



Procurement Documents

for an above-threshold public contract awarded in an open procedure pursuant to Act No. 134/2016 Coll., on Public Procurement, as amended (hereinafter referred to as the "Act" and the "Procurement Documents")

Title of public contract	Supply of LiDAR sensors
Type of public contract	public contract for supply
CPV	38600000-1 Optical instruments 38636100-3 Lasers 38000000-5 Laboratory, optical and precision equipments (excl. glasses)
Co-funded by	European Union - Just Transition Fund, the Operational Programme Just Transition
Project name	REFRESH - Research Excellence For REgion Sustainability and High-tech Industries
Project number	CZ.10.03.01/00/22_003/0000048

PART I. IDENTIFICATION OF THE CONTRACTING AUTHORITY

Name of the Contracting Authority	VSB - Technical University of Ostrava
Registered office of the Contracting Authority	17. listopadu 2172/15, 708 00 Ostrava–Poruba
Business ID No. of the Contracting Authority	61989100
Person authorised to act for the Contracting Authority:	prof. Ing. Igor Ivan, Ph.D., Rector
Profile of the Contracting Authority	https://zakazky.vsb.cz
Contact person	Mgr. Eva Burdová
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Identification details for the Procurement Documents

Preliminary market consultation	not conducted
Availability of the Procurement Documents	published on the profile of the Contracting Authority

PART II. DEFINITION OF THE SUBJECT OF THE PUBLIC CONTRACT

- 2.1. The subject of the public contract is the delivery of 10 pieces of LiDAR (Light Detection and Ranging) sensors.

The public contract is divided into three lots in accordance with Section 35 of the Act. The contractor may submit a tender for one, several, or all lots of the public contract. The information provided in this Procurement Documents is binding for all lots of the public contract, unless stated otherwise in the Procurement Documents.

A separate contract will be concluded for each lot of the public contract.

Overview of the division of the public contract into individual lots:

Lot 1: A set of 4 pieces of 360° mid-range LiDAR sensors

Lot 2: A set of 4 pieces of 120° long-range LiDAR sensors

Lot 3: A set of 2 pieces of 360° long-range LiDAR sensors.

2.2. Lot 1: A set of 4 pieces of 360° mid-range LiDAR sensors

The subject of performance for Lot 1 of the public contract is the delivery of a set of 4 pieces of 360° mid-range LiDAR sensors. The performance also includes transport to the place of performance.

The detailed technical specification for Lot 1 of the public contract is given in Annex 1a to the Procurement Documents. The terms of performance are further specified in the Terms and Conditions for Lot 1 of the public contract (draft contract), which form Annex 2a to the Procurement Documents.

2.3. Lot 2: A set of 4 pieces of 120° long-range LiDAR sensors

The subject of performance for Lot 2 of the public contract is the delivery of a set of 4 pieces of 120° high resolution long-range LiDAR sensors. The performance also includes transport to the place of performance.

The detailed technical specification for Lot 2 of the public contract is given in Annex 1b to the Procurement Documents. The terms of performance are further specified in the Terms and Conditions for Lot 2 of the public contract (draft contract), which form Annex 2b to the Procurement Documents.

2.4. Lot 3: A set of 2 pieces of 360° long-range LiDAR sensors

The subject of performance for Lot 3 of the public contract is the delivery of a set of 2 pieces of 360° high performance long-range LiDAR sensors. The performance also includes transport to the place of performance.

The detailed technical specification for Lot 3 of the public contract is given in Annex 1c to the Procurement Documents. The terms of performance are further specified in the Terms and Conditions for Lot 3 of the public contract (draft contract), which form Annex 2c to the Procurement Documents.

2.5. A detailed definition of the subject of the public contract, including technical conditions in the details necessary for drafting the tender, is set out in the annexes to these Procurement Documents. The Procurement Documents and annexes thereto are available in Czech and English.

2.6. The subject of the public contract will be co-financed from the Operational Programme Just Transformation (hereinafter referred to as "OPJT") within the "REFRESH - Research Excellence For REgion Sustainability and High-tech Industries" project, Reg. No: CZ.10.03.01/00/22_003/0000048.

2.7. The Contracting Authority also draws the attention of the contractors to the fact that the Procurement Documents are a summary of the Contracting Authority's requirements and not a definitive summary of all requirements arising from generally binding standards. Contractors must therefore always follow not only the requirements contained in the Procurement Documents but also the provisions of the relevant generally binding standards when drafting their tenders.

2.8. The place of performance (delivery) for all lots of the public contract is VSB - Technical University of Ostrava, 17. listopadu 2172/15, 708 00 Ostrava-Poruba, CPIT TL3 building.

2.9. Performance deadline: The subject for all lots of the public contract shall be delivered at latest within 8 weeks from the effective date of the contract with the selected contractor.

2.10. The total estimated value of the public contract is CZK 2,390,000.00 excluding VAT.

The estimated value for Lot 1 of the public contract: CZK 1,500,000.00 excluding VAT.

The estimated value for Lot 2 of the public contract: CZK 400,000.00 excluding VAT.

The estimated value for Lot 3 of the public contract: CZK 490,000.00 excluding VAT.

The estimated value for of the public contract for each lot is set as the maximum and must not be exceeded in the tenderers' tenders.

- 2.11. If the Procurement Documents or annexes thereto contain requirements or any references to individual trade names, special company designations, special designations of products, performance or commercial materials that are considered to be characteristic of a particular company or organisational unit, or patents, utility models, industrial models, trademarks and indications of origin (except for the designation of any existing equipment of the Contracting Authority), they are only to clarify and to give an idea of the technical parameters, and the Contracting Authority allows the use of a qualitatively and technically similar solution.

PART III. EXPLANATION OF THE PROCUREMENT DOCUMENTS, CHANGE OR SUPPLEMENTATION OF THE PROCUREMENT DOCUMENTS

3.1. Explanation of the Procurement Documents

Explanation of the Procurement Documents will be provided by the Contracting Authority in accordance with the provisions of Section 98 of the Act. For an above-threshold public contract, the Contracting Authority will publish an explanation of the Procurement Documents at least 5 working days before the expiry of the time limit for submission of tenders.

3.2. Amendments or supplements to the Procurement Documents

The award criteria contained in the Procurement Documents may be amended or supplemented by the Contracting Authority before the time limit for submission of tenders in accordance with Section 99 of the Act. Any amendment or supplement to the Procurement Documents will be published or notified to contractors in the same manner as the award criteria that have been amended or supplemented.

- 3.3. Contractors are entitled to request the Contracting Authority to clarify the Procurement Documents in writing. The written request must be delivered to the Contracting Authority electronically, in accordance with Section 211 of the Act [e.g. **via the electronic tool E-ZAK** (available at <https://zakazky.vsb.cz>) or **to the contact person's email address above**]. The written request must be received by the Contracting Authority no later than 3 working days before the expiry of the deadline referred to in par. 3.1. of the Procurement Documents.

- 3.4. Since the complete Procurement Documents are freely accessible on the Contracting Authority's profile, the Contracting Authority does not know and cannot know which contractors have taken advantage of the unrestricted remote access to the Procurement Documents and therefore does not know all the addresses to which it should provide explanations. However, the Contracting Authority will always publish any clarification, including the exact wording of the request, on the Contracting Authority's profile. **For these reasons, the Contracting Authority recommends that all contractors regularly check the Contracting Authority's profile.**

PART IV. PROOF OF ELIGIBILITY AND QUALIFICATION REQUIREMENTS

Tenderers must meet the following eligibility conditions and qualification criteria set out in the Act and by the Contracting Authority. The requirements for basic and professional eligibility (qualification) are identical for all lots of the public contract. The requirements for proving technical qualification are specified separately for each lot of the public contract.

4.1. Basic eligibility (qualification) in accordance with the provisions of Section 74 of the Act:

4.1.1. A contractor is not eligible if it

- a) has been convicted of an offence listed in Annex 3 to the Act or a similar offence under the law of the country of its registered office in the past five years before the start of the procurement procedure; expunged convictions are disregarded,
- b) has outstanding tax arrears in the Czech Republic or in the country of its registered office,

- c) has outstanding arrears on premiums or penalties for public health insurance in the Czech Republic or in the country of its registered office,
- d) has outstanding arrears on payments and penalties for social security contributions and state employment policy contributions in the Czech Republic or in the country of its registered office,
- e) is in liquidation (Section 187 et seq. of Act No. 89/2012 Coll., the Civil Code, as amended), has been declared insolvent [Section 136 of Act No. 182/2006 Coll., on bankruptcy and methods of its resolution (Insolvency Act), as amended], has been ordered into receivership under another legal regulation (e.g. Act No. 21/1992 Coll., on Banks, as amended, Act No. 87/1995 Coll., on Credit Unions and Certain Related Measures and on the amendment of the Czech National Council Act No. 586/1992 Coll., Income Tax Act, as amended, Act No. 363/1999 Coll., on the Insurance Sector and on amendments to certain related acts (Insurance Act), as amended] or is in a similar situation under the law of the country of the contractor's registered office.

4.1.2. If the contractor is a legal entity, both this legal entity and every member of its governing body must meet the condition under paragraph 4.1.1.(a) of the Procurement Documents. Where a legal entity is a member of the contractor's governing body, the condition under paragraph 4.1.1(a) of the Procurement Documents must be met by:

- a) this legal entity,
- b) each member of the governing body of this legal entity; and
- c) the person representing that legal entity in the contractor's governing body.

4.1.3. If the participant in the procurement procedure is a branch of

- a) a foreign legal entity, the condition under paragraph 4.1.1.(a) of the Procurement Documents must be fulfilled by that legal entity and the head of the branch,
- b) a Czech legal entity, the condition under paragraph 4.1.1.(a) of the Procurement Documents must be fulfilled by the persons under paragraph 4.1.2. of the Procurement Documents and the head of the branch.

4.1.4. Proof of basic qualification

The contractor proves conformity with the basic qualification requirements in relation to the Czech Republic by submitting

- a) an extract from the Criminal Records in respect of paragraph 4.1.1.(a) of the Procurement Documents,
- b) confirmation from a competent tax authority in respect of paragraph 4.1.1.(b) of the Procurement Documents,
- c) a written affidavit regarding excise duty in respect of paragraph 4.1.1.(b) of the Procurement Documents,
- d) a written affidavit in respect of paragraph 4.1.1.(c) of the Procurement Documents,
- e) confirmation from a relevant district social security administration in respect of paragraph 4.1.1.(d) of the Procurement Documents,
- f) an extract from the Commercial Register, or a written affidavit in the event that the contractor is not incorporated in the Commercial Register, in respect of paragraph 4.1.1.(e) of the Procurement Documents.

Proof of basic eligibility must demonstrate that the required eligibility criterion has been met no later than 3 months prior to the date of initiation of the procurement procedure.

The Contracting Authority accepts the substitution of the above documents in the tenders with a written affidavit, e.g. using the specimen in Annex 7 to the Procurement Documents.

4.2. **Professional qualification criteria in accordance with Section 77 of the Act:**

The Contracting Authority requires proof of professional qualification criteria in accordance with Section 77 (1) of the Act, i.e. the contractor is eligible if it presents **an extract from the commercial register** or other similar register, if another legal regulation requires entry in such a register.

The contractor is not obliged to provide the above-mentioned document if the legal regulations in the country of its registered office do not require similar professional qualification.

The Contracting Authority allows this document to be replaced in tenders by a written affidavit.

4.3. **Technical qualification criteria in accordance with Section 79 of the Act:**

4.3.1. Lot 1: A set of 4 pieces of 360° mid-range LiDAR sensors

To demonstrate compliance with the contractor's technical qualification criteria, the Contracting Authority requires:

- a) In accordance with **Section 79(2)(b) of the Act, submission of a list of major deliveries provided in the last 3 years** prior to the commencement of the procurement procedure, including the price and time of their provision and identification of the customer.

The **minimum level** for meeting this criterion of technical qualification is defined by the Contracting Authority as the submission of references for **at least 2 deliveries, the subject of which was the supply of laser sensors or laser devices for distance measurement or 3D scanning of the space/surroundings, with a total financial value of at least CZK 1,050,000.00 excl. VAT** (i.e., the total for all major deliveries).

Contractors may use the specimen list of provided deliveries, which is attached as Annex 4a to these Procurement Documents to prove this technical qualification criterion. The list must also include the contact details of persons who can confirm the provision of the deliveries in question.

A contractors may use major deliveries provided by it to prove compliance with this technical qualification criterion pursuant to Section 79(4) of the Act:

- i. jointly with other contractors, to the extent that it participated in the performance of a major delivery, or
 - ii. as a subcontractor, to the extent that it participated in the performance of a major delivery.
- b) In accordance with **Section 79(2)(k) of the Act, the submission of a description of the products to be supplied (360° mid-range LiDAR sensor)** showing whether the offered performance meets the parameters required by the Contracting Authority, by completing Annex 1a to the Procurement Documents in full and by providing technical descriptions of the equipment (360° mid-range LiDAR sensor) showing at least the manufacturer and type designation of the offered device (e.g. technical data sheet, catalogue sheet or other appropriate form).

The Contracting Authority does not accept an affidavit in lieu of the aforementioned documents proving fulfilment of the technical qualification criteria, which does not contain information relevant for the assessment of fulfilment of the required qualification criteria.

4.3.2. Lot 2: A set of 4 pieces of 120° long-range LiDAR sensors

To demonstrate compliance with the contractor's technical qualification criteria, the Contracting Authority requires:

- a) In accordance with **Section 79(2)(b) of the Act, submission of a list of major deliveries provided in the last 3 years** prior to the commencement of the procurement procedure, including the price and time of their provision and identification of the customer.

The **minimum level** for meeting this criterion of technical qualification is defined by the Contracting Authority as the submission of references for **at least 2 deliveries, the subject of which was the supply of laser sensors or laser devices for distance measurement or 3D scanning of the space/surroundings, with a total financial value of at least CZK 280,000.00 excl. VAT** (i.e., the total for all major deliveries).

Contractors may use the specimen list of provided deliveries, which is attached as Annex 4b to these Procurement Documents to prove this technical qualification criterion. The list must also include the contact details of persons who can confirm the provision of the deliveries in question.

A contractors may use major deliveries provided by it to prove compliance with this technical qualification criterion pursuant to Section 79(4) of the Act:

- i. jointly with other contractors, to the extent that it participated in the performance of a major delivery, or
 - ii. as a subcontractor, to the extent that it participated in the performance of a major delivery.
- b) In accordance with **Section 79(2)(k) of the Act, the submission of a description of the products to be supplied (120° high resolution long-range LiDAR sensor)** showing whether the offered performance meets the parameters required by the Contracting Authority, by completing Annex 1b to the Procurement Documents in full and by providing technical descriptions of the equipment (120° high resolution long-range LiDAR sensor) showing at least the manufacturer and type designation of the offered device (e.g. technical data sheet, catalogue sheet or other appropriate form).

The Contracting Authority does not accept an affidavit in lieu of the aforementioned documents proving fulfilment of the technical qualification criteria, which does not contain information relevant for the assessment of fulfilment of the required qualification criteria.

4.3.3. Lot 3: A set of 2 pieces of 360° long-range LiDAR sensors

To demonstrate compliance with the contractor's technical qualification criteria, the Contracting Authority requires:

- a) In accordance with **Section 79(2)(b) of the Act, submission of a list of major deliveries provided in the last 3 years** prior to the commencement of the procurement procedure, including the price and time of their provision and identification of the customer.

The **minimum level** for meeting this criterion of technical qualification is defined by the Contracting Authority as the submission of references for **at least 2 deliveries, the subject of which was the supply of laser sensors or laser devices for distance measurement or 3D scanning of the space/surroundings, with a total financial value of at least CZK 340,000.00 excl. VAT** (i.e., the total for all major deliveries).

Contractors may use the specimen list of provided deliveries, which is attached as Annex 4c to these Procurement Documents to prove this technical qualification criterion. The list must also include the contact details of persons who can confirm the provision of the deliveries in question.

A contractors may use major deliveries provided by it to prove compliance with this technical qualification criterion pursuant to Section 79(4) of the Act:

- i. jointly with other contractors, to the extent that it participated in the performance of a major delivery, or
 - ii. as a subcontractor, to the extent that it participated in the performance of a major delivery.
- b) In accordance with **Section 79(2)(k) of the Act, the submission of a description of the products to be supplied (360° high performance long-range LiDAR sensor)** showing whether the offered performance meets the parameters required by the Contracting Authority, by completing Annex 1c to the Procurement Documents in full and by providing technical descriptions of the equipment (360° high performance long-range LiDAR sensor) showing at least the manufacturer and type designation of the offered device (e.g. technical data sheet, catalogue sheet or other appropriate form).

The Contracting Authority does not accept an affidavit in lieu of the aforementioned documents proving fulfilment of the technical qualification criteria, which does not contain information relevant for the assessment of fulfilment of the required qualification criteria.

PROOF OF ELIGIBILITY, QUALIFICATION AND SUBMISSION OF DOCUMENTS:

- 4.4. The list of major deliveries paragraph 4.3.1(a), 4.3.2(a) and 4.3.3(a) of the Procurement Documents must clearly show that the requirements of the Contracting Authority have been met. Thus, the list of major deliveries must clearly indicate the financial values of reference instruments of a similar nature (indicating whether these values include or exclude VAT), as well as dates or information, so that the Contracting Authority is able to assess directly whether the contractor meets the given qualification requirement. If the reference contract includes supplies other than devices of a similar nature (i.e. a supply other than the supply of laser sensors or laser devices for distance measurement or 3D scanning of the space/surroundings), the financial value of the devices of a similar nature included in the reference contract shall be indicated separately.
- 4.5. If the law or the Contracting Authority requires the submission of a document, the contractor shall submit copies of the document in the tender, unless provided otherwise by law.
- 4.6. Prior to the conclusion of the contract, the Contracting Authority may request the selected contractor to submit the original or certified copies of the qualification documents, if they have not already been submitted in the procurement procedure.
- 4.7. In order to prove qualifications, the Contracting Authority pursuant to Section 86(1) of the Act preferably requires documents recorded in a system that identifies the documents proving conformity with the qualification criteria (e-Certis system). The contractor may always replace the required documents with the Single European Public Procurement Certificate pursuant to Section 87 of the Act.
- 4.8. If the Contracting Authority requires the submission of a document and the contractor is unable, for reasons not attributable to it, to produce the required document, it is entitled to produce an equivalent document.
- 4.9. If the law or the Contracting Authority requires the submission of a document under the law of the Czech Republic, the contractor may submit a similar document under the law of the state in which the document is issued. A document in a language other than the language designated by the Contracting Authority for the submission of tenders shall be submitted with a translation into the designated language. If the Contracting Authority has doubts as to the accuracy of the translation, it may request the submission of an officially certified translation of the document by an interpreter registered in the list of experts and interpreters. Documents in the Slovak language and proof of education in Latin are to be submitted without translations. If the required document is not issued under the applicable law, it may be replaced by a written affidavit.
- 4.10. The obligation to submit a document may be met by the contractor by reference to the relevant information held in a public administration information system or in a similar system held in another Member State which allows for unrestricted remote access. Such a link must include the internet address and details for logging in and retrieving the requested information, if such details are necessary.
- 4.11. If the qualification was obtained abroad, it shall be proven by means of documents issued in accordance with the law of the country in which it was obtained, to the extent required by the Contracting Authority.
- 4.12. In case of joint participation of contractors, each contractor shall prove its basic eligibility and professional qualification under paragraph 4.2. of the Procurement Documents separately, and other parts of the qualification and eligibility jointly.
- 4.13. The contractor may prove compliance with a specific part of the qualification criteria (except for the criterion under Section 77(1) of the Act - the Commercial Register) required by the Contracting Authority **through other party**. In accordance with Section 83(1) of the Act, the contractor is obliged to submit to the Contracting Authority:
 - a) documents proving the fulfilment of professional qualification pursuant to Section 77(1) of the Act by that other party,
 - b) documents proving that the missing part of the qualification criteria is met by another party,
 - c) documents of the fulfilment of the basic qualification criteria pursuant to Section 74 of the Act by that other party, and

- d) an agreement or confirmation of its existence signed by another party, the content of which is the commitment of the other party to provide the performance intended for the performance of the public contract or to provide goods or rights, which the contractor will be entitled to dispose of in the performance of the public contract, **at least to the extent that the other party has proven its qualifications as a contractor.**
- 4.14. The contractor may submit to the Contracting Authority an extract from the list of qualified contractors pursuant to Section 228 of the Act when proving compliance with the qualification criteria. If the contractor submits to the Contracting Authority an extract from the list of qualified contractors, this extract replaces the document proving:
- a) professional qualification in accordance with Section 77 of the Act to the extent that the data in the extract from the list of qualified contractors demonstrates compliance with the professional qualification criteria, and
 - b) the basic qualification criteria according to Section 74 of the Act.
- The Contracting Authority is obliged to accept an extract from the list of qualified contractors if the extract from the list of qualified contractors is not older than 3 months on the last date on which basic qualification or professional qualification is to be proven. The Contracting Authority is not obliged to accept an extract from the list of qualified contractors on which the commencement of the procedure pursuant to Section 231(3) of the Act is indicated.
- As well as the extract from the list of qualified contractors, a contractor may prove its qualifications by means of a certificate from another Member State where the contractor has its registered office, which is equivalent to the extract from the list of qualified contractors.
- 4.15. If the contractor submits to the Contracting Authority a valid certificate issued under the Certified Supplier Scheme pursuant to Section 233 of the Act, this certificate will replace the contractor's proof of compliance with the qualification to the extent of the information contained therein.
- As well as a certificate, a contractor may prove qualification by means of a certificate originating from another Member State in which the contractor has its registered office, which is equivalent to a certificate issued under the Certified Contractor Scheme.

PART V. REQUIREMENTS FOR THE METHOD OF COMPILING THE TENDER PRICE

- 5.1. The total tender price for individual lots of the public contract will be determined as the aggregate price for the entire subject of performance of the respective lot of the public contract, as required by the Contracting Authority under the Procurement Documents and business terms and conditions. The total tender price for individual lots of the public contract will be specified in the draft contract for the respective lot of the public contract (see Art. V(1) of Annex 2a, or respectively 2b and 2c to these Procurement Documents).
- 5.2. The tender price will be stated in Czech currency in the following structure: the tender price without value added tax (VAT), VAT separately and the total tender price including VAT.
- 5.3. The tender price will be set as the "maximum allowable" price and must include all costs associated with the full implementation of the public contract.
- 5.4. The estimated value of each lot of the public contract (CZK 1,500,000.00 excluding VAT for Lot 1 of the public contract, CZK 400,000.00 excluding VAT for Lot 2 of the public contract, and CZK 490,000.00 excluding VAT for Lot 3 of the public contract) is set as the maximum and must not be exceeded by the tenders of the tenderers. Exceeding the estimated value in a tenderer's tender is eligible for exclusion from this procurement procedure.

PART VI. METHOD OF EVALUATING TENDERS BASED ON THE EVALUATION CRITERIA

- 6.1. Each lot of the public contract will be evaluated separately. Tenders in all lots of the public contract will be evaluated on the basis of their **economic advantageousness**. The economic advantageousness of tenders will be evaluated on the basis of the **lowest tender price**. The lowest tender price among all the evaluated tenders for the respective lot of the public contract will be the best evaluated.
- 6.2. When evaluating the tender price, its **total amount in CZK excluding VAT** for the entire subject of performance of the respective lot of the public contract as stated in the draft contract (Art. V(1) of the relevant Annex 2 to these Procurement Documents) will be decisive. The ranking of the tenders will be in ascending order from the lowest to the highest tender price.

PART VII. TERMS AND CONDITIONS, INCLUDING PAYMENT TERMS

As part of the Procurement Documents, the Contracting Authority submits the business terms and conditions, including payment terms, which are binding for the performance of the relevant public contract in the form of a binding draft contract for supply of device (hereinafter referred to as the "**draft contract**") within the meaning of Section 37(1)(c) of the Act. The draft contract for Lot 1 of the public contract is attached as Annex 2a to the Procurement Documents, the draft contract for Lot 2 of the public contract is attached as Annex 2b to the Procurement Documents and the draft contract for Lot 3 of the public contract is attached as Annex 2c to the Procurement Documents.

The draft contract defines the future framework of the contractual relationship. The draft contract must accept the text of the Procurement Documents or other documents containing the definition of the subject of the contract. **The written draft contract must fully accept the text of the business terms and conditions which form Annex 2a, or respectively 2b and 2c to the Procurement Documents, and cannot deviate from them (the tenderer only fills in the marked parts of the draft contract, or amends the draft contract to the extent appropriate according to the remarks).** Failure to comply with this condition shall be deemed a breach of the procurement conditions with the consequence of the exclusion of the tenderer from further participation in the procurement procedure. The information given in the draft contract must not differ from the information given in any other part of the tenderer's tender. In the event of a conflict, the written draft contract shall always prevail.

PART VIII. CONDITIONS UNDER WHICH THE TENDER PRICE MAY BE EXCEEDED

The conditions under which the tender price may be exceeded are contained in the terms and conditions of the Contracting Authority, which are set out in Annex 2a, or respectively 2b and 2c to the Procurement Documents.

PART IX. REQUIREMENTS FOR VARIANTS

The Contracting Authority does not accept any variant solutions.

PART X. OTHER REQUIREMENTS FOR THE SELECTED CONTRACTOR

- 10.1. In accordance with Section 122(3) of the Act, the Contracting Authority will **send to the selected contractor a request to submit:**

- a) proof of its qualification required by the Contracting Authority and not available to it, including the proof referred to in Section 83(1) of the Act; if the Contracting Authority does not proceed in accordance with Section 122(4)(b) of the Act, the proof of basic eligibility must demonstrate fulfilment of the required eligibility criterion within the time period referred to in Section 86(3) of the Act,
 - b) documents or samples, the submission of which is a condition for the conclusion of the contract, if the Contracting Authority proceeded in accordance with Section 104 of the Act and does not have them at its disposal,
 - c) documents pursuant to Section 85(1) of the Act, if the Contracting Authority requested them and does not have them at its disposal.
- 10.2. In the request under the preceding paragraph, the Contracting Authority may stipulate that the selected contractor must submit:
- a) originals or certified copies of the documents referred to in the previous paragraph,
 - b) proof of basic eligibility in accordance with Section 74 of the Act demonstrating compliance with the required eligibility criteria after receipt of the request under the preceding paragraph, or
 - c) a written affidavit stating that there has been no change in the information relevant to assessing the fulfilment of the qualification criteria contained in the documents referred to in the preceding paragraph, which are available to the Contracting Authority, or new documents if the relevant information in those documents has changed.
- 10.3. In the case of the selected contractor, if it is a Czech legal entity, the Contracting Authority shall ascertain information about its beneficial owner pursuant to Act No. 37/2021 Coll., on the registration of beneficial owners, as amended, governing the registration of beneficial owners (hereinafter referred to as the "**beneficial owner**") from the register of beneficial owners pursuant to the same Act (hereinafter referred to as the "**register of beneficial owners**").
- 10.4. If the selected contractor is a foreign legal entity, the Contracting Authority shall also request the contractor to submit an extract from a foreign register similar to the register of beneficial owners or, if there is no such register,
- a) to disclose the identity of all persons who are its beneficial owners, and
 - b) to produce documents establishing the relationship of all the persons referred to under par. (a) to the contractor; these documents shall include, in particular
 - an extract from a foreign register similar to the public register,
 - a list of shareholders,
 - the decision of the governing body on the payment of shares in profit,
 - the memorandum of association, founding deed or articles of association.
- 10.5. The Contracting Authority shall exclude the selected contractor
- a) if it is a Czech legal entity which has a beneficial owner, if it was not possible to determine the details of its beneficial owner pursuant to Section 122(5) of the Act from the register of beneficial owners; any entry made available in the register of beneficial owners after the contractor's exclusion notice has been sent shall be disregarded,
 - b) that has not submitted data, documents or samples in accordance with Section 122(3), (4) or (6) of the Act, or
 - c) for which the result of the sample tests does not comply with the specifications (if applicable).
- 10.6. The Contracting Authority shall verify the selected contractor's fulfilment of the grounds for exclusion pursuant to Section 48(7) of the Act on the basis of information recorded in the commercial register. If the information in the commercial register shows that the grounds for exclusion pursuant to Section 48(7) of the Act are fulfilled, the Contracting Authority shall exclude the tenderer from the procurement procedure.

- 10.7. A selected contractor established abroad which is a public limited company or has a legal form similar to that of a public limited company shall be asked by the Contracting Authority to submit, within a reasonable time, a written affidavit stating which persons are the owners of shares whose aggregate nominal value exceeds 10% of the tenderer's registered capital, indicating the source on which the information on the size of the shareholders' shareholding is based; this request shall be deemed to be a request pursuant to Section 46 of the Act.

PART XI. CONDITIONS AND REQUIREMENTS FOR DRAFTING THE TENDER

- 11.1. In its tender, the tenderer shall specify its identification data at least in the following scope - business name/company/name and surname, registered office/place of business/residence, name of the person authorised to act for/on behalf of the tenderer, business ID number, VAT number, phone number and email, and possibly additional data (see Annex 3 to the Procurement Documents).
- 11.2. The tenderer shall submit in its tender a draft contract signed by a person authorised to act on behalf of the tenderer. If the draft contract is signed by an authorised person, the tenderer's offer must also include a valid power of attorney (a simple copy of the power of attorney is sufficient). The draft contract is prepared separately for each lot of the public contract. **The tenderer shall submit a separate draft contract for each lot of the public contract for which they are submitting a tender.**
- 11.3. **The tender will also include other documents required by law and the Contracting Authority, including documents and information proving that the qualification criteria have been met.**
- 11.4. **In its tender, the contractor specifies the parts of the public contract which it intends to subcontract to one or more subcontractors.** The contractor will specify the identification details of each subcontractor (if known) and the scope of their expected work. The Contractor may use Annex 5 to the Procurement Documents - List of Subcontractors. The template of the List of Subcontractors is prepared separately for each lot of the public contract. The tenderer shall submit a List of Subcontractors for the lot of the public contract for which they are submitting a tender.

If the contractor performs the subject of the public contract itself, it shall state this in the tender in the form of an affidavit and shall not fill in the annex.

- 11.5. **The tender will be submitted in Czech or English.** Documents and certificates submitted in a language other than Czech or English must be accompanied by a translation into Czech or English. The obligation to attach a translation does not apply to documents in the Slovak language.
- 11.6. The tenderer's tender must not contain any overwriting or corrections that could mislead the Contracting Authority.
- 11.7. **The Contracting Authority recommends (optionally) that the tenderer use the following order of documents (contents) in its tender:**
- 1) **Tender Cover Sheet** (Annex 3 to the Procurement Documents may be used) containing the identification of the tenderer and signature of the contractor's authorised person(s), and any other data required by the Contracting Authority. The tenderer shall submit one Tender Cover Sheet, in which the information about the lots of the public contract for which the tender is being submitted will be filled in.
 - 2) **Proof of compliance with the qualification criteria** (see Part IV of the Procurement Documents):
 - a. **basic eligibility,**
 - b. **professional qualification,**
 - c. **technical qualification** separately for each lot of the public contract for which the tenderer is submitting a tender.
 - 3) **A duly completed and signed draft contract including annexes** (see Annex 2a, or respectively 2b and 2c to the Procurement Documents). The tenderer shall submit a

separate draft contract for each lot of the public contract for which they are submitting a tender.

- 4) **List of Subcontractors** or an affidavit of non-use of subcontractors separately for each lot of the public contract for which the tenderer is submitting a tender.
 - 5) **Affidavit on responsible procurement, sanctions and conflict of interest** (see Annex 6 of to the Procurement Documents).
 - 6) Other documents that are to be included in the tender according to the Procurement Documents or that the contractor deems appropriate (e.g. association agreement).
- 11.8. The tenderer is solely responsible for the completeness of the tender - the list of documents contained in this article of the Procurement Documents serves only to facilitate the tenderer's orientation when completing the tender - if this list does not include a document that is required in the tender under the procurement conditions or by law, the tenderer cannot absolve itself of liability for the incompleteness of the tender by referring to this list of documents.
- 11.9. A contractor who has submitted a tender in a procurement procedure must not also be the party through which another contractor proves qualification criteria in the procurement procedure for the same lot of the public contract. The Tender Cover Sheet shall include a declaration by the tenderer that it is not also the party through whom another contractor proves qualification criteria in the same lot of the procurement procedure.
- 11.10. If the contractor submits multiple tenders, either individually or jointly with other contractors, or submits a tender and is simultaneously the party through which another tenderer in the procurement procedure for the same lot of the public contract proves qualification criteria, the Contracting Authority will exclude this tenderer from participating in the procurement procedure for the respective lot of the public contract.
- 11.11. In the case of a joint tender by several contractors, the Contracting Authority requires a written document signed by all the contractors (e.g. a contract) showing the division of responsibilities for the performance of the public contract. The Contracting Authority requires that all contractors submitting a joint tender are jointly and severally liable.

PART XII. ABNORMALLY LOW TENDER PRICE

- 12.1. The Contracting Authority reserves the possibility to assess (through the evaluation committee) whether the tenderers' tenders contain an abnormally low tender price in accordance with Section 113 of the Act.
- 12.2. The Contracting Authority does not stipulate a precise algorithm for determining an abnormally low tender price pursuant to Section 113(2) of the Act, but it reserves the option of assessing the tender price or costs as abnormally low even in cases not specified pursuant to Section 113(2) of the Act.

PART XIII. SUBMISSION AND OPENING OF TENDERS

- 13.1. **Place for submission of tenders:** Tenders for all lots of the public contract must be submitted in electronic form only, using the E-ZAK electronic tool available at <https://zakazky.vsb.cz>.
- 13.2. **The time limit for submitting tenders is set by the Contracting Authority until 3. 11. 2025 by 10:00 a.m.** If a tender is submitted after the time limit specified in the previous sentence, the Contracting Authority's electronic tool will not accept the tender.

- 13.3. All terms and conditions and information regarding the electronic tool, including information on the use of electronic signatures, are available in the user manual for contractors and the electronic signature manual at: <https://zakazky.vsb.cz/manual.html> and <https://ezak.cz/manualy>.
Technical support from the operator of the E-ZAK electronic tool - phone: +420 538 702 719, email: podpora@ezak.cz, website: <https://www.ezak.cz/>.
- 13.4. A contractor may submit only one tender for each lot of the public contract.
- 13.5. Tenders cannot be submitted via data mailbox.

PART XIV. MISCELLANEOUS PROVISIONS

- 14.1. The Contracting Authority does not reimburse the tenderers for the costs incurred from their participation in the procedure.
- 14.2. Opening of tenders: In accordance with Section 109(1) of the Act, tenders will be opened after the deadline for submission of tenders. As only electronic tenders are to be submitted, there will be no public opening of tenders. Tenders will be opened on 3. 11. 2025 from 10:00 a.m. at VSB-TUO, CMV building (formerly the Business Centre building), Studentská 17/6202, 708 00 Ostrava, in the environment of the E-ZAK electronic tool.
- 14.3. By submitting a tender, the contractor grants the Contracting Authority its consent to verify and check the information given in the tenders. The Contracting Authority may exclude a contractor from the procurement procedure if the contractor provides false information in its tender.
- 14.4. The Contracting Authority acknowledges that the selected contractor is an entity obliged to cooperate in the performance of financial control pursuant to Section 2(e) of Act No. 320/2001 Coll., on Financial Control in Public Administration, as amended.
- 14.5. By submitting a tender, the contractor agrees to provide the subsidy provider with the contents of its tender for the purpose of controlling the procurement procedure.

PART XV. INFORMATION ON THE PROCESSING OF PERSONAL DATA

- 15.1. The Contracting Authority, as the personal data controller, hereby informs the tenderers in the procurement procedure, within the meaning of Art. 13(1) and (2) of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (hereinafter referred to as the "GDPR"), about the processing of personal data for the purposes of the procurement procedure pursuant to the law.
- 15.2. In conducting the procurement procedure, the Contracting Authority may process the personal data of contractors and their subcontractors (natural persons - entrepreneurs), members of the governing bodies and contact persons of contractors and their subcontractors, persons through whom the contractor proves its qualification criteria, members of the contractor's implementation team and beneficial owners of the contractor.
- 15.3. The Contracting Authority will process personal data only to the extent necessary for the implementation of the procurement procedure and only for the period of time stipulated by legal regulations, in particular the Act. Data subjects are entitled to exercise their rights under Art. 13 through 22 GDPR in writing at the address of the Contracting Authority.

PART XVI. SOCIAL RESPONSIBILITY, INTERNATIONAL SANCTIONS, CONFLICT OF INTEREST

- 16.1. In accordance with Section 6 of the Act, the Contracting Authority considered the possible social impacts prior to commencing the procurement procedure. The Contracting Authority requires the Contractor to declare in its tender (a specimen declaration is included in Annex 6 to the Procurement Documents) that throughout the implementation of the subject of the public contract, it will ensure:
- the fulfilment of all obligations arising from the legal regulations of the Czech Republic, in particular from labour law regulations, employment regulations and occupational health and safety regulations, in relation to all persons involved in the performance of the public contract; it will also ensure that its subcontractors comply with these obligations;
 - the negotiation and upholding of contractual terms and conditions with the subcontractors comparable to those agreed in the contract for the performance of the public contract, particularly as concerns the maximum value of contractual penalties and the length of the warranty period;
 - the proper and timely fulfilment of our financial obligations to my subcontractors, where proper and timely fulfilment is considered to be full payment of invoices issued by the subcontractor for duly delivered performance of the public contract within the deadlines and entirely in accordance with the contractual terms of the contractual relationship entered into with the subcontractor;
 - the environmental impact of the public contract is minimised, in particular by sorting waste, saving energy and respecting sustainability or using the circular economy.
- 16.2. With regard to the impact of international sanctions in the field of public procurement, the Contracting Authority requires that the contractor declare in an affidavit within its tender that neither the contractor nor any of its subcontractors are subject to any international sanctions pursuant to Act No. 69/2006 Coll., on the Implementation of International Sanctions, that no funds or economic resources received for the performance of the public contract will be made available, directly or indirectly, to or for the benefit of any natural or legal persons, entities or bodies included in the lists of sanctioned persons under the relevant legislation; in connection with the above, the Contracting Authority requires the contractor to likewise declare that neither the contractor nor any of its subcontractors, contractors or any other persons within the meaning of Section 83 of the Act are subject to the prohibition on awarding a public contract pursuant to Section 48a of the Act (a specimen declaration is included in Annex 6 to the Procurement Documents).
- 16.3. Pursuant to Section 4b of the Act No. 159/2006 Coll., on Conflict of Interest, as amended (hereinafter referred to as the "**Conflict of Interest Act**"), a company in which a public official under Section 2(1)(c) of the Conflict of Interest Act or a person controlled by them owns a share amounting to at least 25% of the shareholder's participation in the commercial company must not participate in the procurement procedure as a tenderer or subcontractor through which the contractor demonstrates qualification. For this reason, the Contracting Authority requires the contractor to declare in an affidavit that it is not a contractor to which the prohibition stated in the previous sentence of this paragraph of the Procurement Documents applies, respectively that a contractor through which it demonstrates its qualifications is not such a contractor (a specimen declaration is included in the Annex 6 to the Procurement Documents).

PART XVII. ANNEXES TO THE PROCUREMENT DOCUMENTS

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| Annex 1a: | Technical Specification for Lot 1 of the public contract |
| Annex 1b: | Technical Specification for Lot 2 of the public contract |
| Annex 1c: | Technical Specification for Lot 3 of the public contract |
| Annex 2a: | Business Terms and Conditions for Lot 1 of the public contract |
| Annex 2b: | Business Terms and Conditions for Lot 2 of the public contract |
| Annex 2c: | Business Terms and Conditions for Lot 3 of the public contract |

- Annex 3: Tender Cover Sheet
- Annex 4a: List of Major Deliveries form for Lot 1 of the public contract
- Annex 4b: List of Major Deliveries form for Lot 2 of the public contract
- Annex 4c: List of Major Deliveries form for Lot 3 of the public contract
- Annex 5: List of Subcontractors
- Annex 6: Affidavit on Responsible Procurement, Sanctions and Conflict of Interest
- Annex 7: Affidavit of Fulfilment of Basic Eligibility

In Ostrava on the date of electronic signature

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prof. Ing. Igor Ivan, Ph.D.
Rector