

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 Open Procedure According to § 15 VgV [Ordinance on the Award of Public Contracts (Procurement Ordinance)]

To whom it may concern,

FAIR - Facility for Antiproton and Ion Research in Europe GmbH (hereinafter referred to as "FAIR", "Awarding Authority" or "Client") conducts an open procedure according to § 15 VgV [transl.: Ordinance on the Award of Public Contracts (Procurement Ordinance)], § 119 para. 3 GWB [transl.: Act against Restraints of Competition] for the tender **Flip Chip Die Bonder – 33/2600038815FAIR** under the following conditions:

Geschäftsführung:
Prof. Dr. Thomas Nilsson
Dr. Katharina Stummeyer
Jörg Blaurock

Headquarters: Darmstadt
Amtsgericht Darmstadt HRB 89372

UST-IdNr.: DE275595927

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BLZ 508 400 05 . Konto 13 26 30500
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0. Notification of Ambiguities in the Tender Documents

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

1. Tender Documents and Components of the Tender

NOTE: To clarify matters, Awarding Authority emphasises that the terms "Candidate", "Bidder", "Tenderer" and "Contractor" each refer to the same (legal) person. The "Bidding Consortium" and the "Tenderer Consortium" are also used synonymously; for the sake of clarity, only the term "Bidding Consortium" is used in these documents.

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

- **Form Tender**
- **Form Company Presentation**
- **Form References, with the following minimum requirements for the references:**

We expect at least three references (max. five references) projects related to the flip-chip die bonder (hereinafter referred to as the “device”) for which we are issuing this request for proposals.

Additional requirements are

- **The reference project must not be more than three years old**
- **The system being offered must already be in successful use at other research institutes or universities**
- **Form Declaration of Suitability according to §§ 123, 124 GWB**
- **Form Violations of the SchwarzArbG [transl.: Law On Illegal Employment], the AEntG [transl.: Posted Workers Act], the AufenthG [transl.: Residence Act] as well as the MiLoG [transl.: Minimum Wage Law]**
- **Form Professional Liability Insurance with the following minimum coverage: The sum insured must cover at least three the order value.**
- **Form Self-declaration of compliance with standards in the style of ISO 9001 (or equivalent standard)**
- **Form Further bidder information**
- **Form Bidding Consortium, if applicable**
- **Form Subcontractor, in the case of a loan of eligibility mandatory in combination with the Availability Declaration, completed and signed by the subcontractor, if applicable**
- **Form Declaration on Regulation (EU) 833/2014**
- **Cost Breakdown (must be filled out)**

If Bidder 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 following documents must be completed by Bidder and submitted to Awarding Authority as part of the tender:

- Explanatory Notes on the Tender (see below, Section 8.)
- A declaration that there are no customs tariff numbers yet, if applicable

The following documents are also part of the tender but remain with Bidder:

- Specifications/service description (consisting of the specifications listed again in the call for tender and in the contract - in case of inconsistencies, the listing in the contract is legally binding.)
- General Terms and Conditions of Purchase of FAIR, as of July 2022
- VOL/B [transl.: German Construction Contract Procedures, Part B], up-to-date version

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.

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.

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

Bidders may not base their tender 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 VgV.

2. Deadline for Submitting Tenders

The deadline set in the contract notice for the submission of tenders 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).

3. Formal Requirements for Tenders

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

Note: In Writing, Electronically

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

URL: <http://www.dtv.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 Bidder together with the other components of the tender (concepts or explanations etc.), then uploaded under the heading "Own Documents".

However, Bidders 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 tenders, Bidders 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 tender 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 name of the employee who is submitting the tender on behalf of the company (name of the declaring person in the tender 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 tender 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 tenders are transmitted in encrypted form via the awarding platform (cf. information on eVergabe). **Submitting the tender via email is not sufficient.**

In the case of incorrect/ incomplete information that violates the aforementioned formal requirements, tenders will be excluded unless Bidder cannot be held responsible (§ 57 para. 1 no. 1 VgV).

4. Communication with Bidders

Communication with Bidders takes place via the DTVP's tender platform. Questions must be sent to FAIR via DTVP and will be 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 Bidder submits a tender and includes proof of suitability in another language, English translations must also be submitted.

6. 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.

FAIR reserves the right to invite the three Bidders with the highest scores for a presentation to verify the information and documents provided. There will be no negotiations.

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

Award Criteria		Weighting	Score
Total Bid Offer		40 %	evaluation method, see below
Performance Criteria (PC)		60%	evaluation method, see below
Performance criteria, specified (100%)	Weighting key criteria	Points	Score/ max. score
Completeness and Quality of the Bid Documents	20 %	0 - 10	XX/200
Quality Assurance, Acceptance Testing, and Documentation	25 %	0 – 10	XX/250
Delivery time, installation and training	30 %	0 – 10	XX/300
Repair Services and Sustainability	25 %	0 – 10	XX/250
Sum	100 %		XX/1000

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

6.1 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:

$Z(\text{Tender})$ = Weighted score for price/performance evaluation of the evaluable tender

$G(\text{Performance})$ = Weighting factor for the performance criteria of the evaluable tender according to the above chart

$L(\text{Tender})$ = Total score of the performance criteria of the evaluable tender as reference value

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

$L(\text{best})$ = Best overall score of the performance criteria of the evaluable tenders

$P(\text{lowest})$ = Lowest total tender price of the evaluable tenders

$P(\text{Tender})$ = Total tender price of the evaluable tender

6.2 Award Criterion "Total Tender Price"

In the context of the award criterion "total tender price", which is included in the evaluation **at 40 %**, the price quotations are taken into account as follows:

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

Only the prices stated in the form tender 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.!

6.3 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 - Inadequate	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).

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.

6.4 Content Specifications for the Performance Criteria:

Please refer to the document [CSX 42](#) for the specifications for the content of the performance criteria, how the concepts and designs are evaluated.

7. Alternative Tender, § 35 VgV

Alternative tenders are not permitted.

8. 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.

9. 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.

10. Competent Authority for Appeals, Other Information

The competent reviewing authority is

Vergabekammer des Bundes [transl.: Federal Public Procurement Tribunal]

Villemombler Straße 76
53123 Bonn
Tel.: 0228 9499-0
Fax: 0228 9499-163
Email: vk@bundeskartellamt.bund.de
Website:
<http://www.bundeskartellamt.de/SharedDocs/Kontaktdaten/DE/Vergabekammern.html>

Candidate/ Bidder is requested to clearly identify those sections of the tender that contain a trade or business secret. If Bidder fails to do so, the Public Procurement Tribunal may, in the case of a review procedure, assume that Bidder has agreed to have these documents inspected (§165 para. 3 GWB). As Awarding Authority, FAIR is obliged to make the tender file available to the Public Procurement Tribunal immediately when initiating a review procedure (§ 163 para. 2 cl. 3 GWB).

Candidates/ Bidders have a right to expect the contracting authority's compliance with the Bidder-protecting provisions re: the tender procedure (§ 97 para. 6 GWB). If Candidate/ Bidder interested in the contract considers that Bidder's rights have been infringed through failure to comply with award regulations, the infringement must be reported to FAIR within ten calendar days (§ 160 para. 3 cl. 1 no. 1 GWB).

Infringements identifiable on the basis of the announcement or the award documents must be asserted against FAIR within the deadline for submission of tenders specified in the announcement (§ 160 para. 3 cl. 1 nr. 2 - 3 GWB).

If FAIR informs Candidate/ Bidder that FAIR is unwilling to redress its complaint, it is possible to file an appeal for review with the aforementioned Public Procurement Tribunal within 15 days of receipt of the notification (§ 160 para. 3 cl. 1 no. 4 GWB).

Bidders whose tenders are not to be considered for the award will be informed prior to the award according to § 134 GWB. A contract may only be concluded 15 calendar days after this information has been sent by FAIR. In the case of transmission by fax or electronic means, this period shall be ten calendar days. It commences on the day after dispatch of the information by FAIR. After this period has expired, a surcharge is possible, even if the deadline is not passed according to § 160 para. 3 GWB. An application for review would therefore have to be delivered to FAIR by the Public Procurement Tribunal before the expiry of the deadline according to § 134 GWB in order to prevent a surcharge.

According to § 135 para. 1 and 2 GWB, the ineffectiveness of a commission can only be established if it has been asserted in the review procedure within 30 calendar days of the conclusion of the contract but not later than six months after the conclusion of the contract. If the contracting entity has published the award in *Amtsblatt der Europäischen Union* [transl.: Official Journal of the European Union], the period unenforceability shall end 30 calendar days after announcement of the publication of the award in the *Amtsblatt der Europäischen Union*.

Information pursuant to Art. 13 GDPR on the processing of your personal data within the scope of our business relationship is available at:
www.gsi.de/data-protection

FAIR - Facility for Antiproton and Ion Research in Europe GmbH