

TERMS OF REFERENCE [TOR]

Construction of an exhaust gas deduster system using an electrostatic precipitator for an end-fired glass furnace at the Źary plant.

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INSTRUCTION FOR TENDERERS

1. Subject of the tender procedure

Construction of an exhaust gas deduster system using an electrostatic precipitator for an end-fired glass furnace at the Żary plant.

2. The Ordering Party:

- 2.1. Name: CIECH Vitrosilicon S.A.
- 2.2. Address: ul. Żagańska 27, 68-120 Iłowa

3. Procurement agent carrying out the procedure:

- 3.1. Full name of the procurement agent: Dobiesław Szeszo
- 3.2. Position: Chief Technologist
- 3.3. e-mail: dobieslaw.szeszo@ciechgroup.com
- 3.4. Phone: (68) 36 00 767

4. Task implementation location:

- 4.1. Task implementation location: Żary-Kunice, ul. Westerplatte 10a
- 4.2. Name of the Company of the Ordering Party: CIECH Vitrosilicon S.A.
- 4.3. Address: ul. Żagańska 27, 68-120 Iłowa

5. Key dates in the process

- 5.1. The deadline for submitting offers: according to information on the CIECH Procurement Platform.
- 5.2. All works covered by the present proceedings, along with their acceptance by the Ordering Party, shall be made within 24 weeks from the date of signing the agreement, but no later than on August 31, 2020.

6. Field inspection

- 6.1. Place: ul. Westerplatte 10a, 68-200 Żary-Kunice
- 6.2. between 8:00 am and 2:00 pm Participation in the field inspection requires prior notification to the leading procurement agent (e-mail: dobieslaw.szeszo@ciechgroup.com).

7. Q&A

The deadline for submitting questions is: 24/07/2019 to 2:00PM The Ordering Party will reply to 22.07.2019. The only form of submitting questions and answers is the CIECH Purchase Platform, in the mode of asking questions. The Ordering Party will publish aggregate answers to all questions as they appear.

8. Bid bond

- 8.1. The ordering party does not require a bid bond

9. Place and date for submitting the tenders

- 9.1. Electronic version: CIECH Purchase Platform, on the date specified on the platform.
- 9.2. The paper version of the offer (with the prior consent of the leading procurement agent) provided on the CIECH Purchase Platform.

10. Division into commercial and substantive part

- 10.1. The formal condition unconditionally required to be met by the tenderer is to split the bid into two parts and place each one in accordance with the following guidelines:

File 1 - The commercial part of the offer containing:

- a) a completed and signed offer form,
- b) formal documents of the Tenderer,
- c) required financial documents and guarantees securing the implementation of the Agreement,
- d) material and financial schedule
- e) comments, if any.

File 2 - The substantive part of the offer should include:

- a) List of reference projects,
 - b) Substantive and technical elements of the offer, in accordance with the requirements of the subject of the ToR contained in **Annex No. 1**,
 - c) Schedule of implementation.
- 10.2. The substantive part shall not include any elements concerning the price and the agreement. The offer prepared in an inappropriate manner may be rejected from a formal point of view.

11. Submission of a partial offer, variants

- 11.1. The Ordering Party does not allow the submission of a partial offer.
- 11.2. The Ordering Party does not allow the submission of different variants of the offer.

12. Conditions for participation in the proceedings:

- 12.1. The following tenderers may take part in the procedure:
 - 12.1.1. who have the authority to perform specific activities or tasks to the extent necessary to execute the Order, if any acts impose an obligation to have such rights, or the tenderers employ persons having such rights on the basis of a contract of employment, a permanent contract for work or for the provision of services;
 - 12.1.2. who have the necessary knowledge and experience to perform the Order
 - 12.1.3. who in the last 5 years before the day of submitting the offer, and if the period of running business is shorter – during this period, completed at least 2 investments of a similar nature, confirmed by references, acceptance protocols or at least statements together with the contact details of previous Investors, scope of performed works and their values.
 - 12.1.4. who have technical potential and people who enable proper execution of the Order;

- 12.1.5. who are in an economic and financial situation ensuring proper execution of the Order,
 - 12.1.6. who have financial resources or the ability to incur credit for the purposes of the said Investment in a value not less than PLN 1,000,000 – confirmed by an opinion or a bank certificate
 - 12.1.7. who are insured against tort and contractual liability in respect of their operations, for a guarantee sum not lower than PLN 2,000,000,
 - 12.1.8. who are not subject to exclusion from the Order award procedure
- 12.2. The following tenderers may not take part in the procedure:
- 12.2.1. who, in the last 3 years before the date of submitting their offer, caused damage by failing to execute contracts for construction works or other construction works related to them, or by performing them improperly;
 - 12.2.2. in relation to whom liquidation has been opened or who have submitted a restructuring request or for which bankruptcy proceedings have been initiated, or whose bankruptcy has been declared;
 - 12.2.3. who employ persons who have been legally convicted of an offence committed in connection with the performance of professional activities, an offence against economic turnover or any other offence committed in order to obtain financial benefits;
 - 12.2.4. general or partner companies whose partners have been convicted of the offences referred to in point 12.2.3;
 - 12.2.5. limited partnerships and limited joint-stock partnerships whose general partner has been convicted of the offence referred to in point 12.2.3;
 - 12.2.6. legal persons whose current member of the management body have been convicted of the offence referred to in point 12.2.3.
- 12.3. The Tenderer shall prepare his offer taking into account the need to deliver to the Ordering Party, at the latest within 14 days from the date of signing the agreement, a Bank/Insurance Good Performance Bond issued to the Ordering Party according to the template attached to the tender documentation, for the amount of 15% of the net value of the agreement, valid for the duration of the agreement and the period of the quality guarantee and warranty for defects, extended by 30 days.
- 12.4. Acceptance of the payment of invoices by the Ordering Party within no less than 30 days.

13. Criteria of tender assessment:

- 13.1. Net price: 80 %
- 13.2. Date of implementation [in weeks]: 10%
- 13.3. Guarantee period [months: 24 months minimum]: 10%

14. Information and reservations:

- 14.1. The Ordering Party initiates the proceedings by placing an advertisement on the CIECH Procurement Platform: www.procurement.ciechgroup.com/.

- 14.2. The proceedings are conducted in an unlimited tender procedure, by the Commission appointed by the Ordering Party.
- 14.3. Invited entities registered individually as well as consortia which have their own human resources and equipment to perform the task, may participate in proceedings under the restricted tender procedure.¹
- 14.4. The condition for participation in the tender is the necessary knowledge and experience to complete the task. The Tenderer submits the declaration on fulfilling this requirement together with the offer.
- 14.5. The Ordering Party shall choose the most advantageous offer based on the previously defined evaluation criteria, and as part of the electronic auction on the CIECH Procurement Platform.
- 14.6. Subject to the provisions of 14.7. below, the offer shall be made, under pain of nullity, through the CIECH Procurement Platform.
- 14.7. Upon prior acceptance of the Procurement Agent, it is allowed to submit an offer in writing, in the place indicated in the request for tenders, in two closed envelopes with the following annotation: "Commercial offer/Substantive offer for the procedure << Name of proceedings from the CIECH Procurement Platform >> maintained by << Name of the Ordering Party >>, << Name and Surname of the Lead Procurement Agent>>. Do not open before << Date and time >> ". All entries in accordance with the information provided on the CIECH Purchase Platform. The offer in a written version shall be submitted to the address of the Ordering Party indicated in the notice, one copy with the division into a commercial part and the substantive part. Offers placed in open envelopes and sent by fax to the Ordering Party may be rejected, and the Tenderer who submitted them may be excluded from the proceedings. Offers submitted in paper version only must be accompanied by a copy of the offer in electronic form.
- 14.8. Documents prepared in a foreign language shall be submitted together with a translation into Polish. In the event of a discrepancy, the Polish version is binding.
- 14.9. Tenderers are required to read the information contained in the Terms of Reference and prepare the offer in accordance with the requirements set out therein.
- 14.10. The Tenderer shall prepare his offer taking into account the 90 day validity period of the offer, counted from the date designated by the Ordering Party as the last day for submitting offers.
- 14.11. The Tenderer may change or withdraw the offer before the deadline for the submission of tenders expires.
- 14.12. The contents of the offers cannot be read before the date of their opening.
- 14.13. The opening of offers is secret and takes place immediately after the deadline for submitting thereof. The Tenderer has no access to the content of the offers of the other parties to the proceedings.
- 14.14. All information provided in this ToR and made available to Tenderers in the course of the proceeding is provided solely for the purpose of preparing the offer and in no case should it be used in any other way or made available to non-participants.

¹ Applies only to restricted tender procedure – delete in the case of an unlimited tender.

- 14.15. All costs related to participation in the proceedings, including costs related to the preparation and submission of the offer, shall be borne by the Tenderer, regardless of the outcome of the proceedings.
- 14.16. In justified cases, the Ordering Party may, at any time before the deadline for submission of tenders, modify the content of the ToR. The Ordering Party will submit all modifications to the Tenderers immediately. In the event that a change will result in the need to modify the offer, the Ordering Party will extend the deadline for submitting the offers, taking into account the time necessary to introduce changes resulting from the modification of the content of the ToR.
- 14.17. The Ordering Party may reject the Offer submitted by the Tenderer, in particular when the Offer has been submitted after the deadline or the Offer does not meet the requirements set out in the ToR.
- 14.18. In the case of exclusion of the Tenderer, as well as the rejection of his Offer, the Ordering Party is not obliged to submit explanations, and the Tenderer is not entitled to any claims against the Ordering Party.
- 14.19. The remuneration proposed in the offer should be a **lump sum** remuneration, expressed in PLN. The Ordering Party allows the possibility of submitting an offer in EUR. For the purpose of comparison of offers, the value of EUR will be converted into PLN according to the average exchange rate of the National Bank of Poland on the opening day of the offers.
- 14.20. The offer should be submitted on the offer form, contained in **Annex No. 2C** which is an attachment to the ToR and in the table on the CIECH Procurement Platform.
- 14.21. All prices shall be indicated in the offer by digits and in a written form (say:...).
- 14.22. All prices in the offer should be indicated in amounts including value added tax (VAT) (gross amounts) and without taking into account the amounts of this tax (net amounts), together with an indication of the percentage rate of due value added tax.
- 14.23. In the event of a discrepancy between the digital and the verbal indication of the price, the amount indicated in words is binding.
- 14.24. The Tenderer must establish and consider all costs and charges related to the nature of the work, resulting from local conditions and restrictions, as well as take into account all other factors that may affect the costs of the agreement.
- 14.25. It is required that all pages of the offer are numbered and signed by a person authorized to make statements on behalf of the Tenderer, and the whole combined and dated the date of submission of the offer.
- 14.26. The offer should be signed by persons duly authorized to do so. If the offer is signed by persons who are not indicated in the current copy of the National Court Register as authorized to represent the Tenderer, it is required to attach to the offer power of attorney for persons signing the offer given by persons indicated in the current copy of the National Court Register to represent the Tenderer.
- 14.27. Schedules included in the offer should contain dates expressed in weeks, counted from the commencement of works or deliveries, sending the Order, signing the Agreement or other moment indicated in the ToR. It is not allowed, unless otherwise specified in the ToR, to indicate calendar dates for individual stages.
- 14.28. The Contracting Party shall take into account the possibility of conducting electronic auctions in order to select the Contractor, whereas the Tenderer, by the fact of submitting the offer, agrees to such a way of selecting the Contractor.

14.29. If the Tenderer whose offer has been selected evades concluding the agreement, the Ordering Party may refuse the offer of this Tenderer and choose the most advantageous offer from among the other offers, without carrying out their re-evaluation. In this case, the Ordering Party shall inform the Tender whose offer has been rejected and the Tender whose offer has been selected pursuant to the above provision.

14.30. The Ordering Party reserves the right to:

- 1) cancel the tender procedure without giving a reason,
- 2) not consider the offer submitted after the deadline,
- 3) withdraw from choosing the offer at any time without giving a reason,
- 4) conduct additional negotiations,
- 5) acknowledge that the tender was not settled without justification.

