|  |  |
| --- | --- |
| **JAGIELLONIAN UNIVERSITY**  **PUBLIC PROCUREMENT OFFICE**  **ul. Straszewskiego 25/2, 31-113 Kraków**  **tel. +4812-432-44-50,+4812-663-39-14;**  **e-mail: [bzp@uj.edu.pl](mailto:bzp@uj.edu.pl)** [**www.uj.edu.pl**](http://www.uj.edu.pl/)  [**www.przetargi.uj.edu.pl**](http://www.przetargi.uj.edu.pl/) |  |

Krakow, May 26th 2020 r.

*Reference: the open tender procedure, pursuant to the regulations of the Act of 29 January 2004 ‘Public Procurement Law’, (consolidated text: Polish Journal of Laws of 2019, item 1843, as amended) for designing, manufacturing, delivery and commissioning of a superconducting wiggler (SCW) for the purpose of building of the SOLCRYS beamline at the SOLARIS NSRC, case numer: 80.272.104.2020*

**Questions, answers and modifications referring to the ToR**

The Awarding Authority presents below the questions to the content of the ToR in the proceedings for the above-mentioned scope of the procurement and the answers given to them.

**Question 1**

What types/names of civil liability insurances are assumed for the performance of this contract?

**Answer 1**

These types are damage to health or death and damage to property related to the agreement’s obligations.

**Question 2**

The insurance period is specified as until the end of the contract. Do I understand correctly that the end of the contract is considered to be the delivery and installation of equipment and the signing of the relevant act?

**Answer 2**

Yes, the end of the insurance period is considered to be signing of the acceptance protocol according to §4(1.4.).

**Question 3**

What is the limit of liability for these insurances?

**Answer**

The Awarding Authority sets the liability limit on the net amount of the contract, which depends on the contractor's bid.

**Question 4**

Please specify how long the Bank guarantee for the advance payment should be valid.

**Answer 4**

In accordance with §17 sec. 1 the bank guarantee „shall apply for a period from the day when the first payment shall be credited on the Contractor’s account up to 60 days inclusive from the date on which the delivery date falls in accordance with § 4(1) item 1.2 hereof.”

**Question 5**

Please change the FDR term from 5 months to 7 months.

**Answer 5**

The Awarding Authority accepts the abovementioned proposal and modifies §4(1.1.) first sentence of the contract (agreement) template, which is amended as follows:

„The implementation of the subject of the Agreement shall take place in the following stages:

* 1. Preparation of the design of the Subject of the Agreement in accordance with the requirements described in the ToR and in cooperation with the Awarding Authority and its delivery for approval by the Contractor **within no more than 7 months** from the date of signing the contract.”

**Question 6**

Earlier, during discussing the tender, there was an oral agreement that the cryosystems and power units will be supplied at the customer's expense and their import to the territory of the Contractor will be carried out for the performance of the work, followed by their return to the customer. Taking into account the current situation, it may turn out that the Contractor will have great difficulties with the purchase of the above-mentioned systems. Therefore, to be sure, we would like these systems to be purchased by the customer, i.e. University. Is it possible to make appropriate changes to the tender documentation?

**Answer 6**

The Awarding Authority informs, that due to the fact that power units are inseparably connected with the Subject of the Contract does not introduce any changes in this respect.

However in the case of cryocoolers the Awarding Authority modifies the ToR. The cryocoolers constitute a separate order due to the subject and the group of potential contractors, hence the cryocoolers will be ordered by the Awarding Authority.

The Awarding Authority modifies in this respect Appendix A to the ToR containing a description of the subject of the contract. **The new version of the Appendix A is published on the Awarding Authority’s website.**

**The Awarding Authority also deletes the words "cryocoolers" from the price calculation, which is an appendix no 2 to the bid form. Its modified version is published on the Awarding Authority’s website**.

**The Awarding Authority modifies the ToR as follow:**

1. **Point 14) 2.3 of ToR is replaced by the following:** 
   1. **Additional criteria – 20%.**
      1. **Design of the vacuum chamber of the straight section with RF components (tapers, absorbers and bellows)** – **10 points;**
      2. **Minimization of the cryostat volume**

Minimizing of the cryostat capacity and demonstrating zero consumption of liquid He during the use of the wiggler, confirmed with appropriate tests – **10 points;**

1. **Point 3 of the bid form – appendix No. 1 to ToR is replaced by the following:**
2. In order to obtain points in the qualitative substantive criteria, we declare that we offer:
3. Design of the vacuum chamber of the straight section with RF components (taper, absorber and bellows) - **YES \* / NO \***
4. Minimization of the cryostat volume

Minimizing of the cryostat capacity and demonstrating zero consumption of liquid He during the use of the wiggler, confirmed with appropriate tests – **YES \* / NO \***

**The Awarding Authority modifies the contract (agreement) template as follow:**

1. **It is added in paragraph 1 of the contract template sec. 4a after sec. 4, which reads as follow:**

„4a. The Parties hereby declare that the cryocoolers are the subject of a separate order (contract) and are not covered by the Subject of the Agreement. However, for the purpose of ordering them the Contractor shall provide the Awarding Authority with the technical specification in accordance with the requirements of Appendix A to the ToR within 2 months from the date of concluding the Agreement, taking into account that the time necessary for the Awarding Authority’s procurement proceeding (i.e. concluding an agreement with cryocoolers’ supplier) amounts about 3 months starting from the date of providing the Awarding Authority with technical specification in question. The Awarding Authority shall deliver cryocoolers directly to the Contractor. Considering that the Contractor declares hereby all support and assistance in pursuing positively transport, duty and acceptance procedures. Collection of the cryocoolers shall be made by the Awarding Authority or other authorized person and it shall be confirmed by signing an acceptance protocol and the photographic documentation. At the same time, the Parties unanimously and willingly agree that all risk of accidental loss or damage of the cryocoolers shall be burden by the Contractor until the Awarding Authority signs the appropriate unconditional acceptance protocol for the stage specified in §4(1.3).”

1. **§3 sec. 3, the first sentence, is replaced by the following:**

„3. The remuneration referred to in section (1) covers all payments due to the Contractor, including but not limited to **project’s and cryocoolers’ technical specification costs** as well as all license fees for third parties, packaging costs, safe transport, insurance, documentation, tests by the Contractor (Factory Acceptance Test - FAT), costs of customs clearance, costs of installation,, costs of participation in acceptance tests after delivery (Site Acceptance Test - SAT), costs of training of the Awarding Authority’s employees, commissioning’s costs, statutory and contractual warranty, fees and customs declarations in export and other costs which the Contractor must incur in order to implement the Subject of the Agreement.”

1. **It is added in paragraph 5 of the contract template sec. 1a after sec. 1, which reads as follow**

„1a. The Parties agree that the provisions of sec.1 above shall be also applied as the cryocoolers’ technical specification (§1 sec. 4a) is considered, providing however that its acceptance will take place in email form by the persons stipulated in §6 below.”

1. **It is added in paragraph 15 of the contract template sec. 2 letter e, which reads as follow:**

„e) Delay of more than 7 calendar days in providing the Awarding Authority with cryocoolers’ technical specification (§1 sec. 4a), in the amount of 0.1% of the net value of the subject of the Agreement. This contractual penalty shall be calculated for each day of delay in relation to the time limit determined in §1 sec. 4a hereof, however, not more than 10% of the net value of the subject of the Agreement.”

1. **§ 16 sec. 1 letter e is replaced by the following:**

„e) The Contractor has been in default with the development and delivery of **a cryocoolers’ technical specification or** detailed design of the subject of the Agreement for over 21 days in relation to the time limit stipulated in **§1 sec. 4a or** § 4(1) item 1.1, or has been delayed with making a design correction in the case of submission by the Awarding Authority of comments/reservations for over 14 days in relation to the time limit stipulated in § 4(1) item 1.1;”

1. **§ 18 sec. 1 is replaced by the following:**

“1. In the event of the impossibility of fulfilling obligations resulting from the subject matter Agreement in connection with circumstances beyond control of the Parties and which could not have been foreseen (force majeure), the Parties shall be released from any mutual obligations, including liability for the damage suffered. The Parties shall also have the right to change the time limits for performance of the Agreement. **The Parties consider force majeure as extraordinary causes beyond Party’s reasonable control, which could not be predicted nor prevented, including but not limited to war, state of emergency, floods, fires or essential change of socio-economic environment. The Parties also recognize the force majeure as the situation occurring on the day of conclusion of the Agreement related to the spread of coronavirus (COVID-19 disease) despite the fact that these are circumstances known to the Parties on the day of the conclusion of the Agreement. The Party may invoke this situation only if it cannot fulfill its contractual obligations through this situation and through no its own fault.”**

1. **§ 19 sec. 1 first sentence is replaced by the following:**

„1. In the case of works created or delivered hereunder, including but not limited to all elements of the Front-end section (hereinafter the "Works"), including software and its technical documentation, the Contractor, as part of the remuneration, as of the date of accepting the Work by the Awarding Authority, transfers to the Awarding Authority all copyright to the Work created under the Agreement, including the **cryocooler’s technical specification (§1 sec. 4a)** **and the** design of Wiggler (§4.1 item. 1.1.) along with ensurance of possibility to use them in the below indicated fields of exploitation.”

1. **§ 19 sec. 5 is replaced by the following:**

“5. The transfer of copyright is awarded to the Awarding Authority for the territory of the whole world and it is not limited in time. **To avoid any doubts The Parties agree that the Awarding Authority shall have the right to use the Works in all purchasing procedures, including those under public procurement regime.”**

**Question 7**

Please allow us to add delivery costs to the price of the product and do not separate them in the offer?

**Answer 7**

The Awarding Authority maintains the requirement to indicate the estimated delivery costs in the price calculation.

**The Awarding Authority informs that the time limit for submitting and opening the bids is changed as follow:**

**The new term for submitting tenders is June 11th 2020, 1:00 p.m.**

**The new term for opening tenders is June 11th 2020, 1:15 p.m.**

**Therefore, the Awarding Authority informs that the above modifications to the ToR and answers to questions constitute its integral part.**

*With kind regards,*

*Alicja Rajczyk*