

# TENDER DOCUMENTATION

issued pursuant to Section 28 paragraph (1) point b) of Act No. 134/2016 Coll., on  
Public Procurement, as amended,  
(hereinafter the "Act"),

for preparation of bids for above-threshold public contract for supplies  
contracted within the open procedure pursuant to Section 56 of the Act

NAME OF THE PUBLIC CONTRACT:

**MBE Apparatus**

Contracting Authority:

 **Fyzikální ústav**  
Akademie věd ČR, v. v. i.



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

  
MINISTRY OF EDUCATION,  
YOUTH AND SPORTS

## **TENDER DOCUMENTATION**

This tender documentation (hereinafter the "TD") forms a basis for preparation of bids in open procedure seeking public contract for supplies pursuant to the Act. The rights, obligations and terms and conditions stipulated herein are governed by the Act.

**Public Contract name:** MBE Apparatus

**Name of the project under OP RDE:** "LNSM – Laboratory of Spintronics", Reg. No. CZ.02.1.01/0.0/0.0/16\_013/0001405

**Contracting Authority:** Fyzikální ústav AV ČR, v.v.i.  
**Seat:** Na Slovance 1999/2, 182 21 Praha 8  
**Identification No.:** 68378271  
**Tax Identification No.:** CZ68378271  
**Person authorized to represent the Contracting Authority:** RNDr. Michael Prouza, Ph.D., Director

(Hereinafter the "**Contracting Authority**" for the purposes of this TD and / or "Buyer" for the purposes of the hereto attached Purchase Contract)

**Contact person:** Mgr. Václav Kafka  
**Telephone:** +420 266 052 751  
**E-mail:** [kafkav@fzu.cz](mailto:kafkav@fzu.cz)

**Substitute of the Contact person:** Vladimír Levandovský  
**Telephone:** +420 266 052 591  
**E-mail:** [levandovsky@fzu.cz](mailto:levandovsky@fzu.cz)

**Provision of additional information to TD:**

Bidders are entitled to request additional information to the TD in writing; request in writing shall be delivered to the above specified contact person (by post or by email).

### **1 DEFINITION OF THE SUBJECT-MATTER OF THE PUBLIC CONTRACT**

#### **1.1 Classification of the subject matter of the public contract**

Classification of this public contract corresponds to item:

- CPV code: 38000000-5 – Laboratory, optical and high-precision equipment (excl. glass)

**Type of public contract:** above-threshold public contract for supplies

**Type of procurement procedure:** open procedure



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

  
MINISTRY OF EDUCATION,  
YOUTH AND SPORTS

## 1.2 Description of the subject matter of the public contract

The subject matter of this public contract is supply (acquisition) of an equipment for preparation of semiconducting and semimetallic epitaxial layers using the molecular beam epitaxy. More detailed specification of the subject matter is provided in Chapter 4 below.

## 1.3 Term

Anticipated commencement: immediately after contract conclusion  
Anticipated completion: within 12 months of contract conclusion

## 1.4 Place of Performance

Place of performance shall be the premises of the Fyzikální ústav AV ČR, v.v.i., at Cukrovarnická 112/10, Praha 6, building F, room No. 95.

## 1.5 Estimated value

Estimated value of the public contract is **980.000,- € excl. VAT**.

At the same time, the estimated value is also the maximum level for the bid price and the Contracting Authority requires that this limit not be exceeded by the bid price as a commercial condition of the public contract. The Contracting Authority will consider any bids with a bid price in excess of the designated limit to constitute bids which have not met the conditions and it will therefore exclude them. The Contracting Authority will then exclude any bidders who have submitted bids with a bid price in excess of the designated limit from any further participation in the procurement procedure.

## 2 CONDITIONS AND REQUIREMENTS REGARDING THE DRAWING UP OF A BID

2.1 Bids shall be submitted in writing in duly sealed envelopes bearing the name of the bidder's business name, its seat (registered office) and identification No. on the overleaf in accordance with Section 107 paragraph (2) of the Act. The envelope must be clearly marked "**Do not open**" and with the name of the public contract "**MBE Apparatus**".

2.2 Bids shall be submitted no later than on **8 September 2017** by **11:00 am** to the address of the Contracting Authority's seat at Na Slovance 1999/2, 182 21 Praha 8, Czech Republic, to the mail room at the ground floor by the main entrance (please use the entrance from Pod Vodárenskou věží 1 street). Bids may be delivered by any suitable means (mail, courier, personally, etc.) at the above address on business days between 8:00 am and 3:00 pm and on the last day of the submission period **only by 11:00 am**. Other methods of delivery shall not be considered to constitute a properly delivered bid.

2.3 The bid must include **identification data of the bidder**, i.e. primarily: business name, registered office, identification number, legal form, persons authorized to act on behalf of / represent the bidder, contact details for correspondence.

The bid must also include **signed draft contract**, duly signed by the person authorized to act on behalf of / represent the bidder.

2.4 The bid may be prepared in the Czech or English language.

2.5 All sheets constituting the bid shall be numbered using a series of continuous ascending numbers and rigidly bound to each other or sewn together, so that they are adequately



secured against tempering or removal from the binding. Bids shall be clear and legible, with no deletions or over-writing.

- 2.6 Bidders shall submit the bid in one hardcopy original; the Contracting Authority recommends that one simple copy of the entire bid is submitted as well. All printed matter shall be clear and legible, with no deletions or over-writing.
- 2.7 Bidders shall submit the bid also in electronic form on a suitable data carrier, i.e. CD-ROM or flash disc, in MS Office or PDF compatible format. The filled-in draft contract shall be also saved on the CD-ROM or flash disc in a standard open & modifiable format (such as .DOC or similar) in the form as signed and bound into the hardcopy bid, with the attached signature of the authorized person on the part of the bidder.
- 2.8 The bid must be submitted in the following structure:
- a) **Cover sheet** specifying the basic identification and contact information of the bidder (business name or name and surname, address, legal form, identification No., tax identification No., bank details, names of members of the statutory body, contact information - phone, e-mail, address, contact person, where appropriate, the person authorized to further negotiations, including written authorization to represent the bidder), the bid price, date and signature of the person authorized to act on behalf of the bidder; bidders may use the form provided in Annex No. 1 hereto;
  - b) statement defining **the bid price** in the structure according to Article 5 hereof;
  - c) **documents proving fulfilment of the qualification** in the structure as set out in Article 3 of the TD and description and specification of the performance offered demonstrating that the Contracting Authority's requirements regarding subject matter of the contract are met; **all documents proving fulfilment of the qualification may be presented in a plain copy OR bidders may substitute the submission of documents proving fulfilment of the qualification by an affirmation or by the European Single Procurement Document;**
  - d) **draft contract** signed by a person duly authorized to act on behalf of the bidder (please refer to Annex No. 3 hereto).

### 3 QUALIFICATIONS

3.1 Qualification requirements shall be met by those bidders who will demonstrate:

- a) fulfilment of basic qualification pursuant to Section 74 of the Act,
- b) fulfilment of the professional qualification pursuant to Section 77 paragraph (1) of the Act,
- c) fulfilment of technical qualification pursuant to Section 79 paragraph (2) point b) of the Act.

**All documents proving fulfilment of the qualification may be presented in a plain copy OR bidders may substitute the submission of documents proving fulfilment of the qualification by an affirmation or by the European Single Procurement Document.**

#### 3.2 Basic qualification

3.2.1 Basic qualification shall **not** be met by bidder who:



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

MINISTRY OF EDUCATION,  
YOUTH AND SPORTS

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

3.2.2 Bidders shall prove fulfilment of the basic qualification in relation to the Czech Republic by submitting:

- a) a copy of an entry in the Criminal Records in respect of Section 74 paragraph (1) point a) of the Act,
- b) a confirmation from a relevant tax office in respect of Section 74 paragraph (1) point b) of the Act,
- c) a written affirmation regarding excise duty in respect of Section 74 paragraph (1) point b) of the Act,
- d) a written affirmation in respect of Section 74 paragraph (1) point c),
- e) a confirmation from a relevant district social security administration in respect of Section 74 paragraph (1) point d) of the Act,
- 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 Section 74 paragraph (1) point e) of the Act.

3.2.3 If the bidder is a legal person, both this legal person and every member of its governing body shall meet the condition specified in paragraph 3.2.1 point a). Where a legal person is a member of the governing body of the bidder, the condition specified in paragraph 3.2.1 point a) shall be met by

- a) this legal person,
- b) every member of the governing body of this legal person and
- c) the person representing this legal person in the governing body of the bidder.

3.2.4 If the bidder is a branch of a business of

- a) a foreign legal person, the condition specified in paragraph 3.2.1 point a) shall be met by this legal person as well as the head of the branch,
- b) a Czech legal person, the condition specified in paragraph 3.2.1 point a) shall be met by the persons referred to in paragraph 3.2.3 as well as the head of the branch.



### 3.3 Professional qualification

- 3.3.1 Bidders shall prove fulfilment of the professional qualification 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.
- 3.3.2 The bidder is not obliged to submit the document specified in paragraph 3.3.1 if legal regulations in the country of its registered office do not require such professional qualification.

### 3.4 Technical qualification

The bidder is obliged to demonstrate fulfilment of technical qualification pursuant to Section 79 paragraph (2) point b) of the Act. Fulfilment of the technical qualification will be demonstrated by a bidder, who submits a list of significant supplies provided over the past three years before the commencement of the procurement procedure. This list will be provided in the form of an affidavit and will contain information on the name of the client, supply name, place and date of completion and the financial value of the supply. A major supply shall be considered as a supply of a complete MBE apparatus with financial value of at least **500.000,- € excl. VAT**. Bidders shall demonstrate supply of at least **6** such major supplies.

For the purpose of proving the technical qualification bidders may use the pattern provided in Annex No. 4 hereto.

## 4 DETAILED DESCRIPTION AND TECHNICAL SPECIFICATION OF THE SUBJECT MATTER

- 4.1 The subject matter of this public contract is fully specified in Annex No. 1 of the draft contract which forms an integral part hereof as Annex No. 3 hereof.
- 4.2 All equipment, which shall form a part of the subject matter must comply with all requirements arising from technical or safety standards valid in the Czech Republic for these types of equipment. Performance required hereunder shall include handover of complete documentation to the equipment. The Contracting Authority requires that the entire subject matter and all its parts will be new, not re-used.
- 4.3 The TD specifies the minimum technical requirements in Annex No. 1 of the draft contract. It is permitted that bidders supply the same or higher level solution, than those described in the technical specification, but it must always comply with the minimum requirements as set forth herein.
- 4.4 Bidders must always comply with technical requirements stipulated herein; should a bidder fail to comply with these he shall be excluded from further proceedings. Bidders are obliged to prove guaranteed technical parameters to the Contracting Authority as specified herein, i.e. bidders shall submit detailed technical specification of the offered solution containing at least the best achievable parameters, which must demonstrate compliance with the minimum technical parameters specified in Annex No. 1 to the contract in the Czech or English language (other language mutations will not be



admissible). Specified parameters must be achieved also during installation of the equipment in the place of performance. The submitted documentation shall form a part of Annex No. 2 to draft contract.

- 4.5 Should this TD refer to specific commercial trademarks / products or solution, or other designations or visual presentations having relation to a specific supplier / manufacturer, it shall be understood as delineation of an anticipated characteristics and the bidder are entitled to propose other technically or qualitatively compliant solution.

## 5 STRUCTURE OF THE BID PRICE

- 5.1 Bidders are obliged to specify the total offered bid price, including all required performance; the total offered bid price to be quoted in € excl. VAT, VAT rate, calculated VAT amount in € separately, and the total price quoted in € including VAT.
- 5.2 The total bid price must include the entire subject matter and will represent a fixed, binding amount as the maximum amount and maximum admissible price, including all fees and other costs that may be associated with the performance provided hereunder, such as transportation to the place of performance, packaging, custom duties, assembly and installation costs, insurance cost etc.
- 5.3 The bid price may be exceeded exclusively in connection with the change of tax legislation related to mandatory VAT, by an amount corresponding to this legislative amendment only.
- 5.4 The Contracting Authority hereby advises bidders that due to the amount of allocated funding, the maximum value of the performance for subject matter hereof including all installation- and transportation-related costs, custom duties and other potential and related fees cannot exceed **980.000,- € excl. VAT** and that in the case of a bid being submitted citing a higher bid price than the **maximum** value of the public contract, such bid will be **excluded** from the procedure.

## 6 EVALUATION CRITERIA

- 6.1 The bid must comply with the Minimum specification of the equipment as defined by the first column of table in Annex 1 to the Contract. Consequently, all fields in the "Complies YES/NO"-column of the table in Annex 1 must be filled "YES". Any field with "NO" is a sufficient reason for rejecting the bid. Then, bids shall be evaluated on the basis of economic advantageousness.
- 6.2 The evaluation sub-criteria are:
- a) **Technical merit (T)**
  - b) **Length of warranty period (W)**
  - c) **Bid price (P)**
- 6.3 Method of evaluation:
- 6.3.1. The equipment surpassing the minimum specification is assigned a score with numerical value **T** determined as a sum of all partial scores according to the formulas



in the "Formula for weighted partial score"-column of the table in Annex 1 to the Contract. **T** must not be negative.

- 6.3.2 The warranty period is assigned a score with numerical value **W** determined by the following formula:

$$\begin{aligned} W &= (WM - 12) * 50 && \text{for } WM \leq 24, \text{ or} \\ W &= 600 + (WM - 24) * 25 && \text{for } WM > 24 \text{ and } WM \leq 36, \text{ or} \\ W &= 900 && \text{for } WM > 36, \end{aligned}$$

where WM is warranty period in months. **W** must not be negative.

- 6.3.3 The bid price is assigned a score with numerical value **P** determined by the following formula:

$$P = (980000 - BP) * 0.026,$$

where BP is the bid price in € without the VAT. **P** must not be negative.

- 6.3.4 The bid is assigned a total score with numerical value **S** determined by the following formula:

$$\mathbf{S = T + W + P}$$

- 6.3.5 The bid with the highest value of total score S is the winning bid.

## **7 TERMS AND CONDITIONS, PAYMENT TERMS**

- 7.1 Terms and Conditions and payment terms have been specified in the attached binding draft contract, which forms an integral part hereof as Annex No. 3 hereof.
- 7.2 Bidders are obliged to accept without reservation or change the text of the draft contract, which forms an integral part hereof as Annex No. 3. Bidders are authorized to fill in their identification data, the bid price and other clearly marked information that are to be filled in. Bidders are not authorized to change or add to the contract in any manner, with exception of those parts which the Contracting Authority highlighted. Any breach of this condition may result in exclusion of the bidder from the procurement procedure.

## **8 ADDITIONAL REQUIREMENTS AND CONDITIONS**

- 8.1 The Contracting Authority reserves the right to verify any information provided by bidders using third parties, and bidders shall be obliged to provide the Contracting Authority all necessary cooperation in this matter.
- 8.2 Bidders shall bear the cost of processing their bids.
- 8.3 The Contracting Authority reserves the right to alter or amend the TD before the deadline for submission of bids, such a change would be communicated to all bidders who on the date of such amendment submitted a bid. The change of the TD would be announced also the manner in which the TD was published. If the nature of the supplement or amendment of the TD requires, the Contracting Authority simultaneously reasonably extends the deadline for submitting bids.





- 8.4 The Contracting Authority reserves the right to publish the full outcome of the procurement procedure and to provide information under the Act No. 106/1999 Coll., on free access to information, eg. to allow access to the protocol on the opening of envelopes, the protocol on the evaluation of bids, and so on.  
However, according to Act on free access to information, the Contracting Authority will not grant:
- a) until the completion of the procurement procedure information relating to the content of bids and the persons who are involved in during the procurement procedure,
  - b) information which the bidder has provided to the Contracting Authority within the procurement procedure and marked them as confidential unless it is information that in accordance with the Act the Contracting Authority has the obligation to include in the evaluation report, the notice of the selection of the supplier, the assessment of the fulfilment of conditions for participation of selected suppliers or in the written report by Contracting Authority.
- 8.5 The Contracting Authority reserves the right, after completion of the procurement procedure in the context of transparency, to publish on the Internet further defined range of information provided by the bidder during the procurement procedure and possibly during performance of the contract, including the information identified as confidential.  
These information are the following:
- name of the bidder
  - identification No. of the bidder
  - bid price of the bidder
  - No. of the signed contract
  - name of the contract
  - text of the contract including all annexes and amendments
  - the amount of price paid for performing the public contract
  - list of subcontractors of the supplier of the public contract
- 8.6 Termination of public contract does not terminate the right of the Contracting Authority to publish the above information. Through its participation in the procurement procedure the bidder takes note that the above information provided during the procurement procedure will be treated as described above by the Contracting Authority. The bidder agrees with use of such information by submitting its bid.
- 8.7 The Contracting Authority reserves the right to cancel the procurement procedure according to Section 127 paragraph (2) of the Act. In case of cancellation of the procurement procedure the bidders are not entitled to any compensation for costs incurred in preparing the tender nor any other compensation.
- 8.8 Precondition for the conclusion of a public contract is the obligation of the selected supplier, who is a legal entity, submit to the Contracting Authority:
- a) the identification of all persons who are the actual owner of the supplier according to Act No. 253/2008 Coll., on some measures against the legalization of proceeds from crime and terrorist financing,
  - b) documents which show the relationship of all persons referred to in point a) to the supplier; these documents are particularly:
    - i. a certificate of registration from the Commercial Registry, or extract from any other similar evidence,
    - ii. list of shareholders,



- iii. the decision of the statutory body for the payment of profit sharing,
- iv. social contract, memorandum or articles of association.

## **9 OPENING OF ENVELOPES WITH BIDS**

- 9.1 Opening of the envelopes with bids shall take place immediately after the expiry of the bid submission date referred to in paragraph 2.2 of the TD, at the seat of the Contracting Authority at Na Slovance 1999/2, Praha 8 (entrance from the Pod Vodárenskou věží 1 street), in the meeting room.

## **10 CONCLUSION**

- 10.1 Information and data provided herein (incl. all Annexes) defined the binding requirements of the Contracting Authority with respect to the performance of the public contract. These requirements must be accepted by the Bidders in full and without reservation, respecting these requirements in preparation of their bid. Non-acceptance of these requirements / conditions (incl. those specified in the respective Annexes) shall be deemed to constitute failure to comply with the tender conditions.
- 10.2 Should this tender documentation of its Annexes refer to specific commercial trademarks / products or solutions, or other designations or visual presentations having relation to a specific supplier / manufacturer, it shall be understood as delineation of an anticipated characteristics and the bidder are entitled to propose other technically or qualitatively fully compliant solution.

**On behalf of the Contracting Authority:**

In Prague

### **LIST OF ANNEXES:**

1. Cover sheet
2. Affidavit on compliance with basic qualification requirements
3. Binding draft contract with annexes
4. List of major supplies (pattern)



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

