

TERMS OF REFERENCE

OPEN TENDER PROCEDURE

case no: BDG-V-281-7-JZ/07

concerning an execution of the research entitled “Ex-ante evaluation and Strategic Environmental Assessment of the draft Operational Programme of Cross-Border Cooperation in the area of the Southern Baltic Sea with participation of Poland, Sweden, Denmark, Lithuania and Germany in 2007-2013”.

§ 1. General information

1. The term „law” without further description used herein will mean the Public Procurement Law of 29 January 2004 (Journal of Laws no 19, item 177 with later amendments), while the abbreviation „TOR” means this Terms of Reference.
2. The Contracting Authority is: **The Ministry of Regional Development** seated in Warsaw, 00-926 ul. Wspólna 2/4,
Any documents should be sent to:
The Ministry of Regional Development, Director General Office, room 2003,
ul. Wspólna 2/4, 00-926 Warsaw, fax. (0 22) 461-33-62.
3. The proceedings have a form of an open tender procedure.
4. The proceedings are conducted in Polish. Any documents in a foreign language must be accompanied by translations into Polish that have been certified by the Contractor.
5. Every Contractor may submit only one tender.
6. The Contracting Authority does not allow partial tenders to be submitted.
7. The Contracting Authority does not allow a possibility of submitting a variant tender.
8. The Contracting Authority accepts a possibility that the Contractor orders parts of the tender to subcontractors.
9. The Contracting Authority does not plan granting supplementary contracts.
10. The Contractor remains bound with the tender for a period of 30 days from the date of tender submission.
11. The date line for executing the tender: 31 July 2007

§ 2. Description of a subject of the tender

1. The subject of the execution of the research entitled “Ex-ante evaluation and Strategic Environmental Assessment the assessment of the draft Operational Programme of Cross-Border Cooperation in the area of the Southern Baltic Sea with participation of Poland, Sweden, Denmark, Lithuania and Germany in 2007-2013”

2. The code and name of the procurement according to the Common Procurement Vocabulary: 74141900-8 consulting services on environmental impact, 90312000-7 research of on environmental impact, 73110000-6 research services.
3. A detailed description of the subject of procurement is attached in Enclosure no 3 to the model contract.
4. Provisions important for the parties are listed in the form of the contract attached in Enclosure no 1 to TOR.

§ 3. Description of the participation conditions in the proceedings

1. Only Contractors who fulfill the following criteria may apply for the contract:
 - 1) they are not subject to the exclusion from the proceedings referred to contract granting according to article 24 of the law and meet requirements defined in article 22 of the law, item 1 points 1 – 4;
 - 2) in the period of the last three years before the date of commencement of the proceedings, and if the period of the business activity is shorter - in such shorter period, they duly rendered at least one service of each type:
 - a) evaluation/ assessment of programmes cofinanced from the EU funds, including pre-accession funds and/or structural funds;
 - b) preparing assessment of the environmental impact of projects or programmes financed also from the EU funds.
2. In order to confirm that they meet the requirements of participating in the proceedings specified in section 1, Contractors must submit the following statements and documents:
 - 1) a valid excerpts of the respective register or a valid certificate on the entry to the register of economic activities, if any other provisions require such a registration in the register or an entry to the register of economic activities, that have been issued not earlier than 6 months before the deadline for submitting tenders;
 - 2) a statement on fulfilling the conditions of participation in the proceedings defined in article 22 of the law - prepared according to the form attached as Enclosure no 2 to TOR;
 - 3) a list of services, that is one service of each type rendered in the period of the last three years before the date of commencement of the proceedings, and if the period of the business activity is shorter - in such shorter period, concerning:
 - a) evaluation/ assessment of programmes cofinanced from the EU funds, including pre-accession funds and/or structural funds;
 - b) preparing assessment of the environmental impact of projects or programmes financed also from the EU funds.

The list should be prepared in a form attached as Enclosure no 3 to TOR. In case of each listed service, a document must be delivered confirming that the service was properly rendered;

3. In case of tenders submitted jointly by Contractors (consortia, civil law companies), the following conditions must be fulfilled:
 - 1) the contractors are obliged to appoint a representative to represent them in the public procurement proceedings or represent them in the proceedings and while concluding public procurement contract;

- 2) written powers of attorney (that is the original copy or a copy certified as a true copy by a notary) referred to in item 1) and documents listed in item 2 should be attached to the tender, but the documents referred to in item 2 points 1 and 2 should be attached in case of each Contractor;
- 3) the tender and the documents confirming that the conditions of participation in the proceedings are fulfilled, must be signed according to the conditions specified in § 4 item 4 by each Contractor or an appointed representative.
4. In case of a tender submitted by a Contractor having its registered office or place of residence outside the territory of the Republic of Poland, the required documents should be submitted according to the principles specified in § 2 of the Regulation of the Prime Minister dated 19 May 2006 on the types of documents that may be required from a contractor by the contracting party and ways of delivering such documents (Journal of Laws No 87, item 605).

§ 4. Description of the way of preparing tenders

1. A tender must contain:
 - 1) the form of a tender filled in according to enclosure no 4 to TOR,
 - 2) a detailed description of the execution of the subject of procurement made according to the provisions of Enclosure no 3 to the form of the Contract, including:
 - a) a description of proposed methodology of the Ex-ante evaluation and Strategic Environmental Assessment consisting of: proposed research methods and tools including an explanation of the purpose of their use, detailed work plan,
 - b) a description of proposed concept of accomplishing the Ex-ante evaluation and Strategic Environmental Assessment consisting of: a scope of research works, identified areas of problems, additional evaluation and research questions (besides the minimum set by the Contracting Authority), sources of data under research, the way of presenting data and research results.
2. All statements and documents listed in § 3 items 2 or 3 (in case of contractors acting jointly) respectively, should be attached to the tender .
 - 1) documents referred to in § 3 item 2 should be submitted in the original copy or a copy certified by the Contractor as a true copy;
 - 2) documents must be prepared according to the forms -enclosures defined by the Contracting Authority, in particular they must contain all information and statements.
3. Requirements related to the preparation of a tender:
 - 1) a tender is submitted in writing, otherwise being null and void;
 - 2) contents of the tender must correspond to the contents of TOR;
 - 3) a tender must be legibly written;
 - 4) all documents in a tender must be signed by the Contractor;
 - 5) all amendments made by the Contractor after the tender was prepared must be signed with the Contractor's initials;
 - 6) the information that is a company's secret according to the provisions of counteracting unfair competition and which was reserved by the Contractor as not to be made available, must be separated from the other part of the tender. The Contractor cannot reserve information referred to in article 86 item 4 of the law;

- 7) the tender together with statements and documents listed in § 3 items 2 or 3 should be submitted in **two copies** (that is the original copy or a copy certified by the Contractor as a true copy);
- 8) the contractor should put tender together with statements and documents listed in § 3 items 2 or 3 into an envelope/package. He should write on the envelope/package:
 - a) the Contractor's name, address, telephone number,
 - b) name and address of the Contracting authority,
 - c) specification:

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4. Whenever TOR and enclosures to TOR require that the contractor signs documents constituting the tender and documents confirming that the conditions of participation in the proceedings or certifies them as true copies, it should be understood that such documents must be signed by persons entitled to submit declarations of will on behalf of the contractor, registered in a respective register or authorised by such persons to submit declarations of will under separate powers of attorney. Such powers of attorney (in its original copy or certified as a true copy by a notary) should be attached to the tender. If documents are certified as true copies, they must have the Contractor's signature and the expression „certified as true copy” should be written.

The contractor's signatures must be made in the way facilitating the identification of the signing person.

5. Description of the way of tender calculation:

- 1) the proposed price must be presented in the Tender Form. The price must be presented net and gross (net + VAT);
- 2) the proposed price must cover the costs of accomplishment of all works and activities related to the realisation of a procurement for the period and under conditions set in the Contractor's tender;
- 3) there must be only one tender price, price variants are not allowed;
- 4) financial settlements between the Contracting Authority and the Contractor will be made in Polish currency.

§ 5. Place and time of submitting and opening tenders

1. The tender together with statements and documents confirming that the conditions of participation in the procedure are fulfilled, listed in § 3 items 2 or 3 should be submitted till 1.2.2007, at 10:00 am in the Secretariat of the Director General of the Ministry of Regional Development – room 2003, ul. Wspólna 2/4, 00 – 926 Warsaw.
2. Tenders will be opened on 1.2.2007, at 10:30 am in the Ministry of Regional Development, ul. Wspólna 2/4, 00 – 926 Warsaw.
3. Tenders delivered after the deadline will be sent back unopened to those who submitted them.
4. The Contractor may change or withdraw a tender before the date of submitting tenders.

§ 6. An assessment of Contractors' fulfilling the conditions of participation in the procurement procedure and examination of tenders

1. The Contracting Authority will assess whether or not Contractors fulfill the conditions of participation in the procurement procedure, on the basis of documents referred to in § 3 item 2, and in case of entities acting jointly - § 3 items 2 and 3.
2. The Contracting Authority will exclude Contractors from the proceedings, who:
 - 1) are subject to an exclusion according to article 24 of the law;
 - 2) do not fulfill conditions specified in § 3 item 1 or 3 of TOR;
 - 3) have not confirmed that they fulfill such conditions according to the principles set in § 3 item 2, and in case of entities acting jointly – item 3.
3. A tender of an excluded Contractor is deemed rejected.
4. The Contracting Authority will reject a tender, if in the course of examination of tenders it proves that:
 - 1) the tender is not in compliance with the law;
 - 2) its contents do not fulfill the contents of the terms of reference;
 - 3) its submission is an unfair competition act as provided for in the provisions on counteracting unfair competition;
 - 4) its price is extremely low in relation to the subject of a procurement;
 - 5) it was submitted by a contractor excluded from the procurement proceedings;
 - 6) it contains mathematical errors concerning the prices, that cannot be corrected under article 88 of the law, or errors in the price calculation;
 - 7) within 7 days from the date of receiving a respective notification, the contractor did not agree on correcting a mathematical error in the price calculation;
 - 8) it is not valid according to separate provisions.
5. In the course of tender examination and evaluation the Contracting Authority may demand explanation of the contents of submitted tenders from Contractors.
6. The Contracting Authority will correct obvious errors and mathematical errors in the price calculation according to the provisions of article 88 of the law.

§ 7. Evaluation of tenders

1. The Contracting Authority will evaluate the tenders that have not been rejected, according to the following criteria of tender evaluation.
2. The criteria of tender evaluation:

1.	price	55 %
2.	the methodology of preparation of the Ex-ante evaluation and SEA	25 %
3.	the concept of accomplishment of the Ex-ante evaluation and SEA	20 %

3. The way of tender evaluation:

The Contracting Authority will evaluate the tenders on the basis of the number of points granted by each member of the tender committee who participates in the evaluation, on the basis of the following criteria and a scale up to 100 points (100 % = 100 points):

- 1) Points in the criterion of „the price” will be calculated according to the following formula:

$$\frac{\text{Gross price of the cheapest tender}}{\text{Gross price of the examined tender}} \times 55 \text{ pts} = \text{total number of points}$$

The result of the above calculation will be rounded up to two decimal points.

- 2) Points for the criterion of “the methodology of preparation of the Ex-ante evaluation and SEA” will be granted in a scale up to **25** points on the basis of “the detailed description of the way of accomplishment of the procurement” referred to in § 4 item 1 point 2 of TOR.

The following elements should be evaluated in particular:

- a) detailed proposal concerning the scope of research works - the compliance of determined problems to be examined with the scope of the procurement, additional detailed research questions compliant with the scope presented by the Contracting Authority - usefulness and accuracy of additional evaluating questions in the context of the tender scope presented by the Contracting Authority – up to 15 pts;
 - b) detailed proposal concerning the research methods and tools - accurate selection of the research methods and tools in the contexts of determined problems to be examined and evaluating questions as well as clearness and coherence of explanation of the purposefulness of their usage – up to 10 pts;
- 3) Points for the criterion of “the concept of accomplishment of the Ex-ante evaluation and SEA” will be granted in a scale up to **20** points on the basis of “a detailed description of the way of tender preparation” referred to in § 4 item 1 point 2 of TOR.

The following elements should be evaluated in particular:

- a) detailed proposal concerning the way of data and research results' presentation – transparency, logics, in particular the final evaluation report - compliance of the subject of the final evaluation report with the subject of the procurement, compliance of the report structure with requirements specified by the Contracting Authority in the description of the procurement – up to 10 pts,
 - b) detailed proposal concerning the work plan and its adjustment to the Contracting Authority's time schedule and used research tools – up to 5 pts;
 - c) detailed proposal concerning the sources of research data – completeness, taking into account a cross-border nature of the Programme – up to 5 pts.
4. The numbers of points for separate criteria granted by individual members of the tender committee will be summed up and they will constitute the final evaluation of a tender.
 5. The tender that is granted the largest number of points is deemed to be the most beneficial tender.

§ 8. Information on formal requirements that must be fulfilled after a tender is chosen in order to conclude a contract

1. The Contracting Authority will promptly notify the Contractors applying for the tender, of the results of the proceedings.
2. The Contracting Authority will conclude the public procurement contract after a period that is not shorter than 7 days from the date the notification on the selection of the tender is sent, but not later than before the lapse of the period of being bound with the tender.

3. If the Contractor, whose tender was selected, avoids a conclusion of the public procurement contract or does not submit required performance security of the contract, the Contracting Authority may choose the most profitable tender from the other tenders, without their re-evaluation.

§ 9. Information

on the way of communication of the Contracting Authority with Contractors

1. Any statements, applications, notifications and notices are sent by the Contracting Authority and the Contractor in wiring or by fax.
2. If any statements, applications, notifications and notices are faxed, each Party, on a demand of the other Party, promptly confirms their receipt.
3. Protests are submitted in writing only.
4. The Contracting Authority does not agree on electronic transfer of documents or information.
5. The following persons are entitled to contact the Contractors:
Ms Joanna Zasowska and Ms Katarzyna Moćko – Office of Director General of the Ministry of Regional Development, 00-926 Warsaw, ul. Wspólna 2/4, room 2106 Monday to Friday from 9.00 am to 3.00 pm, phone number (0 22) 461-34-81.
5. The Contractor may ask the Contracting Authority to explain the contents of TOR. The Contracting Authority will provide explanation unless such request for an explanation of the contents of TOR is received by the Contracting Authority less than 6 days before the deadline for submitting tenders. Since TOR is available at www.mrr.gov.pl, according to article 38 item 2 of the law, the questions together with explanations will be also published on this website.

§ 10. Notification on legal protection vested to the Contractor in the course of tender proceedings

1. The Contractor has a right to submit a written protest to the Contracting Authority concerning activities undertaken by the Contracting Authority during the proceedings and in case the Contracting Authority desists from activities imposed by the law.
2. Dates of submitting written protests are specified in article 180 of the law.
3. A protest is submitted effectively if it arrives in writing to the Contracting Authority's office, to the address specified in § 1 item 2 of TOR in the time referred to in item 2.
4. The protest should point out to the activity or a default of the Contracting Authority that is subject to the protest, as well as present demands, concise description of charges and real and legal circumstances justifying the protest.

The following enclosures constitute integral parts of TOR:

- Enclosure No 1 – Form of the contract
- Enclosure No 2 – Form of the statement
- Enclosure No 3 – List of services
- Enclosure No 4 – Tender form

Tender Committee

Chairman - Marcin Łata

Secretary - Joanna Zasowska

Members - Rafał Sukiennik

- Katarzyna Moćko

- Aleksandra Rapp

- Juliusz Dominowski

Approved by

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