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Niedersachsen Ministry for Economic Affairs, Transport and Housing
Ministry for the Environment, Energy and Climate Protection of the State of Lower Saxony

AquaDuctus

AquaDuctus Pipeline GmbH

Procedure Letter No. 1:

Selection Process Guideline: Geophysical and Geotechnical Survey for the Offshore Platform

AquaDuctus Section 1 (Offshore)

Project №	AQD
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AquaDuctus Section 1 (Offshore) | 31300-WORL-PP-ITT-00001					
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Attachment B.7	Self-declaration scope **(to be completed in offer phase I and II)**
Attachment B.8	Key personnel CVs and experience **(to be completed in offer phase I and II)**
Attachment B.9	Self-declaration on Compliance with Collective Bargaining Commitment **(to be completed in offer phase I and II)**
Attachment B.10	Self-declaration vessel **(to be completed in offer phase I and II)**

Notes

1. Reference is made to Section 8 of this Procedure Letter No. 1 for which documents are immediately available on Cosinex and which will only be made available after signing of an NDA.
2. Reference is made to the Form of Agreement for information on which documents will be included in the Contract.

2 Introduction

This document outlines the intended process as well as the general rules and formalities of the procedure. It is referred to as “Procedure Letter No. 1.” Subsequent procedure letters during the process will refer to this Procedure Letter No. 1.

2.1 Definitions

Table 2-1 Definitions

Term	Definition
Applicant	A company, consortium, or joint venture that has registered to participate in the tender procedure
Award Criteria	The criteria used to evaluate Tenders and the BAFO as submitted by the selected Tenderers during the Award Phase: used to determine which Tender offers the best value for money based on quality, price, and technical merit under the Most Economically Advantageous Tender (MEAT) principle
Award Phase (/ Award and Negotiation phase)	The tender submission (including the clarification matrix and list of negotiation clauses) and negotiation phase which leads to finalisation of the Tender Documents and the subsequent submission by Tenderers of the Best and Final Offer BAFO (with no clarifications or qualifications) and the award of the work to the selected Tenderer
Client / Company	AquaDuctus Pipeline GmbH
Contracting Authority	The Contracting Authority is AquaDuctus. AquaDuctus has delegated much of the process to Worley (EPCm) who is responsible for conducting the tender procedure. Contract Award will be made by AquaDuctus.
Cosinex	The selected tender platform for this tender procedure (Cosinex-based electronic tendering platform Deutsches Vergabeportal – DTVP)
GASCADE	Owner (Owner of AquaDuctus Pipeline GmbH)
Request for Participation	A Request for Participation is the submission made by an Applicant in the selection phase of this procurement procedure containing the information and documentation required to demonstrate the Applicant’s eligibility, qualifications, and capability to perform the contract, in response to the call for competition.
Selection Criteria	The criteria used to assess the suitability of Applicants during the Selection Phase and used to determine whether a company has the required qualifications, experience, and capacity to perform the contract.
Selection Phase	The first phase of the EU public procurement negotiated procedure with prior call for competition during which requests for participation by Applicants are evaluated and Applicants are assessed against the defined selection criteria. At the end of the phase, some Applicants will be invited to submit a Tender.
Tender	An offer submitted by a Tenderer under this procurement procedure setting out the Tenderer’s proposed technical, commercial, and contractual solution for performing the contract in accordance with the procurement documents.

Tenderer	An Applicant that has been invited by the Contracting Authority, on the basis of the suitability criteria (Section 9.2.6) and the selection criteria (Attachment A.2.1), to submit a tender in the award phase of the negotiated procedure with prior call for competition process.
Worley	EPCm (Engineering, Procurement and Construction management) on behalf of AquaDuctus Pipeline GmbH.

2.2 Abbreviations

Table 2-2 Abbreviations

Term	Abbreviations
BAFO	Best And Final Offer (the final offer provided within the negotiation process)
EPCm	Engineering Procurement & Construction management (Worley Projects GmbH)
GWB	Gesetz gegen Wettbewerbsbeschränkungen (the German Act against Restraints on Competition)
NDA	Non-Disclosure Agreement

3 Introduction and document objective

3.1 Project introduction

To address Europe's future energy demand, AquaDuctus Pipeline GmbH is developing the AquaDuctus offshore hydrogen pipeline to connect offshore producers in the German Exclusive Economic Zone (EEZ) with the onshore hydrogen core network and to enable hydrogen import from European partners in the North Sea. AquaDuctus is part of the confirmed hydrogen core network (Wasserstoff-Kernnetz). The project is classified as an Important Project of Common European Interest acknowledged by the European Commission.



Figure 2-1 Overview Map AquaDuctus Project (Source: GASCADE)

AquaDuctus Offshore Pipeline Section 1

The AquaDuctus Offshore Pipeline will consist of a 48” (DN1200) pipeline with a transport capacity of 20GW of Hydrogen. Section 1 is being realised as the first phase of two phases of the project. The section 1 pipeline has a length of approximately 130 km and runs from the SEN-1 area in the German EEZ to a landfall at Norderney / Hilgenriedersiel, connecting to the hydrogen core network at the Pig Trap Area (PTA). Section 1 consists of the offshore pipeline in the EEZ and territorial waters, a platform or subsea infrastructure (HTI) at SEN-1, the shore crossing via micro tunnel (MT) and segmental lining tunnel (SLT), and a short onshore pipeline section to the PTA near Hilgenriedersiel.

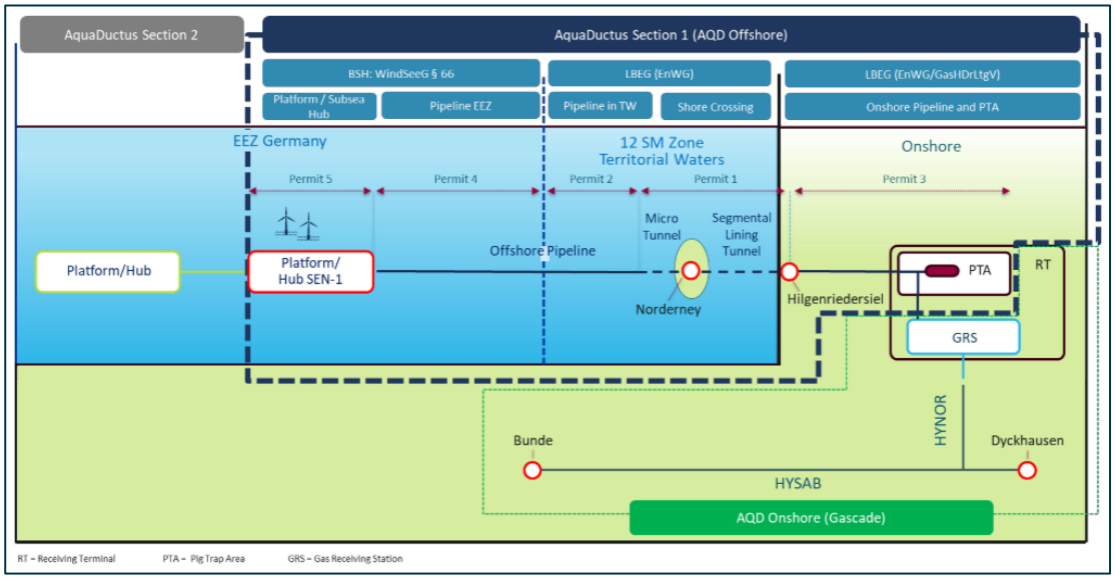


Figure 2-2 Facilities Overview AquaDuctus Project

Hub Tie-in SEN-1

The scope includes the SEN-1 hub tie-in facilities (platform or subsea) required to connect the SEN-1 production field and enable future connection to Section 2 of the AQD system, comprising a platform with three independent 24” production risers, two 48” pipeline risers, associated pigging facilities, an incoming fibre optic cable from onshore and power cable from SEN-1.

Offshore Pipeline

The scope includes the offshore 48” hydrogen pipeline backbone of approximately 123 km to the start of the shore crossing location approximately 2 km north of the island of Norderney.

Shore Crossing Tunnels

The scope in the shore crossing section consists of design and installation of 2 tunnels for and including the pipeline that is connected via an intermediate tie-in on the middle of the island. The Microtunnel (MT) connects the offshore installed pipeline section with the pipeline section installed in the segmented lining tunnel (SLT) connecting to onshore.

Onshore Section and PTA Area

The scope for the onshore pipeline section runs from the end of the segmented lining tunnel to a dedicated pig trap area that is located within the plot of the Gas Receiving Station and connecting it to the hydrogen core network.

3.2 Document objective

In order that sufficient data is available for the design of the offshore platform and corridor and also to act as input to the associated construction planning, a geophysical and geotechnical survey will be performed to collect geological data to support the assessment of ground conditions and geotechnical parameters for FEED and to inform construction planning of the proposed offshore platform foundation.

The work scope will be tendered under the EU and SektVO tendering regulations using the negotiated procedure with prior call for competition.

This document, Procedure Letter No 1 (Selection Process Guideline):

- Outlines the intended process as well as the general rules and formalities of the procedure
- Provides general information on the tender process
- Provides detailed information on the first phase, the Selection Phase.
- Presents the Scope of Work
- Provides the attachments to the Scope of Work which were available on the date of issue & lists the remaining attachments.

At the start of the Award Process, Company will issue Procedure Letter No. 2 (the Award Process Guideline) to the companies which have been selected to submit a tender.

The Scope of Work is structured into a Geophysical and Geotechnical Survey. Requests for participation and Tenders shall cover the complete scope, i.e. both parts (Part 1 – Geophysical Survey and Part 2 – Geotechnical Survey); Tenders for one part only are not admitted and will be excluded. The scope is not divided into lots; the two parts serve pricing, payment, key dates and liquidated damages only. Undertakings specialised in one of the two disciplines may participate as members of a bidding consortium or through subcontractors (Sections 9.2.4 and 9.2.5).

4 Contracting authority and awarding office

The contracting authority and awarding office is:

AquaDuctus Pipeline GmbH
Kölnische Straße 108-112
34119 Kassel
Germany
Website: www.aquaductus-offshore.de

In the context of this procurement procedure, GASCADE Gastransport GmbH acts as a general service provider for AquaDuctus Pipeline GmbH. However, the contractual partner of the successful tenderer is solely AquaDuctus Pipeline GmbH. Any legally relevant actions or omissions by the personnel of GASCADE Gastransport GmbH in connection with this procurement procedure are attributed solely to AquaDuctus Pipeline GmbH. The GASCADE Gastransport GmbH personnel acts exclusively as representative for AquaDuctus Pipeline GmbH.

Worley Projects GmbH is the EPCm contractor for AquaDuctus Pipeline GmbH and acts as the project manager for the assigned work packages.

StreamTec Solutions AG is the subcontractor to Worley Projects GmbH (EPCm contractor) and is engaged to provide support to the EPCm contractor for the assigned work packages.

5 Law, language and tender procedure

5.1 Law and Language

This tender procedure and any resulting contract or project shall be governed by and construed in accordance with the laws of the Federal Republic of Germany, including, where applicable, the German public procurement regulations under the Sektorenverordnung (SektVO).

The procedural language is English. This affects the procurement procedure, contract documents, communication and contract execution. Negotiations will be primarily conducted in English.

There are elements of the project where use of the German language is required, especially obtaining project approvals; coordination with German and/or any other relevant Governmental Authorities; any relevant law or regulation applicable to the project including but not limited to the relevant sector regulations, e.g. the Sektorenverordnung (SektVO).

If there are any discrepancies/disputes in the wording between the original German legal texts (regulations, provisions) quoted in this document and the English translations, the German legal text shall prevail in case of doubt.

The procurement documents consistently use the German titles of the applicable laws.

5.2 Type of procedure

The procurement procedure is conducted as a negotiated procedure with prior call for competition in accordance with §§ 119 (5), 141 (1) Gesetz gegen Wettbewerbsbeschränkungen (GWB) and § 15 (1) Sektorenverordnung (SektVO).

6 Schedule

The Negotiated Procedure with Prior Call for Competition is structured into four (4) phases and comprises of two survey's; Geophysical and Geotechnical:

Phase 1:	Call for competition (requests for participation)
Phase 2:	Offer phase (initial offers)
Phase 3:	Negotiation phase
Phase 4:	Offer phase II/best and final offer (BAFO) and award decision

Please note that the contracting authority reserves the right to award the contract without negotiations, based solely on the initial offers if it receives one or more offers without any qualifications; in that case the award is made on the basis of the published award criteria (§ 15 (4) SektVO). This reservation is also stated in the contract notice.

The outlined process and the following dates represent the current planning status only. They are not binding — except for the deadlines for submitting questions within the call for competition and the submission of the participation application and may be changed by the contracting authority at any time. In particular, the contracting authority reserves the right to conduct further rounds of negotiations.

The current schedule is as follows:

Date/period	Process
24-11-2026	Dispatch of the Europe-wide contract notice in the supplement to the Official Journal of the European Union and the notification of the procurement procedure on "Deutsches Vergabeportal – DTVP" (DTVP)
04-12-2026	Deadline for applicants' questions (call for competition)
11-12-2026	Provision of a final questions and answers catalogue to applicants (call for competition)
06-01-2027 12:00 (CET)	Deadline for submitting applications for participation
Mid/end of January 2027	Notification of applicants about the outcome of the call for competition. Sending of the invitation to submit Offer phase I (initial offer) to the qualified tenderers
28-01-2027	Deadline for applicants' questions (offer phase I)
04-02-2027	Provision of a final questions and answers catalogue to applicants (offer phase I)
12-02-2027	Offer phase I submission
Week 8-11 (2027)	If necessary, negotiation dates with the tenderers or selection of the best tenderer/awarding of the contract/conclusion of the contract
week 14-17 (2027)	If necessary, Offer phase II
week 18-24 (2027)	If necessary, selection of the best tenderer/awarding of the contract
25-06-2027	Contractual binding period

7 Tender platform, communication etc.

7.1 Tender platform

7.1.1 Selected platform

All communications shall be conducted exclusively via the Cosinex-based electronic tendering platform (Deutsches Vergabeportal – DTVP).

7.1.2 Obligatory use

Please note that the Contracting Authority does not allow the submission of participation applications by post, email, or fax. Any participation applications submitted by post, email or fax will be excluded from the procurement procedure.

7.1.3 Size limitation

When submitting documentation, the size restriction for the maximum allowable file size must be observed. The size of the electronic request for participation submitted using the bidding tool is limited to 500 MB.

7.1.4 Signature

An advanced or qualified electronic signature is not required when submitting the Participation Request, nor, in the Award Phase, when submitting Tenders including the BAFO.

The Participation Request and all Tenders must be submitted in text form according to § 126b Bürgerliches Gesetzbuch (BGB). Unlike written form, a handwritten signature is not required; however, the company name and the name of the authorized natural person making the declaration must be clearly identifiable. This information applies to the entire request for participation and is legally binding. With the complete upload of the compliant submission (a valid Participation Request in the Selection Phase and a valid Tender/Offer in the Award Phase), all other submitted documents are considered legally submitted by the Applicant / Tenderer as applicable.

In the case of submissions (Participation Request and Tender) from a bidding consortium, the submission must be submitted and uploaded in text form according to § 126b BGB by the authorized member of the bidding consortium.

Any necessary declarations from third parties may likewise be submitted in text form pursuant to § 126b BGB; a handwritten signature is not required. The declaration must clearly identify the third party and the natural person making the declaration on its behalf and shall be attached by the Applicant/Tenderer. Third parties in this context refer to member companies of a bidding consortium, subcontractors, and companies providing eligibility.

7.2 Communications

7.2.1 Procedure letters

During the course of the tender, two Procedure Letters shall be issued. Procedure Letter No. 1 is this document containing the Selection Process Guideline. Procedure Letter No. 2 contains the Award Process Guideline. Any changes to the tender process will be recorded in new revisions of the Procedure Letters.

7.2.2 Questions & clarifications raised by Applicants / Tenderers

All questions and requests for clarifications from Applicants / Tenderers shall be raised via Cosinex in accordance with the deadlines detailed in the Schedule section.

Any other contact with the Contracting Authority or with employees of the Contracting Authority is not accepted and can lead to exclusion from the procurement procedure (principle of procedural integrity). Personal or telephone inquiries will not be answered.

7.2.3 Clarifications by EPCm

In accordance with § 15 (2) SektVO and the principles of transparency and equal treatment (§ 97 GWB), the Contracting Authority, acting through its authorized representatives, may request or receive clarifications through the formal channel, from applicants or Tenderers at any stage of the procedure, provided that such clarifications do not lead to a change of the substance of the request for participation or the tender.

This applies in particular to:

- Written questions & clarification requests
  Should an Applicant / Tenderer submit a question or a clarification request (etc.) which is not clear, to EPCm then EPCm may make a written request for confirmation or explanation.

- Formal submissions (requests for participation and tenders)
  EPCm may request clarifications where submitted documents are incomplete, unclear, or contain inconsistencies. Such clarifications shall be strictly limited to the explanation or completion of the existing content and shall not result in any change of the submission or the submission of new information that would improve or modify the competitive position of the applicant or Tenderer.

- Matters arising from negotiation meetings
  Where aspects discussed during negotiation meetings appear clear but subsequently require clarification, EPCm may make a written request for confirmation or explanation. Such clarification shall be limited to reflecting and confirming the content of the tender and the negotiation discussions already conducted and shall not constitute a reopening or extension of negotiations outside the formally defined procedure.

7.2.4 Equal treatment of all participants

Where a clarification may be relevant to other participants, the EPCm shall make the relevant information available, in anonymised form where appropriate, to all participants via Cosinex.

Clarifications and communications shall not lead to a change in the substance of any request for participation or tender submitted, nor shall they result in unequal treatment of participants or a distortion of competition. Any adjustments to the procurement documents made in the course of the negotiation procedure shall be carried out in a transparent and non-discriminatory manner and communicated to all participants simultaneously via Cosinex.

Applicant must use Cosinex to submit their requests for participation. The bidding tool is a desktop application that installs automatically using web start technology if the process for submitting an electronic participation application is initiated from the virtual project room of the respective procurement procedure.

7.3 Data Processing

As part of the present procurement procedure, personal data of natural persons involved in the process are collected and processed. This includes, among other things, names, address details, and information regarding professional activity and qualifications.

8 Provision of Tender Documents

Except for **B. Attachments** , the tender documents can be accessed free of charge, unlimited, fully and directly on DTVP in accordance with § 41 (1) SektVO.

It is possible to retrieve the tender documents on DTVP without prior registration, but active participation in the procurement procedure, in particular communication with the contracting authority and the electronic submission of an offer by the tenderer, requires registration.

For questions regarding the use of the DTVP procurement portal, particularly technical issues, the applicant/tenderer must contact the operator of the portal:

email: support@cosinex.de

phone +49 900-3-243837 (subject to charges)

The technical supports service hours are Monday to Friday from 07:00 AM to 05:00 PM.

Failure to register and/or to take note of information provided by the contracting authority on DTVP in connection with this procurement procedure - such as changes to the procurement documents, responses to tenderer inquiries, or other procedure-relevant information - is the sole responsibility of the respective tenderer.

The B. Attachments contain particularly confidential and sensitive information. Therefore, the contracting entity requests the tenderers to submit a confidentiality agreement (**Attachment A.4** (Non-Disclosure Agreement)) (§ 5 (3) sentence 2 SektVO). This can be signed in text form according to § 126b Bürgerliches Gesetzbuch (BGB) and submitted via DTVP's message function. **These Attachments** will then be made available to the tenderer via the DTVP messaging function shortly after receiving the signed Non-Disclosure Agreement.

9 Selection Phase

9.1 Announcement and (documentation) publication

The procurement procedure begins with the public contract notice in the supplement to the Official Journal of the European Union and the invitation to submit requests for participation. The contract notice refers to the DTVP tendering portal via a link.

The **Attachments A.1 to A.7, B.1, B.2 Appendix C, D, E, G, H, I, N1, Form of Agreement, General Terms and Conditions, Payment Schedule** and the **Attachments B.3 to B.10** are published on the tendering portal.

An exception applies to the **B. Attachments**. These are part of the tender documents and contain confidential and sensitive information. Therefore, these files will only be made available after EPCm has received a valid signed NDA. Reference is made to Section 8.

9.2 Selection of Tenderers

9.2.1 Submission documents

In accordance with Procedure Letter No 1 and based on the tender documents (**Attachments A. and B**.), Applicants prepare a request for participation. With the request for participation, the following documents must be completed and submitted along with the corresponding and mentioned proofs:

- **Completed Attachment A.1** (Forms and Proofs (Eligibility))

At this stage of the procedure, no offers shall be submitted. The provided detailed / less-detailed documents serve only to fulfill the legal requirement according to § 41 (1) SektVO.

Tenders shall cover both parts of the scope (Part 1 – Geophysical Survey and Part 2 – Geotechnical Survey). Applicants shall confirm in Form 1.1 (or, for a bidding consortium, Form 1.2) that the request for participation covers the complete scope.

9.2.2 Deadline for submission

The deadline for submitting requests for participation ends at the date and time given in the Schedule.

9.2.3 Selection

The basis of the eligibility assessment are the conditions specified in the contract notice and this Procedure Letter No. 1 under Item 9.2.6. **Four (4)** suitable applicants will be invited to submit an initial offer, provided that a sufficient number of requests for participation by suitable applicants have been submitted. These applicants will be determined based on the selection criterion/criteria described in **Attachment A.2.1**, meaning applicants with the highest scores will be ranked, and the top four applicants will be invited to submit an initial offer. . Applicants who are not among the top-ranked candidates will no longer be considered for the further procurement procedure and will be informed promptly. Where two or more Applicants achieve the same total score, the Applicant with the higher number of references evidencing the first characteristic of Attachment A.2.1 ranks ahead; where those scores are also equal, the ranking is determined by drawing lots.

9.2.4 Use of subcontractors

9.2.4.1 Request for Participation which does not rely on the capability of a subcontractor

If the Applicant intends to perform parts of the contract through subcontractors, without relying on their economic and financial standing or technical and professional ability, the Applicant shall identify the relevant parts of the contract or services in its request to participate.

At the request-to-participate stage, such subcontractors do not need to be named, in accordance with Attachment A.1, Forms and Proofs (Eligibility), Form 2, option (a). However, any subcontractor providing a vessel shall be named in the request to participate.

Where a subcontractor is named, the Applicant shall submit all documents required for that subcontractor under Attachment A.1, Forms and Proofs (Eligibility), Form 2.

The award of subcontractors after the conclusion of the contract requires the prior consent of the client.

Reference is made to the principles of involving subcontractors pursuant to § 34 SektVO. The Contracting Authority, via EPCm, expressly reserves the right to require the replacement of a subcontractor within a deadline set by the Contracting Authority prior to the award of the contract, if there is a ground for exclusion under § 123 or § 124 GWB with respect to the subcontractor. As the Contracting Entity is a sector contracting authority within the meaning of § 100 (1) No. 2 GWB, exclusion on the grounds of § 123 GWB is a matter of its documented discretion (§ 142 No. 2 GWB); see Section 9.2.6.

9.2.4.2 Request for Participation which relies on the capability of a subcontractor

If an applicant intends to rely on the economic, financial, technical, or professional capabilities of other companies to fulfil this contract in accordance with § 47 SektVO ("eligibility loan"), they must specify the services/capacities involved in their request for participation and submit the required documents for the other company as well. In particular, the name and contact details of these companies must be provided, along with corresponding declarations of commitment (**Attachment A.1** Forms and Proofs (Eligibility), Forms 4 and 5).

A company within the meaning of § 47 SektVO may not only be an independent entity that is legally distinct from the Applicant/Tenderer (e.g., a subcontractor). This also includes affiliated or group-related companies.

If the Applicant/Tenderer relies on the capacities of other companies with regard to the criteria for economic and financial standing pursuant to § 47 SektVO, these companies must be jointly liable for the execution of the contract in accordance with the scope of the eligible loan; the declaration of liability must be submitted at the same time as the declaration of commitment (**Attachment A.1** Forms and Proofs (Eligibility), Form 5).

However, the applicant can only rely on the capacities of other companies for the necessary technical and professional abilities, such as qualifications and evidence of relevant professional experience (e.g., references), if those companies will, during the contract execution, actually provide the services for which these capacities are required (see § 47 (1) sentence 3 SektVO). This means that the respective third company must be used as the subcontractor for the relevant work scope.

The Applicant/Tenderer must replace other companies within a period set by the contracting authority if the companies are subject to exclusion grounds or do not meet the relevant eligibility criteria. If such obligation is not fulfilled by the Applicant/Tenderer within a set period, the contracting authority shall have the right to exclude the applicant from participating in the procurement procedure. Reference is otherwise made to § 47 SektVO.

9.2.5 Bidding consortium (incl. joint ventures)

Bidding consortiums / Joint Ventures (referred to hereafter as Bidding Consortium) may submit offers in this tender procedure if their formation does not constitute a violation of competition law.

Pursuant to § 50 (2) sentence 1 SektVO, a Bidding Consortium is treated as an individual Tenderer.

Each Bidding Consortium must submit a declaration of all members with its offer,

- in which the formation of a consortium in the event of an assignment is declared,
- listing all members and designating authorized representatives throughout the award procedure and, in the event of the award of the contract, for the entire term of the contract,
- declaring that the authorized representative represents the members vis-à-vis the Contracting Authority in a legally binding manner,
- declaring that all members are jointly and severally liable.

In addition to the Bidding Consortium declaration, the documents specified in the form for the Bidding Consortium declaration (**Attachment A.1** (Forms and Proofs (Eligibility), Form 1.2) must be submitted for each member.

The Bidding Consortium declaration must comply with the requirements for third-party declarations.

The capacities of all members of the bidding consortium count for the eligibility of the bidding consortium as a whole. For instance, references may be submitted by all consortium members (without the need of an eligibility loan within the meaning of section 9.2.4.2 of this Procedure Letter)Members of a Bidding Consortium may only participate in one consortium. Participation in multiple consortia is not permitted. In the event of a violation, the respective Bidding Consortia will be excluded.

The Contracting Authority will exceptionally refrain from excluding a request for participation/tender if, at the time of submission, plausible reasons for the multiple participation are provided and the respective Bidding Consortia demonstrates that there has been no violation of the principle of fair competition.

9.2.6 Eligibility

In accordance with § 122 GWB, public contracts shall be awarded to skilled and efficient (eligible) undertakings in respect of which no ground for exclusion under § 123 or § 124 GWB applies. For a sectoral contracting authority within the meaning of § 100 (1) No. 2 GWB, § 142 No. 2 GWB provides that an undertaking to which § 123 GWB applies may, but need not, be excluded; the decision is then a matter of documented discretion.

For a sector contracting entity within the meaning of § 100 (1) No. 2 GWB, § 142 No. 2 GWB provides that an undertaking to which a ground for exclusion under § 123 GWB applies may, but need not, be excluded; the same applies to the optional grounds under § 124 GWB. The Contracting Authority decides in each case in the exercise of its discretion, documents the decision in the award record and takes into account any self-cleaning measures demonstrated under § 125 GWB.

Applicants must submit the required documents in English with the request to participate to prove their eligibility and to prove that there are no grounds for exclusion. The documents to be submitted and the criteria can be found in **Attachment A.1** (Forms and Proofs (Eligibility)). Failure to satisfy the applicable eligibility requirements may result in exclusion in accordance with Section 9.2.7, taking into account the applicable provisions concerning clarification, supplementation or subsequent submission of documents.

9.2.7 Consequences of non-fulfilment

Non-fulfilment leading to exclusion at the selection stage

A request to participate is excluded when:

- *a ground for exclusion under § 123 or § 124 GWB exists and the Contracting Authority, in the exercise of its discretion under § 142 No. 2 GWB and after assessment of any self-cleaning measures demonstrated under § 125 GWB, decides to exclude the Applicant (PL2);*
- the Applicant falls within the scope of Article 5k of Regulation (EU) No 833/2014 (PL3);
- the Applicant is not registered in the professional or commercial register and cannot provide an equivalent business registration (PL1);
- the annual turnover falls below EUR 2.0 million (net) in any of the last three (3) completed financial years (WL1);
- fewer than three (3) admissible references are submitted for TL1 and for TL2 or the references submitted do not meet the requirements as to subject matter, execution period or contract value (TL1, TL2);
- the Applicant does not operate an occupational health and safety management system certified to ISO 45001, or a demonstrably equivalent system (HSE1);
- the Applicant does not operate an environmental management system certified to ISO 14001, or a demonstrably equivalent system (HSE2);
- the Applicant does not confirm compliance with the AQD Project Code of Conduct (HSE7);
- Form 10 is not submitted at all, either by the Applicant or by a member of a bidding consortium or by a subcontractor performing an essential part of the services;
- the request to participate is not submitted in text form pursuant to § 126b BGB, or is received after the deadline.

Exclusion under the first bullet is a discretionary decision; exclusion under the remaining bullets is mandatory, subject to the request for missing or incomplete documents under § 51 SektVO.

10 Award Phase

10.1 General

This section provides information on the next phase of the tendering process, the Award Phase. Procedure Letter No. 2 may contain refinements, modifications and additions to the below.

10.2 Process

10.2.1 Initial offer

Prior to the start of the Award Phase the tender documents may be refined, modified and added to by Company after which the (updated) tender documents will be issued.

Minimum requirement of the Tender – marine assurance (HSE6): for each vessel offered, the Tenderer shall submit with its initial offer the latest CMID inspection report together with the status of closure of the actions arising from it (Attachment B.10, Self-declaration vessel). Where a vessel is not eligible for CMID inspection, equivalent marine assurance evidence may be submitted, stating the basis of equivalence. A Tender for which this evidence is not provided for a vessel offered, and no equivalent evidence is provided, will be excluded from the award evaluation. This requirement is a pass/fail requirement and is not scored under Attachment A.2.

After the (Award) Tender documents have been issued, during the tender preparation phase, Tenderer may raise questions, seek clarification and request a meeting with the Contracting Authority. The format is specified for the questions is Attachment A7 – Clarification Matrix. Meetings may be held in person or via Teams.

If required, the deadline for submission of the Initial Tender will be updated and communicated to all Tenderers. Tenderers will then be invited to submit their Initial Offers by the revised deadline.

10.2.2 Negotiation phase

The initial tenders will be reviewed and evaluated on the basis of the announced Award Criteria.

Initial discussions on the items raised in Attachment A.7 will be written discussions using Attachment A.7 as the communication medium. The Contracting Authority may invite those bidders who have submitted an admissible initial tender to (individual) clarification meetings.

The purpose of the written discussions and the clarification meetings will be to improve the content of the offers. With the exception of (i) the minimum requirements, (ii) the Selection Criteria and (iii) the Award Criteria, clarification and qualifications may be raised on all Tender documentation (including the Form of Agreement and the General Terms and Conditions)

Any (justifiably) confidential information (IP etc.) provided by Tenderer shall be clearly identified as such. The Contracting Authority reserves the right to question the justification.

The negotiation discussions are expected to take place in the time given in the schedule of section 6. Tenderers will be advised of the location for the negotiations in due course which may be a physical location or a remote meeting.

The scheduling of the negotiation meetings will be communicated via individual invitations. Immediately upon receipt of the invitation, Tenderers must notify which persons will participate in the negotiations.

Whilst the written discussions and the clarification meetings will be held on an individual basis, Company will communicate items of relevance to other parties to all Tenderers. This shall not include justifiably confidential information. During the clarification process, if Company considers that it will provide more clarity than relying purely on Attachment A.7, Company may issue revised Tender documents.

At the end of the negotiation phase, with the invitation to submit the final offers, Tenderers shall be provided with a standardized, finally negotiated set of contract documents.

10.2.3 Best and Final Offer (BAFO) and award decision

The Contracting Authority will declare the conclusion of the negotiation phase and invite the remaining Tenderers to submit a final offer within a uniform deadline, based on the revised tender documents.

The final offers received will be checked for completeness and accuracy. If necessary, an explanatory round will be held to clarify any ambiguous or imprecise information in the offers. Subsequently, the offers will be evaluated based on the published award criteria, and the most economically advantageous offer will be identified. This offer will be awarded the contract.

After submitting their final offers, Tenderers are bound by their offers and their contents up to and including the binding period as given in Section 6. Offers may not be withdrawn or modified during this period. If, due to delays, the contract cannot be awarded within the binding period, the Contracting Authority reserves the right to request an extension of the binding period from the Tenderers.

Tenderers who were unsuccessful based on the published Award Criteria will be informed electronically in text form in accordance with § 134 (1) GWB. A separate notification of the contract award will be provided in accordance with § 56 SektVO.

If the contract cannot be awarded or the procurement procedure must be cancelled for other reasons, the Tenderers will be informed electronically in text form.

10.3 Award criteria and offer evaluation

The contract will be awarded to the most economically advantageous offer (§ 52 (1) SektVO, § 127 GWB).

The Total Tender Price is not the only award criteria. See **Attachment A.2** (Award Evaluation Matrix).

11 Confidentiality

Sector contracting authorities may not disclose any information provided by companies and marked as confidential by them, pursuant to § 5 (1) of SektVO. This includes, in particular, trade and business secrets as well as the confidential aspects of the submitted documents.

Disclosure of information to the contracting authority's advisors who are professionally bound to confidentiality (e.g., auditors, tax advisors, and external lawyers) is expressly permitted.

Applicants/tenderers are requested to clearly mark on each relevant page the parts of their request to participate/offer that contain trade or business secrets.

If this is not done, the contracting authority and the legal remedy body may assume, in the event of a legal remedy procedure, that the applicant/tenderer consents to access by other participants in the procedure (e.g., other tenderers).

Throughout all communication, as well as during the exchange and storage of information, the contracting authority ensures the integrity of the data and the confidentiality of the requests to participate and offers, including their annexes.

The requests to participate and offers, including their annexes, as well as the documentation of their opening, examination and evaluation, will be treated confidentially even after the conclusion of the procurement procedure.

In return, the companies participating in the procurement procedure undertake not to disclose any documents or information provided by the contracting authority to third parties and to treat all received documents and information as confidential.

The contracting authority receives – while safeguarding the applicant's/tenderer's trade and business secrets – all rights to the submitted documents (ownership rights to the documents).

By submitting the request to participate, the applicant agrees to this transfer of rights.

12 Duty to raise complaints

The tender documents must be checked by the interested companies for completeness and legibility upon receipt/download.

If the contract notice, the tender documents or any other documents or information communicated, handed over or made accessible to the applicants/tenderers contain ambiguities or violate applicable law, the applicants/tenderers are obliged to notify the contracting authority immediately.

Unresolved ambiguities must be considered by the applicants/tenderers as risks to be accounted for in their offers.

Any procedural complaints (in German: Rügen) must be clearly marked as such. Applicants/tenderers are expressly reminded of their obligation to raise complaints under § 160 (3) GWB.

Furthermore, the contracting authority expressly points out the legal remedy deadline under §160 (3) sentence 1 no. 4 GWB.

According to this, a request for review (in German: Nachprüfungsantrag) is inadmissible if more than 15 calendar days have passed since receipt of the contracting authority's notification that it does not intend to remedy the complaint.

§ 160 GWB states:

> ***§ 160 GWB Initiation of the Proceedings, Application***
>
> *(1) The public procurement tribunal shall initiate review proceedings only upon application.*
>
> *(2) Every undertaking that has an interest in the public contract or the concession and claims that its rights under Section 97 (6) have been violated by non-compliance with the provisions governing the awarding of public contracts has the right to file an application. In doing so, the undertaking must show that it has been or risks being harmed by the alleged violation of public procurement provisions.*
>
> *(3) The application is inadmissible if*
>
> 1. *the applicant became aware of the claimed violation of public procurement provisions before filing the application for review, but did not complain to the contracting authority within a time limit of 10 calendar days; the expiry of the time limit under Section 134 (2) remains unaffected,*
> 2. *violations of public procurement provisions which become apparent from the tender notice are not notified to the contracting authority by the end of the time limit for the application or the submission of a tender specified in the notice,*
> 3. *violations of public procurement provisions which only become apparent from the procurement documents are not notified to the contracting authority by the end of the time limit for the application or the submission of a tender specified in the notice,*
> 4. *more than 15 calendar days have expired since receipt of notification from the contracting entity that it is unwilling to redress the objection.*
>
> *Sentence 1 shall not apply to an application under Section 135 (1) no 2 to have the contract declared ineffective. Section 134 (1) sentence 2 shall remain unaffected.*

13 Review Proceedings

According to § 160 (2) GWB, any company that has an interest in the public contract and claims a violation of its rights under § 97 (6) GWB due to non-compliance with procurement regulations is entitled to submit a request for review to the competent public procurement tribunal.

In doing so, the company must demonstrate that it has suffered or is likely to suffer damage as a result of the alleged violation of procurement regulations. Complaint obligations under Section 12 must be met.

Competent legal remedy body:

Vergabekammer des Bundes
Kaiser-Friedrich-Straße 16
53113 Bonn
fax: +49 228 9499 163
email: vk@bundeskartellamt.bund.de
Website:-Bundeskartellamt - Vergaberecht

14 Supplementary provisions

14.1 Subsequent requests

The contracting authority reserves the right to request additional documents pursuant to § 51 SektVO. The requested documents must be submitted by the affected applicant/tenderer within the deadline set by the contracting authority. The contracting authority is not obliged to carry out a subsequent request.

14.2 Prohibited Restrictions of Competition

Requests for participation or offers from applicants/tenderers who participate in prohibited restrictions of competition in connection with this procurement procedure will be excluded. To combat anti-competitive practices, affected applicants/tenderers must, upon request, provide information on whether and how they are economically and legally affiliated with other companies.

14.3 Alternative offers

Alternative offers are not permitted.

14.4 Exclusion

The contracting authority may, in accordance with § 51 (2) SektVO and the principles of transparency and equal treatment, request the applicants or tenderers to submit missing documents or to supplement, explain, complete or correct incomplete or incorrect documents within a set period. Request for participation/offers that even after clarification or revision, continue to fail to meet the requirements/specifications set out in the tender documents will be excluded.

14.5 Compensation

No reimbursement of costs/expenses or compensation for participation in the procurement procedure will be granted.

14.6 Cancellation of the procedure

In particular, if no requests to participate or offers meeting the contracting authority's requirements are received on time, if a fundamental amendment to the tender documents becomes necessary, or if other serious reasons exist, the contracting authority reserves the right to cancel the procedure (§ 57 SektVO). In the event of cancellation, the contracting authority will inform the tenderers immediately, stating the reasons and, if applicable, the intention to initiate a new procurement procedure.

14.7 Applicants consent

By submitting a request to participate, the applicant agrees to all components of the present procedural conditions.

By participating in the procedure, the applicant confirms that the necessary consent of the data subjects has been obtained for the processing of personal data contained in the request to participate and/or the offer in connection with this procedure and contract performance.

The following data will be recorded: name, address, phone number, fax number, email address, and contact person. After the conclusion of the procedure, this data will be deleted in accordance with data protection regulations. See the data protection notice (**Attachment A.3** Information on Data Privacy).

14.8 Withdrawal of requests for participation/offers

A request for participation/offer that has already been submitted may be withdrawn until the end of the deadline for submitting requests for participation/offers by means of a declaration in text form pursuant to § 126b BGB. A new request to participate/offer may then be submitted until the deadline for submission of participation requests/offers.

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