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Intended to remain with candidate/bidder, not to be returned with the participation application or tender!

A Note on Gender:

For reasons of readability, the language forms male, female and diverse (m/f/d) are not used concurrently. All gender markings and pronouns apply equally to all genders.

To All Bidders

Special Application Requirements for the Negotiation Procedure with Preliminary Call for Competition According to § 17 VgV

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To whom it may concern,

FAIR - Facility for Antiproton and Ion Research in Europe GmbH (hereinafter referre to as "FAIR", "Awarding Authority" or "Client") conducts a negotiation procedur with a preliminary call for competition according to § 17 VgV, § 119 para. 5 GW [transl.: Act against Restraints of Competition] for the tende "32F/2600039648FAIR – All-metal Gate Valves DN350CF" under the following cor ditions:

0. Notification of Ambiguities in the Tender Documents

After receiving the tender documents, Candidate must check them for completeness. If the tender documents are incomplete or if they contain ambiguities in Candidate's opinion, Candidate must immediately inform Awarding Authority before submitting the participation application via DTVP [transl.: German Awarding Platform].

A. Call for Competition

1. Components of the Participation Application

NOTE: To clarify matters, Awarding Authority emphasises that the terms "Candidate", "Bidder", "Tenderer" and "Contractor" each refer to the same (legal) person;

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"Candidate" is usually used in the call for competition, "Bidder" throughout the tender procedure. The "Bidding Consortium" and the "Tenderer Consortium" are also used synonymously; for the sake of clarity, only the term "Bidding Consortium" is used in the other documents, even when it comes to the call for competition.

The following forms provided by FAIR together with the award documents must be completed and submitted to Awarding Authority as part of the participation application:

- Suitability VgV (EN)_all metall gate valves
- if applicabe_Suitability VgV - SubContractor and Bidder Consortium (EN)_all metal gate valves
- ISO 9001 Certification or comparable

If Candidate submits the Einheitliche Europäische Eigenerklärung "EEE" [transl.: European Single Procurement Document (ESPD)] in accordance with § 50 VgV, only the following of the aforementioned forms must be attached in addition:

- Form Company Presentation (completed, because of the additional data requested)
- Form Violations of the SchwarzArbG, the AEntgG, the AufenthG as well as the MiLoG
- Form Professional Liability Insurance

In addition, FAIR would like to point out that in this case each member of Bidding Consortium and each subcontractor must complete an EEE.

The forms provided with the tender documents must be completed in full, depending on the participation application. Failure to submit or incomplete submission of the required documents, as well as deliberate misrepresentation may result in exclusion of Candidate from the competition. FAIR reserves the right to request additional documents once only within a period to be determined in the subsequential request in accordance with § 56 VgV. Candidates cannot, however, rely on such a request being made. Ultimately incomplete participation requests will be excluded (§ 57 para. 1 no. 2, para. 3 VgV).

Candidates may not base their participation application on their own contractual conditions. Changes to the tender documents (e.g. deletions or additions to the documents in spaces not provided explicitly for this purpose) are not permitted and will result in exclusion from further proceedings, § 57 para. 1 no. 4, para. 3 VgV. These documents must not be completed or submitted as part of the participation application. Especially the documents relating to the bidding phase are for information purposes only and must not to be completed or submitted as part of the participation application.

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If tenders are already submitted during Phase 1 of the procedure (call for competition), this may lead to the exclusion of Candidate.

2. Deadline for Submitting a Participation Application

The deadline set in the contract notice for the submission of participation applications must be strictly observed. Participation applications received late will be excluded from the procedure, unless Candidate cannot be held responsible (§ 57 para. 1 no. 1, para. 3 VgV).

3. Formal Requirements for the Participation Application

The only form of submission of participation applications accepted by Awarding Authority is in writing, electronically

Note: In Writing, Electronically

Participation applications shall be submitted electronically within the deadline via the German awarding platform DTVP.

URL: http://www.dtvp.de/Center/

The forms and other documents to be completed, provided by FAIR, may be

- either completed on the online tendering tool under the section "Documents to Be Completed" or
- created and compiled separately by Candidate together with the other components of the participation application or tender (concepts or explanations etc.), then uploaded under the heading "Own Documents".

However, Candidates should not fill in the forms online and upload them again separately, as this can result in transmission errors and increases the workload on both sides.

In order to comply with the text form (in writing) according to § 126b BGB [transl.: German Civil Code] when submitting participation applications, Candidates must provide the following information:

- In the case of natural persons, the full name (first name and surname) must be given (name of the declaring person in the participation application form).
- In the case of legal entities and commercial companies and corporations, the name of the company and its legal form must be stated. In addition, the full

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name of the employee who is submitting the participation application on behalf of the company (name of the declaring person in the participation application form) must be stated. The insertion of a company logo is not sufficient.

- In the case of Bidding Consortia, the declaring person according to § 126b BGB shall be the employee of the leading member who submits the participation application on behalf of the Bidding Consortium; besides, the form "Bidding Consortium Declaration" must be submitted.

It should be noted that in the case of electronic submission, the text form according to § 126b BGB is only observed if the participation applications are transmitted in encrypted form via the awarding platform (cf. information on eVergabe). Submitting the participation application via email is not sufficient.

In the case of incorrect/ incomplete information that violates the aforementioned formal requirements, participation applications will be excluded unless Candidate cannot be held responsible (§ 57 para. 1 nr. 1, para. 3 VgV).

4. Communication with Candidates

Communication with Candidates takes place via the DTVP's tender platform. Questions must be sent to FAIR via DTVP and will are answered via DTVP. Questions posed orally or by telephone regarding the documents or the contractual object will not be answered; answers given orally or by telephone are not binding.

5. Languages

The procedural and contractual language is English. The tender documents may be partly in German and English, specifications and technical equipment only in English in part. In the case of documents written in German and English, only the English version shall be binding; in this case, the German version shall only serve to improve comprehension of the document for bidders. In case of inconsistencies between the English version and the German translation, the English original text is legally binding.

If Candidate submits a participation application and includes proof of suitability in another language, English translations must also be submitted.

B. Bidding Phase

1. Procedural Information

After the deadline for submitting the participation applications has expired, FAIR will check that the documents submitted are complete and that any minimum re-

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quirements specified in the contract notice have been met. Participation applications that are still incomplete even after a possible request for additional documents will be excluded from the further procedure. FAIR will request that Bidders who have proven their suitability according to § 122 GWB by submitting the participation application now submit a tender in the Phase 2 (or the bidding phase in the restricted procedure).

The request for tenders shall also specify the binding deadline for the submission of tenders. Tenders received after this deadline will be excluded from the further procedure unless Bidder cannot be held responsible (§ 57 para. 1 no. 1 VgV).

FAIR will check that the documents submitted with the offers are complete and that any specified minimum requirements have been met. In addition, FAIR will examine the cost-effectiveness of the tenders and evaluate them provisionally on the basis of the award criteria (see below) and come to a decision about the award.

If there is need for negotiation and consequently the contract is not awarded on the basis of the initial tenders, the contracting authority will subsequently negotiate the initial tenders and any subsequent tenders (but not the minimum requirements and award criteria) with Bidders in one or more rounds, as necessary. FAIR reserves the right to negotiate only with the three Bidders whose initial tenders have received the highest scores in the preliminary evaluation.

At the conclusion of the negotiations, FAIR will set a single deadline for Bidders still involved in the procedure for submission of their final tenders; FAIR will then make a decision considering these final tenders on the basis of the specified award criteria without renegotiating. FAIR points out that the award may be made to a contract that has been specifically negotiated, the specific provisions of which may differ from those of the contracts finally negotiated with other Bidders.

The general procedural information in Part A. of these application requirements concerning language and form of participation applications, the communication of ambiguities, communication, Bidding Consortia and subcontractors, etc. shall apply mutatis mutandis to the preparation and submission of tenders in Phase 2. Something else shall only apply if the regulations can, by their nature, only be effective in regards to participation applications or hereafter or if the invitation to submit an offer expressly contains diverging regulations for the tenders.

In Phase 2, the following also applies: All forms and templates provided with the tender documents must be completed in full. Prices must be quoted on the tender form and expanded on in the cost breakdown. Bidders may not base their bids on

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their own contractual conditions. Changes to the tender documents (e.g. deletions or additions to the documents in spaces not provided explicitly for this purpose) are not permitted and will result in exclusion of the tender from the tender procedure, §§ 53, 57 VgV.

Since Phase 2 of this procedure is a negotiation procedure, Bidders may propose amendments to the draft contract. For reasons of plausibility and transparency, however, these changes must be compiled in a chart and indicated accordingly. If Bidder makes changes to the documents without indicating them clearly, Bidder may be excluded from the further procedure.

2. Components of the Tender

The basis for the tender are all tender documents made available via DTVP.

The following documents made available to Bidder together with the tender documents must be submitted to Awarding Authority as part of the tender:

- FAIR Offer Form VgV (EN)

The following documents must also be prepared by Bidder and submitted to Awarding Authority together with the tender:

- Explanatory Notes on the Tender

  Bidder submits the tender with a document attached that explains the total tender price and the technical data of the scope of supply and services offered in detail. The information required under technical specifications must be documented. All system components must be listed and described in detail.
- Chart with proposed changes to the contract, if applicable
- A declaration that there are no customs tariff numbers yet, if applicable

Bidder shall specify all relevant customs tariff numbers of the services included in the tender separately. If these are not available yet, Bidder must instead inform Awarding Authority of this in the tender. Awarding Authority reserves the right to request the customs tariff numbers once only. Bidder, however, is not entitled to this. Bidder can be excluded from the procedure if Bidder fails to designate existing customs tariff numbers.

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Note: Safeguard Duty on Steel Products

Referring to the Implementing Regulations (EU) 2018/1013 of the Commission on 17 July 2018 re: imposing provisional safeguard measures on certain steel products, and 2019/159 of the Commission on 31 January 2019 re: imposing definitive safeguard measures on imports of certain steel products, in particular the recitals set out in those regulations, Awarding Authority points out the following:

When submitting a tenders, Bidder shall inform Awarding Authority that both or only one of the regulations would apply in the event of an award being made. The possibility of an exempted quota is irrelevant. Should Bidder fail to do so, contrary to the obligation stipulated herein, Bidder may be excluded from the procedure. Should Awarding Authority become aware after making the award that such a breach of obligations has occurred, Awarding Authority shall be entitled, at its sole discretion and without notice, to withdraw from the contract without this giving rise to any liability claims for the contractor.

It is up to the Bidder concerned to prove that the safeguard duty provided for in the regulations is not relevant, by means of a certificate of origin when submitting a tender.

3. Form and Deadline

The same rules on the form of participation applications (Part A, section 3) shall apply to the submission of tenders. The deadline set in the contract notice for the submission of participation applications must be strictly observed. Tenders received late will be excluded from the procedure, unless Bidder cannot be held responsible (§ 57 para. 1, no. 1 VgV).

4. Award Criteria/ Tender Evaluation

The award shall be made to the most economically advantageous tender. Bidders accepted for evaluation shall be evaluated on the basis of the award criteria with the corresponding weighting indicated.

In compliance with the general principles of equal treatment and transparency, Awarding Authority has determined the following award criteria:

see Document „CSX 42 - Angebotswertungsmethoden und -kriterien.pdf“

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Award Criteria	Weighting	Score
Total Bid Offer	30 %	evaluation method, see below
Performance Criteria (PC)	70 %	evaluation method, see below

The following section explains the criteria by which the specified award criteria are evaluated:

4.1 Weighting of Award Criteria

The evaluation is based on the price-quotient method. Price and performance are assigned the weighting factors (see above). The Price-Quotient-Method can be shown as follows:

$$Z = G(\text{Performance}) * L(\text{Tender}) + G(\text{Price}) * \frac{L(\text{best}) * P(\text{lowest})}{P(\text{Tender})}$$

The individual components of the formula are specified as follows:

Z(Tender) = Weighted score for price/performance evaluation of the evaluable tender

G(Performance) = Weighting factor for the performance criteria of the evaluable tender according to the above chart

L(Tender) = Total score of the performance criteria of the evaluable tender as reference value

G(Price) = Weighting factor for the total bid price of the evaluable tender in accordance with the above chart

L(best) = Best overall score of the performance criteria of the evaluable tenders

P(lowest) = Lowest total tender price of the evaluable tenders

P(Tender) = Total tender price of the evaluable tender

4.2 Award Criterion "Total Tender Price"

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In the context of the award criterion "total tender price", which is included in the evaluation at 30 %, the price quotations are taken into account as follows:

In order to submit a tender in terms of price, the tender form must be completed, the specifications of which are described in more detail in the tender form itself and in the service description.

Only the prices stated in the tender form are binding for the provision of services. Unless otherwise stated, the indicated scope of number of hours to be performed under the contract are non-binding estimates so as to determine comparable tender prices, and are therefore not to be understood as projections, assurances etc.!

4.3 Valuation Standard for Performance Criteria

In the evaluation of the individual performance criteria, each criterion shall be evaluated on a continuous scale of 10 points for fulfilling a criterion completely, to 0 points for not fulfilling a criterion at all, as follows.

Points	Evaluation	Note
9-10	Very good	Particularly outstanding fulfilment of the performance criteria
7-8	Good	Fulfilment of performance criteria that is significantly above average despite minor deficiencies
5-6	Satisfactory	Fulfilment of performance criteria that still meet average requirements despite minor to moderate deficiencies
3-4	Adequate	Fulfilment of the criteria that suffers from considerable deficiencies and is generally barely usable
0-2	Deficient - Indadequate	Completely useless fulfilment of the required criteria

For each required performance criterion, questions and aspects are listed in the content specifications below that are to be developed conceptually or on the basis of technical specifications etc., depending on the criterion. The following degrees of target attainment apply to achievement of the individual point levels:

In the case of serious deficiencies in the explanation, the performance criterion is classified as unusable and thus as deficient or inadequate (0-2 points).

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If the questions and aspects listed in the explanations show considerable shortcomings, the criterion is classified as barely usable fulfilment of the criteria and thus as sufficient but below average (3-4 points).

If all questions and aspects have been addressed at least briefly or if only minor to medium deficiencies are noted, the performance criterion is classified as average and thus as satisfactory (5-6 points).

If all questions and aspects have been dealt with exhaustively, with special attention paid to the highlighted areas, or if the criteria are still considered to be fulfilled to a good extent despite existing deficiencies, the performance criterion is rated as considerably above the average requirements and thus as good (7-8 points).

If additional aspects and ideas are included beyond the aforementioned, the performance criterion is rated as particularly outstanding and thus as very good (9-10 points).

The results of the individual performance criteria are calculated on the basis of the published weighting into a weighted total number of points that amount to the performance criteria for Bidder (see chart above). The tenders are then compared with the tenders of other Bidders and evaluated.

5. Alternative Tender, § 35 VgV

Alternative tenders are not permitted.

6. Industrial Property Rights, § 53 para. 8 VgV

If industrial property rights exist for and apply to the subject of the tender or have been applied for by Bidder or others, this must be stated under Explanatory Notes on the Tender. If Bidder is considering making information from their tender the subject of an application for an industrial property right, this must be clearly stated under Explanatory Notes on the Tender.

8. Notice for economic operators from third countries (Non-EU) that have not concluded an international agreement with the EU in the field of public procurement.

The contracting authority reserves the right to exclude economic operators from third countries that have not concluded an international agreement with the EU in the field of public procurement at any time during the procedure – even without stating reasons. This also includes bidding consortiums in which at least one such economic operator is involved. However, it does not apply to cases in which such an economic operator is planned only as a subcontractor.