

DKZ/114/2011

Date: Warsaw, 12.10.2011

Legal Grounds

This public tender is conducted according to Public Procurement Law of January 29, 2004 (position 759 in Polish Journal of Acts No 113 of 2010, with later changes), hereinafter referred to as the "Public Procurement Law"

INSTYTUT TECHNOLOGII ELEKTRONOWEJ

TERMS OF REFERENCE

for:

DELIVERY OF THE TWO REFLUX BATHS FOR WET ETCHING IN KOH

CPV 31000000-6

Proceedings are conducted according to open procedure for assessed value of the contract less than the amounts specified in the provisions issued under Article 11 paragraph 8 of the Public Procurement Law

1. Name (company name) and address of the awarding entity.

This proceedings are conducted by Tender Committee of Instytut Technologii Elektronowej, Al. Lotników 32/46, 02-668 Warsaw, Poland.

Web page: <http://www.ite.waw.pl>

2. Procedure for awarding the Contract.

These proceedings are conducted in mode of open procedure according to Article 39 of Public Procurement Law.

The tenders submitted will be opened and evaluated by the Tender Committee according to the evaluation criteria.

From all tenders which have not been rejected, the one will be selected which receives the highest number of points calculated according to the evaluation criteria.

3. Description of the object of the Contract.

The object of the order is a delivery of the brand new **of the two Reflux baths for wet etching in KOH.**

Requirements and technical parameters of the object of the order are indicated in Appendix No. 1 of this Terms of Reference.

4. Partial and variant tenders:

The awarding entity does not allow submitting of the partial and variant tenders.

5. Time limit for the Contract performance.

Deadline for completion of the tender – maximally to 14 weeks after signing the Contract.

6. Conditions for participation in the procedure and description of the method used for the evaluation of the fulfilment of those conditions:

Eligible to compete for the Contract shall be contractors who:

- fulfil conditions defined in Article 22 paragraph 1 of Public Procurement Law referred to:

- 1) authorizations to perform specific activities or actions, if such authorizations are required by the law;
- 2) knowledge and experience;
- 3) appropriate technical potential and personnel capable of performing a contract;
- 4) economic and financial standing

- and are not excluding from the proceeding under Article 24 paragraph 1 of Public Procurement Law.

Evaluation of the above requirements will be performed according to the rule: "fulfil - not fulfil", on the basis of documents mentioned in point 7 of the Terms of Reference.

7. Information concerning declarations and documents to be provided by the contractor to confirm the fulfilment of the conditions for participation in the procedure:

1. Statement confirming fulfilment of the conditions [Appendix No. 2 to the Terms of Reference].
2. Statement confirming lack of grounds to excluding [Appendix No. 3 to the Terms of Reference].

The lack of the above documents will cause the contractor being excluded from further proceedings reserving the right to call him for supplement documents according to Article 26 paragraph 3 of Public Procurement Law.

8. Information on the manner of communication between the awarding entity and the contractors as well as of delivery of declarations and documents, indication of persons authorised to communicate with the contractor.

In the award procedure the awarding entity and contractors shall provide all the statements, requests, notifications and information in writing form, by fax or by electronic.

If the awarding entity or the economic operator provides statements, requests, notifications and information by fax or by electronic means, either party at the request of the other party shall acknowledge the receipt immediately.

The contact person in matters concerning the tender is:
Michał Urbański MSc., e-mail: urbanski@ite.waw.pl

Please address all written correspondence, related to this proceeding, to:
Instytut Technologii Elektronowej
Al. Lotników 32/46
02-668 Warsaw, Poland
building No VI, room 216

Fax: + 48 22 548 78 46.

9. Deposit requirements:

The awarding entity does not require any deposit.

10. Tender validation time :

Tender validation time comes to 30 days from the date of submission of the tenders.

11. Description of the manner of the tender preparation.

The tender should be presented in writing form according to the tender form [Appendix No. 4 to the Terms of Reference] and must include in particular:

- a) name and address of the contractor,
- b) date of preparation of the tender,
- c) price – the awarding entity allows presenting the price in one of the indicated currencies: PLN, EUR, USD, GBP.

In the case of submission of the tenders in EUR, USD or GBP, for comparison the tenders, the price will be exchanged to Polish zlotys PLN according to selling exchange rate of the National Bank of Poland dated on the day before of opening of the tenders.

Together with the offer the contractor is allowed to submit:

- filled and signed Appendix No. 1 to the Terms of Reference,
- statement, according to Appendix No. 2 to the Terms of Reference,
- statement, according to Appendix No. 3 to the Terms of Reference.

The tender has to be signed by the contractor or his authorised representative.

In case the contractor's company is located outside Poland, it is approved to submit the tender as well as the documents required from the contractor as specified under point 7 of the Terms of Reference either in Polish or in English language.

The contractor is allowed to submit only one offer.

All costs of preparation of the tender, regardless of the results of the tender, shall be covered by the contractor.

12. Date and place of submission and opening of tenders.

The tenders should be submitted at the site of the awarding entity in Warsaw at Al. Lotników 32/46, building No. VI, room 216, **by 10⁰⁰ am, on 26th of October 2011** (in working days from 9 am till 2 pm). The tenders submitted after this deadline will not be considered and will forthwith return to the contractors.

Opening of the tenders will take place on 26th of October 2011 at 10¹⁵ am at the site of the awarding entity: Warsaw, Al. Lotników 32/46 in the building No. VI, room 120.

The awarding entity will open the tenders in accordance with its internal procedures but on occasion may hold a public opening which your representatives may attend.

The offers must be submitted in non-transparent and closed envelopes or packages. The envelope or package must be addressed as follows:

**Instytut Technologii Elektronowej
Al. Lotników 32/46
02-668 Warsaw
Building No VI, room 216
Do not open before 10¹⁵ am, on 26th of October 2011.**

**OFFER FOR:
DELIVERY OF THE TWO REFLUX BATHS FOR WET ETCHING IN KOH**

The envelope or package must include full name and address of the contractor.

The awarding entity does not accept responsibility for consequence of contractors failure to keep the above requirements.

13. Description of the method of the price calculation.

The tender price must include all the costs, which the contractor have to pay to perform the object of the Contract, described in the Terms of Reference inside the law:

- a) price of the device specified in point 3 of the Terms of Reference,
- b) transport,
- c) delivery conditions: DDP Piaseczno,
- d) insurance.

The tender price must also include all the proper charges, particularly taxes and other liabilities.

The contractor have to present the tender price according to the tender form, that means net value, VAT and gross value separately.

In case of the contractor's company located outside Poland, the tender form may present only net value without indicating VAT. The awarding entity for evaluation and comparison of the tenders will add VAT to the net price according to current tax regulations.

14. Description of the criteria which the awarding entity will apply in selecting a tender, specifying also the importance of particular criteria and method of evaluation of tenders.

The awarding entity will evaluate whether the tender meets requirements introduced in the Terms of Reference. If the tender is valid (meets requirements introduced in the Terms of Reference), it will be taken into consideration in choice of the best one.

Offer evaluation criteria:

- Price Weight: - 100%

Number of points in the price criteria will be calculated according to the following formula:

$$P_n = C_{\min} / C_n * W$$

- where: P_n – points in price criteria
 C_{\min} – the lowest price from all the offers
 C – the price of the evaluating offer
 W – weight of the critria

Maximum number of points to be gained within the price criteria is 100.

15. Information concerning formalities which should be met following the selection of a tender in order to conclude a public procurement contract.

The Contract with the winning contractor will be signed pursuant to Article 94 Public Procurement Law.

The Contract is concluded under procedure according to Title IV of Public Procurement Law.

NOTICE! Before concluding the Contract the winning contractor shall submit to the awarding entity current document confirming that the person signing the contract is authorised representative of the contractor.

This document should be presented in the form of original or authorised photocopye.

16. Other important statements which will be included in the Contract.

The following statements will be included in the Contract:

16.1. Indemnity

- 1) In case of delay, caused by negligence, or poor performance of the Seller, the Seller will pay to the Buyer an indemnity of 0,1% of the value of the object of the Contract for each day of delay up to 10% of its value, without prejudice to point 5.
- 2) In case of delay in payment, the Buyer will pay to the Seller indemnity of 0,1% of the value of the object of the Contract for each day of delay up to 10% of its value.
- 3) In case the Seller will cancel the Contract because of reason caused by the Seller, the Seller will pay to the Buyer penalty of the 10% of the value of the object of the Contract and the Seller will transfer back all the received payments for the object of the Contract to the Buyer account.

- 4) In case the Buyer will cancel the Contract because of reason caused by the Buyer, the Buyer will pay to the Seller penalty of the 10% of the value of the object of the Contract plus documentary evidence costs of materials and labour based on the following schedule:
 - a) in period shorter than 30 days from order placement - 20% of the Contract value
 - b) in period shorter than 30 days before delivery and acceptance – 100% of the Contract value
 - c) in period between mentioned in points a) and b) – percentage approximated by linear function.
- 5) In case of delay, caused by the Seller, in delivery longer than 3 months, the Buyer can cancel the Contract and the Seller will pay to the Buyer penalty of the 10% of the total Contract value and the Seller will transfer back all the received payments for the subject of this contract to the Buyer account.

16.2. Warranty

- 1) The Seller will issue a letter of warranty.
- 2) The Seller undertakes a warranty of correct operation and technical quality of the delivered equipment for "warranty period included in the offer" months, calculated from the date of the delivery.
- 3) The Seller within warranty period covers costs of the repair or replacement of the defective goods and costs of their transport to the Buyer site after repair.
- 4) During the warranty period the Seller has the obligation to make the repair or replacement within not longer than 8 weeks after the date of the written claim.
- 5) The warranty period will be increased by the time needed for the repair.
- 6) The replaced or repaired parts of equipment will be included a warranty of the Seller or the Producer.
- 7) During the warranty period, the Seller undertakes a maximal service response time within 3 working days after the date of the written claim.

16.3. Delivery instruction

- 1) Subject of the Contract is to be shipped to the address below and placed at the disposal of the Buyer.
Shipping address: Instytut Technologii Elektronowej
 ul. Puławska 34
 05-500 Piaseczno, Poland
- 2) The Seller advises to the Buyer about the dispatch by fax (No.+48 22 54-87-803).
- 3) The Seller will deliver CE certificate together with subject of the Contract.

16.4. Force Majeure

1. The parties shall be free of responsibilities for non-fulfilment of their obligations due to Force Majeure or these obligations will be change according to the point 4. Force Majeure shall be considered as an event, unforeseeable by either of the parties at the date of signature of this Contract, arisen after such date and being unavoidable and beyond the control of both parties.
2. Cases of Force Majeure are e.g. flood, earthquake, fire, explosion, war, mobilisation, strikes, blockades, general shortage of transport.
3. The party wishing to claim Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation therefore.
4. Such party must certify the case of Force Majeure to the other party by documentation issued by the competent official authority of this country. The dates and periods for fulfilment of these obligations will be postponed or extended by the period of existence of the state of Force Majeure.

16.5. Setting of disputes

All disputes arising from the present Contract, failing amicable settlement shall be resolved by the Arbitration Court of the Polish Chamber of Commerce in Warsaw in accordance with the rules of this Court.

17. Requirements concerning the security on due performance of the Contract:

The awarding entity does not require any security on due performance of the Contract.

18. Procedure for additional explanations.

Contractor is authorized to address the awarding entity only in writing form, by fax or by electronic is also allowed with request for additional information regarding the content of Terms of Reference - in this proceeding till 19th of October 2011. The Awarding Entity will respond all the inquiries according to the Article 38 of Public Procurement Law.

The questions and the answers will be published on the awarding entity's web site.

19. Information on legal protection measures available to an the Contractor during the contract award procedure.

Contractor's legal protection laws are included in Chapter VI of Public Procurement Law (available on the Public Procurement Office (PPO) web site: www.uzp.gov.pl).

In view of the fact that the value of Contract award procedure is less than the amounts specified in provisions issued on the basis of Article 11 paragraph 8, the appeal shall solely be admissible against actions:

- description of the method used for the evaluation of the fulfilment of conditions for participation in the contract award procedure;
- exclusion of the appellant from the contract award procedure;
- rejection of tender of appellant.

20. Other matters.

For all matters not regulated in this Terms of Reference, the provisions of Public Procurement Law will apply.

Michał Urbański

Vice-Director for Administrative and Technical Affairs

This order has been founded by the EU: project No. POIG.02.01.00-14-081/09-00 Mikrosystemy i NanoTechnologie Elektroniczne dla Innowacyjnej Gospodarki „MINTE” (MEMS and Electronic NanoTechnologies for Innovative Economy).

Requirements and technical specification of the Reflux baths for wet etching in KOH

| No | Parameter | Requirement | The column to the fulfilment by the Contractor* |
|---|--|---|---|
| 1 | 2 | 3 | 4 |
| 1. | Model type | | specify |
| 2. | Manufacture year | 2010 or 2011 | specify |
| 3. | Country of manufacturer | | specify |
| 4. | Manufacturer | | specify |
| 5. | Tool | Brand new | confirm |
| 6. | General requirements | Two, fully independent, hermetically sealed PTFE tanks for wet KOH (potassium hydroxide) etching applications | confirm |
| 7. | General features | Molded PTFE tank suitable for 2 x 6" wafer carriers (25 pcs. each one) | confirm |
| | | Maximum tank out dimensions 500 x 300 mm | confirm and specify |
| | | Tight sealing condensing heat of PTFE and manual lid; condensing medium: water DI 18°-22°C | confirm |
| | | PTFE immersion heater with N ₂ purge: heating up in ≤ 40 minutes to a set temperature | confirm and specify |
| | | Nitrogen purge flow | confirm |
| | | Nitrogen purge flow regulator panel: flow regulator, flow meter, back pressure switch | confirm |
| | | The solution temperature in the range of 40°-180°C | confirm |
| | | Temperature control within ±1°C accuracy across the tank volume | confirm |
| | | Separate power module | confirm |
| | | Capacitive style liquid level control | confirm |
| | | PTFE covered thermocouples for process and over-temperature control | confirm |
| Process over-temperature alarm and monitoring | confirm | | |
| 8. | Service and manual instructions | in Polish or English; pdf file and printed one | confirm |
| 9. | Warranty period | Minimum 12 months warranty starting on the date of delivery | confirm and specify |
| 10. | Realisation time of the ordered object | Maximally up to 14 weeks after signing the contract | confirm |

* The contractor is allowed to fill in the table in column 4 precisely and readable.

.....
/address stamp of the contractor/

.....
/date/

STATEMENT

Acting in accordance with the contract award procedure, we certify that we fulfil all the requirements for participation in this proceeding.

.....
/signature of the contractor or his authorised representative/

.....
/address stamp of the contractor/

.....
/date/

STATEMENT

Acting in accordance with the contract award procedure, we certify that there is lack of grounds to exclude us from this proceeding.

.....
/signature of the contractor or his authorised representative/

.....
/address stamp of the contractor/

TENDER FORM

for Institute of Electron Technology

| | | |
|-------------------------|--|---|
| The object of the order | | Delivery of the two Reflux baths for wet etching in KOH. |
| 1. | Name and address of the contractor | |
| 2. | VAT identification number | |
| 3. | Phone number: Fax: e-mail: | |
| 4. | Net price of the tender | PLN* / EUR* / USD* / GBP* |
| | VAT rate | |
| | VAT value | |
| | Gross price of the tender | PLN* / EUR* / USD* / GBP* |
| | | say: |
| 5. | Time limit for the Contract performance: to 14 weeks after signing the Contract | specify in number of weeks: |
| 6. | The persons authorised to represent the contractor | |
| 7. | Parts of tender which the contractor intends to subcontract | |
| 8. | The list of documents enclosed to the tender: | 1. : : |
| 9. | Place: | |
| | Date of preparation of the tender: | |

*choose one currency

.....
/signature of the contractor or his authorised representative