid the participant in the Tendering Procedure shall explicitly indicate a contact address for written contacts between the participant in the Tendering Procedure and the Contracting Authority, including e-mail and telephone contacts to the person.

#### 14.4 The Contracting Authority does not permit variant bids.

#### 14.5 If a participant in the Tendering Procedure submits its Bid in a documentary form the Contracting Authority recommends to provide two copies thereof, while one shall be marked as the “Original” and the other as its “Copy”. All sheets of the Bid shall be firmly bound or sewn together so that they are sufficiently protected from being removed from the Bid. All copies shall be properly legible, without deletions and insertions. In case of conflicts or discrepancies between the individual copies the version marked as the “Original” shall prevail.

#### 14.6 If the Bid is submitted in a documentary form marked as the “Original” the Contracting Authority recommends to the participant in the Tendering Procedure to provide the same Bid also in an **electronic form on a CD/DVD, while the Draft Purchase Agreement in an electronic form in .docx/.doc format of MS Word shall be provided as a separate enclosure**

#### 14.7 The Bid shall include the following documents and parts, while the bid structure provided below represents only a recommendation:

14.7.1 a filled-out Bid Cover Sheet stating identification data of the participant in the Tendering Procedure and the bid price;

14.7.2 a table of content for the Bid, i.e. its chapters and including a list of annexes;

14.7.3 an agreement between the parties if a joint Bid is submitted by several Bidders (see 8.2.2. hereof);



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14.7.4 documents and a written commitment of another person to provide performance for the purposes of the public contract or to provide things or rights to be used by the Bidder in the course of performance of the public contract, at least in a scope to which the other person has proved qualification of the Bidder (Section (§) 83, paragraph 1, letter d) of PPA) ( if applicable);

14.7.5 documents proving the qualification;

14.7.6 the Draft Agreement signed by a person authorized to act on behalf or in the name of the participant in the Tendering Procedure and including all particulars requested by the Contracting Authority. The Contracting Authority does not require Purchase Agreement annexes to be attached when the Bid is submitted. The annexes will be attached at the signing of the Purchase Agreement while they need to be in conformity with the award criteria and the Bidder's Bid;

14.7.7 a filled-out form of the "Absolute (minimum) technical performance parameters" provided in Annex No. 3a hereto;

14.7.8 a description of the offered equipment which confirm meeting of the requirements in the "Absolute (minimum) technical performance parameters ";

14.7.9 the Contracting Authority recommends to attach official technical specifications from the manufacturer;

14.7.10 other mandatory documents, certificates and statements required by PPA or by the Contracting Authority hereunder;

14.7.11 other non-mandatory documents and certificates, as considered appropriate by the participant in the Tendering Procedure.

### 15. COMMUNICATION BETWEEN THE CONTRACTING AUTHORITY AND THE BIDDER

15.1 In the course of communication between the Contracting Authority and the Bidder confidentiality of the Bids and completeness of the data contained in the Bids shall not be put at risk. The Contracting Authority shall not have access to the content of the Bids before the deadline for submission of the Bids.

15.2 Details about communication between the Contracting Authority and the Bidder are provided in Section (§) 211 of PPA.

### 16. DEADLINE AND PLACE FOR BIDS SUBMISSION

16. 1. You can submit your Bid in a documentary form to the registered address of the Contracting Authority, i.e. Biologické centrum AV ČR, Branišovská 1160/31, 370 05 České Budějovice, either in person, by courier service or by registered mail delivered by a holder of a mailing service license.

16. 2. The deadline for Bids submission shall be 20. 12. 2017 by 10:00 a.m.

Decisive date:



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**In case of submission in a documentary form: the time of delivery to the mail room at the registered address of the Contracting Authority, i.e. Branišovská 1160/31, 370 05 České Budějovice.**

## 17. OPENING OF ENVELOPES WITH BIDS

17.1 Opening of envelopes with the Bids will be performed on **20. 12. 2017 at 10:01 a.m.** at the registered office of the Contracting Authority.

17.2 The opening of envelopes will follow the procedure described in Sections (§) 108 through 110 of PPA.

17.3 The opening of envelopes with the Bids shall be attended by up to 1 representative of each participant in the Tendering Procedure. Each representative of the participants in the Tendering Procedure shall prove his/her identity with an identity document and with a power of attorney to attend the opening, signed by a person authorized to act on behalf of the participant in the Tendering Procedure, unless the representative is a person authorized to act on behalf of the participant in the Tendering Procedure.

## 18. OTHER RIGHTS, REQUIREMENTS AND CONDITIONS OF THE CONTRACTING AUTHORITY

18.1 The tender documents, including the appendices, serve as a basis for submission of the Bids and they consist of a set documents, data, requirements, business and technical conditions set by the Contracting Authority that define the subject matter of the public contract in a level of detail necessary for Bid development. Requirements provided in the tender documents shall be binding for development of the Bid and a failure to meet them shall be the reason for exclusion of the participant from the Tendering Procedure.

18.2 The Contracting Authority reserves the right to explain, modify or amend the award criteria in agreement with the wording of the Public Procurement Act.

18.3 In case that the data provided in a Bid change before conclusion of the Agreement with the Selected Bidder, the concerned Bidder shall notify, pursuant to Section (§) 88 of PPA, such a change to the Contracting Authority within 5 working days and submit new documents or statements relating to the qualification within 10 working days after the notification of the change; the Contracting Authority may extend the time limits or condone a missed deadline. The obligation imposed under the first sentence shall not arise to a participant in the Tendering Procedure if the qualification changes in a manner that

- a) the qualification requirements are still met,
- b) has no impact on criteria for reduction of the number of participants in the Tendering Procedure or Bids and
- c) has no impact on criteria for evaluation of the bids.

Provided the Contracting Authority finds out that a Bidder has not met the indicated obligation the Contracting Authority will immediately exclude such a Bidder from the Tendering Procedure.



## BIOLOGICKÉ CENTRUM AV ČR, v. v. i.

adresa: Branišovská 1160/31, 370 05 České Budějovice

telefon: +420 387 771 111 (ústředna)

+420 387 775 051 (ředitelství)

IČ: 60077344 | DIČ: CZ60077344

číslo účtu: 6063942/0800, Česká spořitelna, a.s.

www.bc.cas.cz | e-mail: bc@bc.cas.cz

- 18.4 Information and data provided in individual parts of these tender documents specify binding requirements of the Contracting Authority which shall be fully and unconditionally met by each participant in the Tendering Procedure while developing its Bid.
- 18.5 A failure to meet the requirements of the Contracting Authority as specified herein (except purely formal requirements) will be considered a failure to meet the award criteria which shall result in exclusion of the participant from the Tendering Procedure.
- 18.6 The Contracting Authority hereby gives a notice of its right under Section (§) 46 of PPA to request, an explanation from the participant in the Tendering Procedure, within a reasonable time, of the submitted documents, samples or models and to request additional or missing data, documents, samples or models.
- 18.7 The Contracting Authority has established Czech or English as the languages for communication between the Bidder and the Contracting Authority, both in the course of the Tendering Procedure and in the course of implementation of the subject matter of the public contract based on the concluded Purchase Agreement.
- 18.8 Any statements by the Bidder provided as a part of the Bid shall be signed by a person authorized to act on behalf of or in the name of that participant in the Tendering Procedure.
- 18.9 Any data or communications provided by the Bidder to the Contracting Authority in the Tendering Procedure and identified as confidential shall be considered confidential under Section (§) 218 of PPA. The Contracting Authority shall not disclose, pursuant to the Act on free access to information (No. 106/1999 Coll.),

a) before the end of the Tendering Procedure any information relating to the content of the Bids and persons involved in the course of the Tendering Procedure,

b) any confidential information; this shall not apply to information which shall be disclosed by the Contracting Authority under the said act in the report about the evaluation, notification of the Selected Bidder, result of evaluation whether the requirements for participation have been met by the Selected Bidder or in a written report of the Contracting Authority.

The Contracting Authority shall have no obligation to disclose the information under PPA if its disclosure might result in violation of another legal regulation or if this is in conflict with public interest, if it might violate the right of the Bidder to protection of its business secret or if it might affect economic competition.

The Contracting Authority in this connection recommends to identify confidential information and business secrets as early as at the time of Bid submission because otherwise the Bidder may be at risk that the Contracting Authority will not be informed about the Bidder's rights in a timely manner.

- 18.10 The Contracting Authority will not provide any compensation of costs expended by the Bidder in connection with its participation in the Tendering Procedure.



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adresa: Branišovská 1160/31, 370 05 České Budějovice  
telefon: +420 387 771 111 (ústředna)  
+420 387 775 051 (ředitelství)

IČ: 60077344 | DIČ: CZ60077344  
číslo účtu: 6063942/0800, Česká spořitelna, a.s.  
www.bc.cas.cz | e-mail: bc@bc.cas.cz

- 18.11 The Contracting Authority reserves the right not to return the Bids or any other documents provided in connection with the Bid. The Bids will not be returned to the Bidders and they shall be retained by the Contracting Authority as a part of documentation of the public contract.
- 18.12 The Contracting Authority reserves the right to check information contained in the Bids of the Bidders with third persons and the Bidders shall provide to the Contracting Authority all necessary assistance in this respect. The Contracting Authority notifies the Bidders that in case of any doubts it will check the data contained in the Bids with manufacturers, professionals or experts.
- 18.13 By submitting its Bid the participant in the Tendering Procedure confirms that it has made itself fully familiar with the tender documents relating to the public contract, including all the appendices, that their wording is understandable and clear and that the Bidder, before submitting its Bid, has obtained explanations for any debatable provisions or technical ambiguities and that the Bidder agrees with the award criteria and respects them.

### 19. REQUIREMENTS FOR QUALIFICATION

#### 19.1 Proof of the qualification

19.1.1 The Contracting Authority requires a proof of qualification in the scope indicated in Section (§) 73 et seq. of PPA. The qualification shall be proved by the Bidder as described in Section (§) 74 et seq. of PPA and herein.

19.1.2 The Contracting Authority may exclude a participant from Tendering Procedure only for reasons specified by law, at any time in the course of the Tendering Procedure, inter alia, primarily if the data, documents, samples or models submitted by the Bidder:

- a) fail to meet the award criteria or the participant in the Tendering Procedure failed to provide them by the specified deadline,
- b) were not explained or amended by the participant in the Tendering Procedure based on a request made under Section (§) 46 of PPA, or
- c) do not reflect reality and if they have influenced or might influence evaluation of requirements for participation or meeting of evaluation criteria.

19.1.3 The Contracting Authority requires a proof of:

- the basic qualification under Section (§) 74 of PPA;
- the professional qualification under Section (§) 77 of PPA.

#### 19.2 Submission of documents (Section (§) 45 of PPA).

The Bidder shall submit simple copies of the required documents. Only the Selected Bidder will be required, pursuant to Section (§) 122, paragraph 3, letter a) of PPA, to submit to the Contracting Authority originals or officially authenticated copies of the qualification documents. The Contracting Authority, however, does not prevent any of the Bidders from submitting in its Bid, at its own consideration, originals or officially authenticated copies of the qualification documents.



## BIOLOGICKÉ CENTRUM AV ČR, v. v. i.

adresa: Branišovská 1160/31, 370 05 České Budějovice

telefon: +420 387 771 111 (ústředna)

+420 387 775 051 (ředitelství)

IČ: 60077344 | DIČ: CZ60077344

číslo účtu: 6063942/0800, Česká spořitelna, a.s.

www.bc.cas.cz | e-mail: bc@bc.cas.cz

If the Contracting Authority requires submission of a document which the Bidder is unable to submit for reasons that are beyond the Bidder's control then the Bidder shall be allowed to submit another equivalent document.

If the law or the Contracting Authority requires submission of a document under the Czech law the Bidder may submit a similar document under the law of the country in which the document was issued; such a document shall be submitted with a translation into Czech or English. If the Contracting Authority has any doubts about correctness of the translation it may request submission of an official translation of the document into Czech by an interpreter registered on the list of authorized experts and interpreters. Documents in Slovak and documents proving the achieved level of education in Latin may be submitted without translation. If any required document is not issued under the respective law it may be replaced with a statutory declaration.

The obligation to submit a document may be also met by reference to relevant information in a public administration information system or in a similar system in another member state that allows unlimited remote access. Such a reference shall include an internet address and data for log-in and search of the required information, if such data are required.

### 19.3 List of qualified Bidders

If the Bidder submits to the Contracting Authority an excerpt from the list of qualified Bidders pursuant to Section (§) 226 et seq. of PPA then the excerpt shall replace the document proving

a) the professional qualification under Section (§) 77 of PPA to the extent to which the data in the excerpt from the list of qualified Bidders demonstrate meeting of the criteria of professional qualification, and

b) the basic qualification under Section (§) 74 PPA.

The Contracting Authority shall accept the excerpt from the list of qualified Bidders if, on the last day on which the basic or professional qualification is to be proved, the excerpt from the list of qualified Bidders is less than 3 months old. The Contracting Authority shall have no obligation to accept the excerpt from the list of qualified Bidders if it indicates commencement of proceedings under Section (§) 231, paragraph 4 of PPA.

The excerpt from the list of qualified Bidders may be also replaced by the Bidder with a certificate of qualification that comes from a different member state in which the Bidder is based and which is an equivalent of the excerpt from the list of qualified Bidders.

### 19.4 System of certified Bidders

If the Bidder submits to the Contracting Authority a certificate issued to a certified Bidder under Section (§) 233 at seq. of PPA then such a valid certificate issued from an approved system of certified Bidders may be used to prove qualification in the Tendering Procedure. It is assumed that the Bidder is qualified in the scope indicated in the certificate.

The Contracting Authority will not challenge data provided in the certificate without any particular reason. Before conclusion of the Agreement the Bidder that proved its qualification with the



certificate may be requested to submit documents under Section (§) 74, paragraph 1, letters b) through d) of PPA.

Instead of the certificate the Bidder may also prove its qualification with another certificate from another member state in which the Bidder is resided and which is similar to the certificate issued by the system of certified Bidders.

## 19.5 Proving of qualification through other persons (Section (§) 83 of PPA)

The Bidder may prove a certain part of its technical or professional qualification required by the Contracting Authority through other persons, with the exception of the criterion under Section (§) 77, paragraph 1 of PPA. In that case the Bidder shall submit to the Contracting Authority the following documents pursuant to Section (§) 83, paragraph 1 of PPA

- a) documents proving meeting of professional qualification requirements under Section (§) 77, paragraph 1 of PPA through another person,
- b) documents proving meeting of a missing part of qualification requirements through another person,
- c) documents proving basic qualification requirements under Section (§) 74 of PPA through another person and
- d) a written commitment of another person to provide performance for the purposes of the public contract or to provide things or rights to the Bidder in the course of performance of the public contract, at least in the scope in which such another person has proved the qualification on behalf of the Bidder.

It is understood that the requirement under Section (§) 83, paragraph 1, letter d) of PPA has been met if the written commitment of another person includes the joint and several responsibility of that person and the Bidder for performance of the public contract. However, if the Bidder has proved its qualification through another person and submits documents under Section (§) 79, paragraph 2, letters a), b) or d) of PPA relating to such a person, the document under Section (§) 83, paragraph 1, letter d) of PPA shall contain a commitment that such another person will be performing construction works or services to which the proved qualification criterion relates.

## 19.6 Joint proving of qualification

In case of joint participation of several Bidders the basic and professional qualifications under Section (§) 77, paragraph 1 of PPA shall be proved by each Bidder separately but otherwise the Bidders and other persons prove the qualifications jointly.

## 19.7 Changes in qualification and renewal of qualification by participants in the Tendering Procedure

Changes in qualification of participants in the Tendering Procedure are described in 18.3. hereof.

A participant in the Tendering Procedure may prove that, despite its failure to meet the basic qualification requirements under Section (§) 74 of PPA or despite meeting the reason for disqualification under Section (§) 48, paragraphs 5 and 6 if PPA, it has renewed its qualification for participation in the Tendering Procedure, as long as it provides evidence to the Contracting



# BIOLOGICKÉ CENTRUM AV ČR, v. v. i.

adresa: Branišovská 1160/31, 370 05 České Budějovice  
telefon: +420 387 771 111 (ústředna)  
+420 387 775 051 (ředitelství)

IČ: 60077344 | DIČ: CZ60077344  
číslo účtu: 6063942/0800, Česká spořitelna, a.s.  
www.bc.cas.cz | e-mail: bc@bc.cas.cz

Authority in the course of the Tendering Procedure that it has adopted sufficient corrective measures. This does not apply for the time for which the participant in the Tendering Procedure was finally sentenced to a ban to perform public contracts or to participate in licensing proceedings.

The corrective measures may be particularly

- a) repayment of due amounts or underpayments,
- b) full compensation of a loss caused by a criminal act or by misconduct,
- c) active cooperation with bodies performing investigation, supervision, surveillance or review, or
- d) adoption of technical, organizational or personnel preventive measures against criminal activities or misconducts.

The Contracting Authority will evaluate whether the corrective measures adopted by the participant in the Tendering Procedure are sufficient to renew the Bidder's qualification with regard to seriousness and specific circumstances of the crime or other misconduct.

If the Contracting Authority comes to the conclusion that qualification of the participant in the Tendering Procedure has been renewed then the Bidder will not be excluded from the Tendering Procedure or the previous exclusion of the Bidder will be reversed.

## 19.8 Basic qualification

### 19.8.1 The basic qualification requirements is not met if

- a) the Bidder was in the 5 years preceding the commencement of the Tendering Procedure finally sentenced in the country of its registered office for a crime mentioned in 19.8.3. hereof or for a similar crime under the law of the country of its registered office; expunged convictions are disregarded (Section (§) 74, paragraph 1, letter a) of PPA),
- b) the Bidder has outstanding tax arrears registered in tax records in the Czech Republic or in the country of its registered office (Section (§) 74, paragraph 1, letter b) of PPA),
- c) the Bidder 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, (Section (§) 74, paragraph 1, letter c) of PPA),
- d) the Bidder 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 (Section (§) 74, paragraph 1, letter d) of PPA),
- e) the Bidder is in liquidation, has been declared insolvent, in respect of whom the receivership has been imposed under another legal regulation or it is in a similar situation pursuant to the law of the country of its registered office (Section (§) 74, paragraph 1, letter e) of PPA).



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adresa: Branišovská 1160/31, 370 05 České Budějovice  
telefon: +420 387 771 111 (ústředna)  
+420 387 775 051 (ředitelství)

IČ: 60077344 | DIČ: CZ60077344  
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19.8.2 If the Bidder is a legal person then the requirement under Section (§) 74, paragraph 1, letter a) of PPA shall be met by that legal person and, at the same time, by each member of its statutory body. If any member of the Bidder's statutory body is a legal person then the requirement under letter a) shall be met

- a) by that legal person,
- b) by each member of the statutory body of that legal person, and
- c) by a person representing the legal person in the Bidder's statutory body.

If the Bidder is a subsidiary of

- a) a foreign legal person the requirement under letter a) shall be met by that legal person and by the manager of the subsidiary,
- b) a Czech legal person the requirement under Section (§) 74, paragraph 1, letter a) of PPA shall be met by persons identified in these tender documents and by the subsidiary manager.

19.8.3 The criminal acts applicable to proving of the basic qualification under Section (§) 74 paragraph 1 letter a) of PPA.

For the purposes of meeting of the basic qualification requirements under Section (§) 74, paragraph 1, letter a) of PPA the term criminal act shall include

- a) criminal acts committed to benefit an organized criminal group or the criminal act of participation in an organized criminal group,
- b) the criminal act of trafficking in human beings,
- c) the following crimes against property
  1. fraud,
  2. credit fraud,
  3. subvention fraud,
  4. participation,
  5. negligent participation,
  6. money laundering,
  7. money laundering out of negligence,
- d) the following economic crimes
  1. abuse of information and status in business relations,



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IČ: 60077344 | DIČ: CZ60077344

telefon: +420 387 771 111 (ústředna)

číslo účtu: 6063942/0800, Česká spořitelna, a.s.

+420 387 775 051 (ředitelství)

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2. arranging advantage in commission of public contract, public contest and public auction,
  3. machinations in commission of public contracts and public contest,
  4. machinations in public auction,
  5. harming financial interests of European Communities,
- e) criminal acts generally dangerous,
- f) criminal offences against the Czech Republic, foreign states and international organizations,
- g) criminal offences against order in public matters,
1. criminal acts against execution of powers by a public authority and person in authority ,
  2. criminal acts of public officials,
  3. corruption,
  4. other interference with activity of a public authority.

## 19.9 Proving the basic qualification

The Bidder shall prove meeting of basic qualification requirements in relation to the Czech Republic by submitting the following documents

- a) an excerpt from the Register of Criminal Records in connection with Section (§) 74, paragraph 1, letter a) of PPA,
- b) an acknowledgement from the competent financial authority in connection with Section (§) 74, paragraph 1, letter b) of PPA,
- c) a written statutory declaration on excise duty in connection with Section (§) 74, paragraph 1 , letter b) of PPA,
- d) a written statutory declaration in connection with Section (§) 74, paragraph 1, letter c) of PPA,
- e) an acknowledgement from the competent district social security authority in connection with Section (§) 74, paragraph 1, letter d) of PPA,
- f) an excerpt from the Commercial Register or a written statutory declaration, if the Bidder is not recorded in the Commercial Register, in connection with Section (§) 74, paragraph 1, letter e) of PPA.

The Bidder shall be also allowed to prove all the above-mentioned facts and documents by submitting a statutory declaration to the effect that the Bidder has demonstrated the basic



## BIOLOGICKÉ CENTRUM AV ČR, v. v. i.

adresa: Branišovská 1160/31, 370 05 České Budějovice  
telefon: +420 387 771 111 (ústředna)  
+420 387 775 051 (ředitelství)

IČ: 60077344 | DIČ: CZ60077344  
číslo účtu: 6063942/0800, Česká spořitelna, a.s.  
www.bc.cas.cz | e-mail: bc@bc.cas.cz

**qualification in the required scope in agreement with Section (§) 86, paragraph 2 of PPA. Before signing of the Purchase Agreement the Selected Bidder will be invited, in agreement with Section (§) 122, paragraph 3, letter a), to submit originals or authenticated copies of the documents about qualification.**

### 19.10 Professional qualification

The Bidder shall prove meeting of professional qualification requirements in relation to the Czech Republic by submitting an excerpt from the Commercial Register or another similar register, as long as another legal regulation requires registration in such a register.

The Contracting Authority further requires submission of a document about the authorization to conduct business in the scope corresponding to the subject matter of the public contract, as long as other legal regulations require such authorization.

The Bidder has no obligation to submit such a document if legal regulations in its home country do not require any such or similar professional qualification.

The Bidder shall be also allowed to prove all the above-mentioned facts and documents by submitting a statutory declaration to the effect that the Bidder has demonstrated the professional qualification in the required scope in agreement with Section (§) 86, paragraph 2 of PPA. Before signing of the Purchase Agreement the Selected Bidder will be invited, in agreement with Section (§) 122, paragraph 3, letter a), to submit originals or authenticated copies of the documents about qualification.

### 19.11 Conditions for conclusion of the Agreement

Pursuant to Section (§) 104, paragraph 2 of PPA, the Contracting Authority requires from the Bidder that is a legal person submission of the following documents before conclusion of the Agreement:

- a) identification data of all persons that are the actual owners under the Act on some measures preventing the legalization of proceeds from crime and the financing of terrorism;
- b) documents indicating relations of all persons under letter a) to the Bidder; such documents shall include particularly
  1. an excerpt from the Commercial Register or another similar register,
  2. a list of shareholders,
  3. a decision by the statutory body about payment of shares on profit,
  4. articles of partnership, memorandum of association or articles of association.



# BIOLOGICKÉ CENTRUM AV ČR, v. v. i.

adresa: Branišovská 1160/31, 370 05 České Budějovice  
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www.bc.cas.cz | e-mail: bc@bc.cas.cz

## ANNEXES

Annex No. 1 – Cover Sheet Sample

Annex No. 2 – Binding Draft Purchase Agreement

Annex No. 3a – Absolute (minimum) technical performance parameters, specification of the subject matter;  
other requirements of the Contracting Authority necessary for the subject matter of the public contract

Annex No. 3b – Technical requirements

Annex No. 4 – Sample statutory declarations

In České Budějovice, on 24. 11. 2017

**BIOLOGICKÉ CENTRUM AV ČR, v.v.i.**  
Středisko služeb  
Branišovská 1160/31  
370 05 České Budějovice  
IČ 600 77 344

(1) *Libor Grubhoffer v.r.*

prof. RNDr. Libor Grubhoffer, CSc.

Director of BC AV ČR, v. v. i.

