

TERMS OF REFERENCE

hereinafter referred to as TOR

Chapter 1

Introduction

1. Contract Awarding Entity:

Registered office:

Independent Public Health Care Centre

Dr Jan Biziel University Hospital No. 2 in Bydgoszcz;

ul. Ujejskiego 75, 85-168 Bydgoszcz

tel. no.: (0 52) 36-55-495, 36-55-352

fax: (0 52) 36-55-752

NIP (tax identification number): 9532582266, REGON (state statistical number): 340517145

Website: www.biziel.pl,

E-mail address – przetargi@biziel.pl

Office hours: on working days from Monday to Friday: 7:30 am – 3:00 pm

2. Tender procedure reference no.: case no. – NZZ/94/P/12

3. Contract awarding procedure:

The procedure is conducted as an open tender procedure under the provisions of the Public Procurement Act of 29 January 2004 (consolidated text, Journal of Laws 2010, No. 113, item 759 as amended).

4. Subject of the contract – name of the contract given by the Contract Awarding Entity:

Delivery of a device for analysing the parameters of advanced glycation end products.

CPV 38434000-6

Short description of the subject of the contract:

The subject of the contract is delivery, installation and putting into operation of a brand new device for analysing the parameters of advanced glycation end products - AGEs indicator – 1 set and providing training for the user's personnel in the field of the device operation and providing relevant training for the technical personnel in the field of maintenance and basic inspections of the device.

Chapter 2

Conditions to be satisfied by the Contractors

1. Requirements with regard to offer preparation:

- Each Contractor can submit only one offer which can include only one price offered.
- Offers should be submitted in writing under pain of nullity.
- Persons authorized to represent the Contractor or its attorney need to sign the forms, declarations and appendices in sections designated for this purpose. A signature placed by an authorized person is considered to be a handwritten and legible signature or a personal name stamp initialled by the authorized person.
- Offers need to be prepared in compliance with the Terms of Reference.

- Offers need to be written in Polish and legibly.
- Any declarations and documents prepared in foreign languages should be submitted together with their translations into Polish prepared by the Contractor. The Ordering Party accepts making a bid and all statements and documents in the English language.
- Any appendices to TOR need to be completed in compliance with the instructions included in them.
- All the pages should be put together in a way which makes it impossible to break them up.
- It is recommended that each written page is numbered, stamped by the Contractor and signed by an authorized person. Blank pages do not need to be numbered, signed or stamped.
- Copies of any documents attached to the offer should be certified to be true copies of the originals by authorized persons (on each written page).
- Any corrections or changes in the offer text need to be made legibly and initialled by the person signing the offer with his/ her own hand.
- Offers need to be packed in two packagings (external and internal):
 - a) **external** packaging which should include the following information:
 - offer under open tender for ... (fill in appropriately in accordance with the subject of the tender)
 - Contract Awarding Entity's address
 - case ref. no.
 - name and address of the Contractor
 - do not open until the date of offer opening - fill in appropriately in accordance with TOR.
 - b) **internal** packaging which should include a declaration that the offer has been packed in a way which makes it impossible to open it accidentally prior to the date of offer opening, signed by a person authorized by the Contractor.

Offers can be changed or withdrawn prior to expiry of the deadline for offer submission. Any changes to the offer content should be packed in the same way as the offer itself. The additional packaging in which the changed offer is submitted should be marked with a note 'change'. In the event of offer withdrawal it is required to submit to the Contract Awarding Entity's registered office a declaration signed by a person authorized to represent the Contractor with the following wording: 'I hereby request withdrawal of my offer from the open tender for ...' (fill in appropriately in accordance with the subject of the tender). None of the offers can be changed or withdrawn after expiry of the deadline for offer submission.

Both changes and withdrawal of an offer need to be made in writing.

A withdrawn offer shall be immediately sent to the Contractor.

- Offers can be submitted in person or sent by mail or by courier. Offers must be physically received within the set deadline at the Contract Awarding Entity's registered office at ul. Ujejskiego 75, the Hospital Office, premises no. 46A.
- A Contractor who submits an offer after expiry of the deadline for offer submission shall be immediately informed about this fact. Offers submitted after the set deadline shall be immediately returned to the Contractors without being opened.

2. Terms and conditions of participation in the procedure and the way of assessing the eligibility and qualification for the procedure

The contract can be tendered for by the Contractors who have satisfied the following conditions:

- 1) they are not subject to exclusion from the public procurement procedure under Article 24, paragraph 1 of the Public Procurement Act,
- 2) they satisfy the conditions specified in Article 22, paragraph 1 of the Public Procurement Act with regard to:
 - 2.1. holding relevant licences to conduct specific business activity or perform specific actions if this is required by relevant provisions of law – the Contract Awarding Entity shall decide that this condition is satisfied if the Contractor presents a declaration in compliance with Article 22, paragraph 1 of the Public Procurement Act,

- 2.2. having necessary knowledge and experience – the Contract Awarding Entity shall decide that this condition is satisfied if the Contractor presents a declaration in compliance with Article 22, paragraph 1 of the Public Procurement Act,
- 2.3. having relevant technical potential and employing persons capable of fulfilling the contract – the Contract Awarding Entity shall decide that this condition is satisfied if the Contractor submits a declaration in accordance with Article 22, paragraph 1 of the Public Procurement Act.
- 2.4. economic and financial condition – The Ordering Party shall deem a condition to be fulfilled providing the Contractor proves to have a fully paid policy and if it does not have such one, it shall prove to have other document confirming that the Contractor is holding a civil liability insurance within the scope of conducted business related with the object of the contract at the amount of 100 000,00 PLN (in words: one hundred thousand zlotys) at least,

Note:

Values expressed in foreign currencies shall be converted according to Table A of average foreign exchange rates announced by the National Bank of Poland on the date of expiry of the deadline for submitting offers under this procedure (this concerns amounts included in documents confirming the satisfaction of conditions for participation in the procedure). Information on the said rates is available on the following website: www.nbp.pl. If the National Bank of Poland does not announce average foreign exchange rates on the date set as the deadline for offer submission, the Tenderer shall convert the amounts according to the table of foreign exchange rates announced on the day directly preceding the deadline for offer submission.

Assessment of eligibility and qualification for the procedure:

Satisfaction of the requirements for participation in the procedure shall be assessed following the **satisfied/ not satisfied** method based on the information included in documents and declarations required in Chapter 3, item 1 of the Terms of Reference. The said documents and declarations need to unambiguously prove that the Contractor has satisfied the required conditions. In case of Contractors jointly tendering for the contract they shall be subject to joint assessment of their eligibility and qualification for the procedure.

Contractors can rely on the knowledge and experience, technical potential, persons capable of fulfilling the contract or financial capacity of other entities irrespectively of the legal nature of their relationships. In such a situation the Contractor is obliged to prove to the Contract Awarding Entity that it shall have relevant resources necessary for fulfillment of the contract and, in particular, shall present to the Contract Awarding Entity a written commitment of these entities to place at the Contractor's disposal necessary resources for the period of using them with the aim of contract fulfillment (this declaration should be attached to the offer).

Chapter 3

Declarations and documents to be submitted by Contractors

1. With the aim of proving the Contractor's eligibility and qualification for the procedure, the following documents should be attached to the offer:

- 1.1. Contractor's declaration of satisfaction of the conditions specified in Article 22, paragraph 1 of the Public Procurement Act in accordance with the template included in Appendix 4 to TOR.
- 1.2. A fully paid policy and if it does not have such one, it shall prove to have other document confirming that the Contractor is holding a civil liability insurance within the scope of conducted business related with the object of the contract (one shall submit a policy with a document

confirming a paid premium, providing the fact of paying a premium does not result from the policy itself).

2. With the aim of confirming the lack of grounds for exclusion from the contract awarding procedure in circumstances, referred to in Article 24, paragraph 1 of the Public Procurement Act, the following documents should be attached to the offer:

- 2.1. Declaration of no grounds for exclusion from the procedure under Article 24, paragraph 1 of the Public Procurement Act in accordance with the template included in Appendix 5 to TOR.
- 2.2. Valid extract from a relevant register if, under separate provisions of law, an entry in a relevant register is required, with the aim of confirming the lack of grounds for exclusion under Article 24, paragraph 1, item 2 of the Public Procurement Act, issued not earlier than 6 months prior to expiry of the deadline for offer submission, and in case of natural persons - a declaration under Article 24, paragraph 1, item 2 of the Public Procurement Act.
- 2.3. Valid certificate issued by the Head of the relevant Tax Office confirming that the Contractor is not in arrears with the payment of any taxes, or a certificate confirming that the Contractor has been granted an exemption, postponement or spreading into instalments provided for by the law of the payments in arrears, or suspension in full of the execution of a decision of a relevant authority – issued not earlier than 3 months before expiry of the deadline for offer submission.
- 2.4. Valid certificate issued by relevant branch of the Social Insurance Company (ZUS) or the Farmers' Social Security Fund (KRUS) confirming that the Contractor is not in arrears with the payment of any health and social insurance contributions, or a certificate confirming that the Contractor has been granted an exemption, postponement or spreading into instalments provided for by the law of the payments in arrears, or suspension in full of the execution of a decision of a relevant authority – issued not earlier than 3 months before expiry of the deadline for offer submission.
- 2.5. Valid information from the National Criminal Record within the scope specified in Article 24, paragraph 1, items 4-8 of the Public Procurement Act issued not earlier than 6 months prior to expiry of the deadline for offer submission.
- 2.6. Valid information from the National Criminal Record within the scope specified in Article 24, paragraph 1, item 9 of the Public Procurement Act issued not earlier than 6 months prior to expiry of the deadline for offer submission.

If in the case of a Contractor with the registered office in the territory of the Republic of Poland, the persons, referred to in Article 24, paragraph 1, items 5-8 of the Public Procurement Act, have their place of residence outside the territory of the Republic of Poland, the Contractor shall submit with regard to them a certificate of no criminal record of these persons issued by a relevant judicial or administrative authority competent for their place of residence within the scope defined in Article 24, paragraph 1, items 5-8 of the Public Procurement Act, issued not earlier than 6 months prior to expiry of the deadline for offer submission; if in the place of residence of these persons no such certificates are issued, they are replaced with a document containing a declaration made before a notary, relevant judicial or administrative body, or a professional or economic self-government body competent for the place of residence of these persons.

3. With the aim of confirming that the deliveries offered satisfy the requirements specified by the Contract Awarding Entity, the following documents should be attached to the offer:

- 3.1. Valid document which confirms granting marketing and using in accordance with the law binding on the territory of the European Community, i.e.: conformity declaration and/or CE conformity certificate
- 3.2. Documents regarding the offered subject of the contract (e.g. leaflets, brochures, instructions for use or extracts from instructions for use, or service instructions, folders, photos or declarations concerning the offered parameters or any other documents held).

4. If the Contractor has proved to satisfy the conditions, referred to in Article 22, paragraph 1 of the Public Procurement Act, relies on the resources of other entities under Article 26, paragraph 2b of the Public Procurement Act and these entities are to take part in fulfillment of a part of the contract, the Contractor is required to present, with regard to those entities, documents mentioned in TOR in Chapter 3, item 2, subitems 2.1.,2.2.,2.3.,2.4.,2.5.,2.6.

5. Information regarding Contractors having their registered office or place of residence outside the territory of the Republic of Poland:

5.1. If the Contractor's registered office or place of residence is outside the territory of the Republic of Poland, instead of the documents, referred to in TOR in Chapter 3, item 2, subitems 2.2.,2.3.,2.4.,2.6. the Contractor submits a document or documents issued in the country of its registered office or place of residence, confirming respectively that:

- a) no liquidation proceedings have been initiated or bankruptcy has not been declared with regard to the Contractor, issued not earlier than 6 months prior to expiry of the deadline for offer submission,
- b) the Contractor is not in arrears with the payment of taxes, charges, social and health insurance contributions, or that the Contractor has been granted an exemption, postponement or spreading into instalments provided for by the law of the payments in arrears, or suspension in full of the execution of a decision of a relevant authority – issued not earlier than 3 months prior to expiry of the deadline for offer submission,
- c) no ban on tendering for the contract has been ruled with regard to the Contractor, issued not earlier than 6 months prior to expiry of the deadline for offer submission.

5.2. If the Contractor's registered office or place of residence is outside the territory of the Republic of Poland, instead of the document, referred to in TOR in Chapter 3, item 2, subitem 2.5. the Contractor submits a certificate issued by a relevant judicial or administrative authority competent for the registered office or place of residence of the person to whom these documents refer, within the scope specified in Article 24, paragraph 1, items 4-8 of the Public Procurement Act, issued not earlier than 6 months prior to expiry of the deadline for offer submission.

5.3. If in the place of residence of a given person or in the country in which the Contractor has its registered office or place of residence the documents, referred to in TOR in Chapter 3, item 5, subitems 5.1. and 5.2, are not issued, they are replaced with a document with a declaration made before a notary, relevant judicial or administrative authority, or a professional or economic self-government body competent for the place of residence of this person or the country in which the Contractor has its registered office or place of residence. The deadlines specified in subitems 5.1 and 5.2 shall apply respectively.

5.4. In the event of any doubts concerning the content of a document submitted by the Contractor having its registered office or place of residence outside the territory of the Republic of Poland, the Contract Awarding Entity can ask relevant authorities competent for the place of residence of a given person or the country in which the Contractor has its registered office or place of residence for necessary information regarding the submitted document.

6. Requirements to be satisfied by Contractors jointly tendering for the contract:

6.1. Contractors can jointly tender for the contract. In such a case they are jointly and severally liable for a failure to perform or improper performance of their obligations.

6.2. In the case, referred to in subitem 6.1. the Contractors appoint attorney in fact to represent them in the public procurement procedure or to represent them in the procedure and to conclude the public procurement contract.

6.3. The power of attorney needs to be attached to the offer and indicate: the public procurement procedure to which it refers, the appointed attorney and the scope of his authorization, and the Contractors jointly tendering for the contract.

6.4. If an offer is submitted jointly by several Contractors, the offer and all the appendices need to be signed by the attorney appointed by those Contractors.

6.5. When several Contractors jointly submit one offer, the following documents should be attached to the offer:

- a) documents and declaration, referred to in TOR in Chapter 3, item 2, issued individually for each of the Contractors,
- b) a joint offer form and the declarations and documents, referred to in TOR in Chapter 3, item 1 and item 3, signed by the appointed attorney.

6.6. Prior to conclusion of the public procurement contract, the Contract Awarding Entity shall ask for a cooperation agreement which needs to be signed by persons authorized to represent all the Contractors. The agreement should be concluded for the period of contract fulfillment.

6.7. The offer form should include the data of all the entities jointly tendering for the contract.

7. Other documents required:

7.1. Declaration regarding subcontractors in accordance with the template in Appendix 6 to TOR.

7.2. Power of attorney – if the offer is signed by an authorized person.

Note

The required documents can be submitted as the originals or copies certified to be their true copies by the Contractor. In the event of the Contractor attaching copies of documents each page of the photocopy of the documents required by the Contract Awarding Entity needs to be certified to be a true copy of the original by the person authorized to sign the offer. If the offer is signed by a person who is not listed in a relevant register and if under the provisions of law an entry in a relevant register or any other document is required, a power of attorney needs to be attached to the offer under which a given person is authorized to make declarations of will. The power of attorney should be submitted as the original or as a copy with certification of the signature by a notary.

In the case of Contractors jointly tendering for the contract and in the case of entities, referred to in TOR in Chapter 3, items 1 and 4, copies of documents regarding respectively the Contractors or these entities need to be certified to be true copies of the original documents by the Contractors or these entities.

The Contract Awarding Entity shall ask for the original of a given document or its copy authenticated by a notary if the copy of the document submitted by the Contractor is illegible or raises doubts regarding its authenticity.

Chapter 4

Information regarding subcontractors

1. The Contract Awarding Entity requires that the Contractor indicates in the offer the part of the contract which shall be fulfilled by subcontractors.

2. The Contractor is obliged to make a statement which shall indicate the parts of the contract which have been awarded to subcontractors – for this purpose Appendix 6 to TOR should be filled in and attached to the offer.

3. In the event of the Contractor's failure to submit the statement, referred to in item 2 of Chapter 4 of TOR, the Contractor is assumed to perform the contract by itself.

4. The Contract Awarding Entity does not indicate in TOR which part of the contract cannot be entrusted to subcontractors.

Chapter 5

Subject of the contract

1. The subject of the contract is delivery, installation and putting into operation of a brand new device for analysing the parameters of advanced glycation end products - AGEs indicator – 1 set and providing

training for the user's personnel in the field of the device operation and providing relevant training for the technical personnel in the field of maintenance and basic inspections of the device.

2. The required production year of the offered subject of the contract should not be earlier than those mentioned in Appendix 1 to TOR.

3. The offered subject of the contract needs to be brand new, non-reconditioned, unused, complete and free from defects.

4. The offered subject of the contract needs to satisfy the legal requirements in the field of marketing authorization and authorization to use.

5. The Contractor is obliged to provide a manual/ instructions for use in Polish for the offered subject of the contract on the date of its delivery at the latest. Submitting of a document in the English language is acceptable.

6. With regard to the offered subject of the contract the Contractor is obliged to ensure the minimum warranty period in compliance with the requirements specified in Appendix 1 to TOR.

7. With regard to the offered device the Contractor is obliged to provide a guarantee card on the date of putting it into operation at the latest.

8. The subject of the contract needs to be packed in a way which shall protect it against any damage.

9. The Contractor is obliged to deliver the subject of the contract at its own expense and risk to the place of delivery, and then put it into operation in the location indicated by the Contract Awarding Entity and wherever it is required, and conduct trial tests and conduct training within the scope required in TOR in the seat of the Contract Awarding Entity.

10. The subject of the contract is in detail defined in Appendix 1 to TOR.

11. The Contractor is obliged to attach to the offer the completed Appendix 1 to the Terms of Reference, entitled 'Subject of the contract'.

Chapter 6

Deadline for contract fulfillment

1. The contract needs to be fulfilled within 60 days from the date of concluding the contract.

2. Place of contract fulfillment: registered office of the Contract Awarding Entity at ul. Ujejskiego 75 in Bydgoszcz - Dr Jan Biziel University Hospital No. 2. Place of delivery: Hospital Warehouse Complex in the registered office of the Contract Awarding Entity. Installation and putting into operation the subject of the contract: location indicated by the Contract Awarding Entity within its registered office.

Chapter 7

Criteria to be followed by the Contract Awarding Entity while selecting the winning offer, including indication of their importance and the way of offer assessment

1. The Contract Awarding Entity shall select the most favourable offer out of the non-rejected offers based only on the offer assessment criteria.

2. The offers shall be assessed based on the criterion presented below, whereby the most favourable offer shall be the offer which shall score the highest percentage.

3. While selecting and assessing the offers submitted, the Contract Awarding Entity shall be guided by the following criterion:

Name of criterion	Importance of criterion
The lowest price	100%

Offer assessment method:

The lowest price criterion, that is the C indicator, shall be calculated with the use of the following formula:

$$C = \frac{C_n}{C_b} \times 100 \times 100\%$$

where:

C – the most favourable offer

C_n – gross price of the cheapest offer

C_b – gross price of the analysed offer

Note:

The above-mentioned criteria of offer assessment shall be calculated with the accuracy to the second digit after the decimal point in accordance with the mathematical principles of rounding, that is,:

- a) fractions ending with numbers 1-4 shall be rounded down,
- b) fractions ending with numbers 5-9 shall be rounded up.

4. The Contract Awarding Entity shall award the public procurement contract to the Contractor whose offer satisfies the formal requirements and is assessed as the most favourable one (has scored the highest percentage).

Chapter 8

Material provisions of the proposed contract and the payment period

1. The content of the proposed contract is included in Appendix 3 to the Terms of Reference entitled 'Draft contract'.
2. The Contractor shall accept the payment in the form of a money transfer in parts according to the set schedule.

The offered amount shall be payable by way of a money transfer divided into 2 parts:

- a) the 1st part amounting to 50% of the offer price within 30 days from the date of issuing the VAT invoice,
- b) the 2nd part amounting to 50% of the offer price within 60 days from the date of issuing the VAT invoice.

Chapter 9

Calculation of the offer price

1. The Contractor is obliged to complete Appendix 2 (offer form) and Appendix 2A (detailed price form) to the Terms of Reference in accordance with the templates specified by the Contract Awarding Entity. The Contractor shall, on its own, prepare Appendix 2A according to the template specified by the Contract Awarding Entity. The completed and signed appendices should be submitted together with the offer.

Offer price:

The price quoted in the offer is the gross price which shall include all the costs connected with performance of the contract. The price should include the costs of purchase, packaging, transport insurance, costs of delivery, unloading, installation, putting into operation, the value of taxes, customs

duties and other charges, costs of training, warranty, and potential discounts and rebates, and should be treated as the final price to be paid by the Contract Awarding Entity.

The price comprises, among others:

- the net value of the offered subject of the contract,
- VAT.

Calculation of the offer price

The gross value should be calculated in accordance with a relevant pattern and Appendix 2A:

A) At first, the ordered amount should be multiplied by the net unit price, which will give the net value. This net value should be multiplied by the applicable VAT rate, which will give the value of VAT. Then, the calculated net value and the value of VAT should be summed up to receive the gross value. This gross value is the price within the meaning of these Terms of Reference.

B) If individual elements of the subject of the contract (items) are subject to different VAT rates or if the subject of the contract includes a diverse range of goods, the price for each of these items should be calculated individually according to the pattern shown above. Then, the net values, gross values and VAT values of all the items should be summed up. The total gross value of all the items is considered to be the offer price. This gross value is the price within the meaning of these Terms of Reference.

2. The offer price needs to be quoted in EURO with indication of VAT. The offer price needs to be quoted with the accuracy to the second digit after the decimal point in accordance with the mathematical principles of rounding, that is,:

- a) fractions ending with numbers 1-4 shall be rounded down,
- b) fractions ending with numbers 5-9 shall be rounded up.

3. The Contractor shall quote the price (total value) of the offered subject of the contract in Appendix 2 to the Terms of Reference (offer form).

4. It is recommended that the gross price (total value) is entered in Appendix 1 (subject of the contract) to the Terms of Reference in item entitled 'Gross purchase value'.

5. The price shall not change during the whole term of the contract.

6. If an offer is submitted the selection of which would result in a tax obligation on the side of the Contract Awarding Entity in compliance with the provisions on value added tax with regard to intra-Community purchase of goods, the Contract Awarding Entity shall, with the aim of assessing this offer, add to the price quoted in it the value added tax that it would be obliged to pay in accordance with the applicable regulations.

Chapter 10

Requirements regarding bid security

1. Offers need to be secured with a bid security amounting to PLN - 1 400, (one thousand four hundred zlotys).

2. The Contractor can deposit a bid security in one or several of the following forms:

- money;
- bank surety or surety of a cooperative savings and credit union provided that the latter is always in cash;
- bank guarantee;
- insurance guarantee;

- surety issued by entities, referred to in Article 6b, paragraph 5, item 2 of the Act on establishment of the Polish Agency for Enterprise Development of 9 November 2000 (Journal of Laws 2007, No. 42, item 275).

3. The bid security needs to be deposited prior to expiry of the deadline for offer submission and needs to cover the offer validity period.

4. The Contractor who has not deposited the bid security shall be excluded from the public procurement procedure.

5. The bid security deposited in cash should be paid by way of a money transfer to the bank account of the Contract Awarding Entity:

Kredyt Bank S.A. O/ Bydgoszcz (Branch Bydgoszcz)

Bank account no.: 10 1500 1360 1213 6001 9348 0000

with a note: Bid security for case ref. no. NZZ/94/P/12

6. The moment of depositing the bid security is the moment of crediting the account of the Contract Awarding Entity with the bid security amount.

7. Bid security deposited in a form other than cash should be submitted as the original in the Hospital Office, premises 46A within the deadline specified in item 3 of this Chapter. In such a case the bid security should be packed in a separate envelope with a note: **Bid security for case ref. no. NZZ/94/P/12**

8. It is recommended that a photocopy of the proof of the bid security payment in any form is also attached to the offer and certified to be a true copy of the original.

9. The Contractor is obliged to secure the offer with a bid security for the whole offer validity period.

10. With regard to other issues connected with the bid security Article 46 of the Public Procurement Act shall apply.

Chapter 11

Place and deadline for offer submission

Offers should be submitted to the registered office of the Contract Awarding Entity at ul. Ujejskiego 75, the Hospital Office premises no. 46A.

Offers should be submitted by the date of:

26.11.2012

at:

11:30

Chapter 12

Communication between the Contract Awarding Entity and the Contractors, and delivery of declarations and documents

- 1) With regard to the procedure the applicable form of communication between the Contract Awarding Entity and the Contractors is the written form. Any documents, declarations, notifications or information need to be delivered in writing. They can be sent by fax or delivered immediately in writing to the registered office of the Contract Awarding Entity by mail, by courier or in person.
- 2) In the event of sending any declarations, motions, notifications, information etc. by fax, at the request of one of the parties, the other party is obliged to immediately confirm their receipt.
- 3) In the event of a failure to confirm the receipt of any message by the Contractor, the Contract Awarding Entity shall deem the letter sent by it to the fax number given by the Contractor as delivered in a way making it possible for the Contractor to become acquainted with the content of the letter.
- 4) The Contract Awarding Entity requires that any correspondence regarding the procedure conducted

is sent only to the address or fax number given in TOR in Chapter 1, item 1 and marked with the case ref. no.: **NZZ/94/P/12**

- 5) Any explanations regarding the Terms of Reference shall be provided under the principles and within the deadlines specified in Article 38 of the Public Procurement Act.
- 6) The Contract Awarding Entity shall at the same time provide the content of explanations to all the Contractors to whom TOR have been delivered without indicating the source of request and shall place them on its website on which TOR are available.

Chapter 13

Formalities that need to be complied with after selection of the winning offer with the aim of concluding the public procurement contract

1. After selecting the winning offer, with the aim of concluding the contract, the Contractor shall be informed about the date, time and place of signing the contract in a notification on selection of the most favourable offer. The date of concluding the contract may change in the event of any of the Contractors making an appeal. The selected Contractor shall be informed about the new date of contract conclusion upon completion of the appeal proceedings.
2. The contract shall be concluded in the registered office of the Contract Awarding Entity at ul. Ujejskiego 75 in Bydgoszcz.
3. The Contract Awarding Entity shall conclude the public procurement contract, subject to Article 183 of the Public Procurement Act, after at least 10 days from the date of sending the notification on selection of the winning offer if this notification is sent pursuant to Article 27, paragraph 2 of the Public Procurement Act, or 15 days if it is sent in any other way.
4. If only one offer is submitted, the Contract Awarding Entity can conclude the contract prior to expiry of the deadlines, referred to in item 3 of this Chapter.
5. The contract shall be concluded in writing.
6. With the aim of concluding the contract, on the part of the Contractor, persons authorized to sign it should arrive.
7. Persons representing the Contractor while signing the contract should have with them any documents confirming their authorization to sign the contract provided that this authorization does not result from the documents attached to the offer.
8. If the Contractor whose offer has been selected as the winning offer avoids concluding the public procurement contract or does not provide the performance bond, the Contract Awarding Entity can select the most favourable offer out of the remaining ones without the need to analyse and assess them once again unless there are prerequisites for cancellation of the procedure, referred to in Article 93, paragraph 1 of the Public Procurement Act.
9. In the case of Contractors jointly tendering for the contract, prior to conclusion of the public procurement contract, the Contract Awarding Entity shall ask for a cooperation agreement which needs to be signed by persons authorized to represent all the Contractors.

Chapter 14

Requirements regarding performance bond

The Contract Awarding Entity does not require a performance bond to be provided.

Chapter 15

Offer validity period

1. The offer validity period is sixty days.
2. The offer validity period runs from expiry of the deadline for offer submission.

Chapter 16 **Offer opening**

Offers shall be opened in public in the common room (lower ground floor) in the registered office of the Contract Awarding Entity at ul. Ujejskiego 75 - Dr Jan Biziel University Hospital No. 2 in Bydgoszcz on the date of:

26.11.2012

at:

13:00

Chapter 17 **Opening procedure and offer assessment**

1. On the date of offer opening at the time indicated above, the Chairman of the Tender Committee, acting pursuant to Article 21 of the Public Procurement Act and the decision of the Director on establishment of the Tender Committee, shall perform the following actions:

- introduce the members of the Committee and read the legal basis for their activities.
- quote the amount the Contract Awarding Entity is going to earmark for financing of the contract.
- open in public the offers by way of cutting the envelopes and taking out the offers on the first-come, first-served basis.
- read the data specified in Article 86, paragraph 4 of the Public Procurement Act.
- prepare a list of procedure participants on the part of the Contractors.
- close the official part of offer opening.
- set the date of the next meeting of the Committee.

2. After the offer opening the offers shall be analysed without the participation of the Contractors.

3. The offers shall be analysed in terms of their compliance with the terms and conditions specified in the Terms of Reference and provisions of the Public Procurement Act.

Chapter 18 **Persons authorized to contact the Contractors**

Name and surname	Organizational unit	Telephone no.
Arkadiusz Wojciuk	Administration and Technical Department	48 52/36-55-760
Przemysław Ściesiński	Tenders and Supplies Department	48 52/36-55-495

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Chapter 19 **Information regarding foreign currencies in which payments can be made between the Contract Awarding Entity and the Contractors**

Payments shall be made in EURO. The Contractor is obliged to quote the offer price in EURO in Appendices 2 and 2A.

Chapter 20 **Exclusion of Contractors**

- 1) The Contract Awarding Entity shall exclude from the procedure the Contractors mentioned in Article 24 of the Public Procurement Act.
- 2) Offers submitted by excluded Contractors shall be deemed as rejected offers.

Chapter 21 **Offer rejection**

The Contract Awarding Entity shall reject an offer if:

- 1) it is contrary to the Public Procurement Act,
- 2) its content does not correspond to the Terms of Reference, subject to Article 87, paragraph 2, item 3 of the Public Procurement Act,
- 3) its submission is an act of unfair competition within the meaning of the provisions on combating unfair competition,
- 4) it includes a grossly low price in proportion to the subject of the contract,
- 5) it was submitted by a Contractor excluded from the contract awarding procedure,
- 6) it includes errors with regard to price calculation,
- 7) the Contractor has not agreed, within 3 days from the date of delivering a relevant notification, to correct the error, referred to in Article 87, paragraph 2, item 3 of the Public Procurement Act,
- 8) is invalid under separate provisions of law.

Chapter 22 **Cancellation of the procedure**

The Contract Awarding Entity shall cancel the contract awarding procedure if:

- 1) no offer not subject to rejection has been submitted,
- 2) the price quoted in the most favourable offer or the offer with the lowest price exceed the amount the Contract Awarding Entity is going to earmark for financing of the contract unless the Contract Awarding Entity can increase this amount up to the level of the most favourable offer,
- 3) in cases, referred to in Article 91, paragraph 5 of the Public Procurement Act, when additional offers with the same price have been submitted,
- 4) there has been a significant change in the circumstances prevailing due to which the procedure conducted or performance of the contract are not in the public interest, which could not have been predicted before,
- 5) the procedure has a defect which cannot be removed and which makes it impossible to conclude a public procurement contract which would not be subject to cancellation.

Chapter 23 **Description of contract parts if the Contract Awarding Entity provides for partial offers**

The Contract Awarding Entity does not provide for submission of partial offers.

Chapter 24 **Prospective supplementary contracts**

The Contract Awarding Entity does not provide for supplementary contracts under Article 67, paragraph 1, item 7 of the Public Procurement Act.

Chapter 25 **Submission of variant offers and minimum conditions to be satisfied by them if the Contract Awarding Entity provides for their submission**

The Contract Awarding Entity does not provide for submission of variant offers.

Chapter 26

Information regarding online auctions

The Contract Awarding Entity does not provide for an online auction.

Chapter 27

Reimbursement of costs of participation in the procedure if the Contract Awarding Entity provides for their reimbursement

1. Any costs connected with preparation and submission of offers, as well as participation in the procedure are charged only to the Contractors subject to item 2 of this Chapter.
2. In the event of cancelling the contract awarding procedure for reasons on the side of the Contract Awarding Entity, the Contractors who have submitted offers which are not subject to rejection are entitled to make a claim for reimbursement of reasonable costs of participation in the procedure, and in particular costs of offer preparation.

Chapter 28

Access and price of the Terms of Reference

1. TOR are available in writing and in an electronic form on the website of the Contract Awarding Entity www.biziel.pl from the date of placing the procurement notice in the Official Journal of the European Union at least until the date of offer submission inclusively.
2. After filing a written application (in person or by fax) one may collect the written version of TOR in the registered office of the Contract Awarding Entity, the Public Procurement and Purchasing Department, premises no. 40 from 8.00 am till 2.30 pm from Monday to Friday on working days, having presented the proof of payment made in the Hospital's cash office (the cash office is opened from Monday to Friday on working days at: 8:00 am – 10:30 am, 12:30 pm -2:30 pm). Payments are made in cash. If required, TOR can be sent by mail or by courier via COD + the costs of delivery to be incurred by the Contractor.
3. Upon request TOR shall be delivered within 5 days from the date of receiving a relevant application.
4. The price of one copy of TOR is PLN 10 gross, payable in cash or via COD.
5. TOR can be also downloaded in their electronic version available on the website of the Contract Awarding Entity, which is free of charge.

Chapter 29

Notice of legal remedies

1. The Contractors, contest participants and other entities are entitled to legal remedies if they have or had interest in being awarded a given contract or have incurred or may incur any damage as a result of the Contract Awarding Entity violating the provisions of the Public Procurement Act.
2. Legal remedies with regard to the procurement notice and terms of reference can be also used by organizations entered in the list, referred to in Article 154, item 5 of the Public Procurement Act.
3. An appeal can be lodged only against an action undertaken by the Contract Awarding Entity as part of the contract awarding procedure which is contrary to the Public Procurement Act or a failure to perform an action to which the Contract Awarding Entity is obliged under the Public Procurement Act.
4. The appeal should indicate the action or a failure to perform an action by the Contract Awarding Entity which is alleged to be contrary to the provisions of the Public Procurement Act, include a brief presentation of the allegations, specify the demands and indicate factual and legal circumstances justifying the fact of lodging the appeal.
5. Appeals are lodged to the President of the Chamber in writing or in an electronic form bearing a safe electronic signature verified with a valid qualified certificate.
6. The appealing party sends a copy of the appeal to the Contract Awarding Entity prior to expiry of the deadline for lodging appeals so that it can become acquainted with its content before the said deadline expires. It is assumed that the Contract Awarding Entity is able to become acquainted with the content of an appeal prior to expiry of the deadline for its lodging provided that its copy has been sent

prior to expiry of the deadline for its lodging using one of the methods specified in Article 27, paragraph 2. of the Public Procurement Act.

7. An appeal is lodged within 10 days from the date of sending information on the action performed by the Contract Awarding Entity constituting the grounds for its lodging if it has been sent in a way specified in Article 27, paragraph 2 of the Public Procurement Act, or within 15 days if it has been sent in any other way.

8. Appeals with regard to the content of the procurement notice and, if the procedure is conducted as an open tender, also with regard to the Terms of Reference can be lodged within 10 days from the date of placing the notice in the Official Journal of the European Unions or placing the Terms of Reference on a relevant website.

9. Appeals with regard to actions other than those specified above in items 7 and 8 are lodged within 10 days from the date on which one became aware or, exercising due diligence, could have become aware of circumstances constituting the grounds for their lodging.

10. With regard to the decision of the Chamber, the parties and participants of the appeal proceedings are entitled to make a complaint with regional court of proper jurisdiction for the registered office or place of residence of the Contract Awarding Entity within 7 days from the date of delivering the Chamber's decision. Complaints are made through the President of the Chamber, simulatenously sending its copy to the complaint opponent.

11. Within 21 days from the date of delivering a decision, a complaint can be also made by the President of the Office. The President of the Office can also enter into the pending proceedings.

12. The complaints should satisfy any requirements regarding court papers and include indication of the contested decision, quotation of the allegations, their brief justification, indication of evidence and a motion for annulment of the decision or change of the decision in whole or in part.

13. The procedure of bringing legal remedies is in detail described in Chapter 6 of the Public Procurement act (Articles 179 – 198g) entitled 'Legal remedies'.

Chapter 30 **Final provisions**

1. To all matters not settled herein provisions of the Public Procurement Act of 29 January 2004 (consolidated text, Journal of Laws 2010, No. 113, item 759 as amended) and provisions of the Civil Code of 23 April 1964 (Journal of Laws No. 16, item 93 as amended) shall apply.

2. The Terms of Reference are not subject to return.

3. The Contract Awarding Entity shall immediately inform the Contractors about the selection of the most favourable offer by way of placing relevant information in a publicly available place within the registered office of the Contract Awarding Entity (information board), on the website of the Contract Awarding Entity www.biziel.pl and by way of informing each Contractor individually.

Bydgoszcz on 11 October 2012

Approved by:
Director of the Hospital
Wanda Korzycka - Wilińska