

## **ANNEX NO. 3 DOCUMENTATION OF PROCUREMENT PROCEDURE**

### **QUALIFICATION DOCUMENTATION**

Name of the procurement procedure:

**Upgrade of the EnviroESCA spectrometer**

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## 1. REQUIREMENTS FOR PROVING QUALIFICATION

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**1.1** The Contracting Authority in accordance with Section 73 of Act 134/2016 Coll., On Public Procurement, as amended (hereinafter referred to as the "**Act**"), requires proof of:

- a) basic qualification pursuant to Section 74 of the Act,
- b) professional qualification pursuant to Section 77 of the Act,
- c) technical qualification pursuant to Section 79 of the Act.

**1.2** The Contracting Authority pursuant to Section 73 of the Act does not require proof of:

- a) economic qualification pursuant to Section 78 of the Act.

## 2. BASIC QUALIFICATION

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### Basic qualification pursuant to Section 74 of the Act

**2.1** An economic operator pursuant to Section 74 (1) of the Act shall not be qualified if it:

- a) was convicted by final judgement in the country of its registered seat of a crime specified in Annex No. 3 to the Act or another similar crime pursuant to the law of the country of its registered office in the past 5 years preceding the commencement of the procurement procedure; expunged convictions are disregarded,
- b) has outstanding tax arrears registered in tax records in the Czech Republic or in the country of its registered office,
- c) has outstanding arrears in respect of payments and penalties of public health insurance in the Czech Republic or in the country of its registered office,
- d) has outstanding arrears in respect of payments and penalties of social security contributions and contribution to the national employment policy in the Czech Republic or in the country of its registered office,
- e) is in liquidation, has been declared insolvent, in respect of whom the receivership has been imposed under another legal regulation or it is in a similar situation pursuant to the law of the country of its registered office.

**2.2** If the economic operator is a legal person, both this legal person and every member of its governing body shall meet the condition specified in paragraph 2.1 of the Qualification documentation. Where a legal person is a member of the governing body of the economic operator, the condition specified in paragraph 2.1 of the Qualification documentation shall be met by

- a) this legal person,
- b) every member of the governing body of this legal person, and
- c) the person representing this legal person in the governing body of the economic operator.

**2.3** If a participant in the procurement procedure is a branch of a business of:

- a) a foreign legal person, the condition specified in paragraph 2.1 of the Qualification documentation shall be met by this legal person as well as the head of the branch,
- b) a Czech legal person, the condition specified in paragraph 2.1 of the Qualification documentation shall be met by the persons referred to in paragraph 2.2 of the Qualifications documentation as well as the head of the branch.

**2.4** The economic operator shall prove that it fulfils the basic qualification requirements in relation to the Czech Republic by submitting:

- a) a copy of an entry in the Criminal Records in respect of paragraph 2.1a) of the Qualification documentation,
- b) a confirmation from a relevant tax office in respect of paragraph 2.1b) of the Qualification documentation,
- c) a written affirmation regarding excise duty in respect of paragraph 2.1b) of the Qualification documentation,
- d) a written affirmation in respect of paragraph 2.1c) of the Qualification documentation,
- e) a confirmation from a relevant district social security administration in respect of paragraph 2.1d) of the Qualification documentation,
- f) a copy of an entry in the Commercial Register, or a written affirmation in the event that the economic operator is not incorporated in the Commercial Register, in respect of paragraph 2.1e) of the Qualification documentation.

**2.5** The contracting authority recommends processing the written affirmation for proving the criteria according to paragraph 2.4 letter c), d) and possibly f) of the Qualification documentation according to the draft (Annex No. 1 of the Qualification documentation).

### **3. PROFESSIONAL QUALIFICATION**

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#### **Professional qualification pursuant to Section 77 (1) of the Act**

**3.1** The economic operator shall prove its professional qualification in relation to the Czech Republic by submitting a copy of an entry in the Commercial Register or other similar records provided that registration in such records is required pursuant to another legal regulation.

### **4. ECONOMIC QUALIFICATION**

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#### **Economic qualification pursuant to Section 78 of the Act**

**4.1** The Contracting Authority does not require proof of economic qualification.

## 5. TECHNICAL QUALIFICATION

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5.1 To prove the technical qualification criteria, the Contracting Authority requires:

### Technical qualification pursuant to Section 79 (2) (b) of the Act

5.2 In accordance with Section 79 (2) letter (b) of the Act the Contracting Authority requires the economic operator to submit a list of significant supplies provided **over the past three years before the commencement of the procurement procedure**, including the prices and dates of their provision and the identification of the clients.

5.3 The list of significant supplies must prove that the economic operator has provided **at least 2 significant supplies** within the specified period.

5.4 The significant supply for the purposes of the Lot 1 is the supply of a uninterruptible power supply with a financial volume of at least 300.000,- CZK without VAT.

5.5 The significant supply for the purposes of the Lot 2 is the supply of a measuring device or measuring devices with a financial volume of at least 300.000,- CZK without VAT.

5.6 The significant supply for the purposes of the Lot 3 is the supply of a measuring device or measuring devices with a financial volume of at least 300.000,- CZK without VAT.

5.7 The Contracting Authority recommends processing the list of significant supplies according to the draft (Annex No. 2 of the Qualification documentation).

### Common provisions for technical qualification

5.8 For the conversion of financial data in a foreign currency (i. e. in a currency other than CZK) submitted to prove technical qualification, there shall be used the currency exchange rate of the Czech National Bank declared on the date of termination of the performance.

## 6. COMMON PROVISIONS FOR QUALIFICATION

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### Proving of qualification obtained abroad

6.1 Where qualification has been obtained abroad, it shall be proved by documents issued under the law of the country in which it has been obtained and to the extent required by the Contracting Authority.

### Qualification in the case of joint participation of economic operators

6.2 In the case of joint participation of economic operators, the basic and professional qualifications pursuant to Section 77 (1) of the Act shall be proved by each economic operator separately.

### Proving of qualification through other persons

**6.3** An economic operator may prove the economic qualification, technical qualification or professional qualification, with the exception of the criterion set out in Section 77 (1) of the Act, requested by the Contracting Authority through other persons. In that case, the economic operator is obliged to submit to the Contracting Authority:

- a) documents proving that the professional qualification pursuant to Section 77 (1) of the Act has been fulfilled by the other person,
- b) documents proving that a missing part of the qualification has been fulfilled by the other person,
- c) documents proving that the basic qualification was fulfilled pursuant to Section 74 of the Act by the other person and
- d) a contract or a confirmation of its existence signed by other person, the content of which is an obligation to provide performance intended for the performance of the public contract or to provide things or rights which the economic operator is entitled to use when performing the public contract, at least to the extent to which the other person has proved its qualification instead of the economic operator.

**6.4** Where, however, the economic operator proves qualification through the other person and submits documents pursuant to Section 79 (2) a) b) or d) of the Act relating to such person, the contract or the confirmation of its existence under the paragraph 6.3d) of the Invitation to tender shall contain a commitment that the other person shall carry out the works or services to which the qualification criterion in question relates.

**6.5** It is presumed that the requirement set out in paragraph 6.3d) of the Qualification documentation is met if the contract or a confirmation of its existence according to the paragraph 6.3d) of the Qualification documentation signed by other person contains joint and several liability of such person and the economic operator for the performance of the public contract; this does not apply if the contract or the confirmation of its existence according to the paragraph 6.3d) of the Qualification documentation must meet the requirements according to paragraph 6.4 of the Qualification documentation.

**6.6** The qualification of another person, through whom the qualification is proven, is subject to the rules established by law or the award criteria for the qualification of the economic operator for whom the qualification is proven.

### Qualification documents

**6.7** Economic operators shall submit their qualification documents within their tenders in copies.

**6.8** The Contracting Authority in accordance with Section 86 (1) of the Act shall require primarily documents registered in the system that helps identify the certificates requested as a proof of qualification (e-Certis).

**6.9** The Contracting Authority in accordance with Section 86 (2) of the Act stipulates, that the economic operator cannot substitute qualification documents by an affirmation. The economic operator may replace the required documents by a European Single Procurement Document according to Section 87 of the Act in any case.

**6.10** The documents proving basic qualification under Section 74 of the Act (paragraph 2.1 of the Qualification documentation) shall demonstrate the fulfilment of the required qualification criterion not later than 3 months before the commencement of the procurement procedure.

#### Changes in qualification of a participant

**6.11** If the qualification of a participant changes after the submission of documents or affirmation regarding qualification, the participant is obliged to announce such change to the contracting authority within 5 working days and to submit new documents or affirmation of qualification within 10 working days from the announcement of such change; the contracting authority may extend these time limits or excuse their default. The participant shall not become obliged to announce changes and submit new documents under the first sentence if the qualification is changed in such a manner that

- a) the qualification requirements are still met,
- b) the criteria for the reduction of the number of participants or the number of tenders have not been influenced,
- c) the criteria for evaluation of tenders have not been influenced.

**6.12** If the Contracting Authority proves that the economic operator has not fulfilled the duty defined in paragraph 6.11 of the Invitation to tender, the Contracting Authority may exclude such economic operator from the procurement procedure.

#### Proving qualification by submitting an Extract from the List of Approved Economic Operators

**6.13** Where the economic operator submits to the Contracting Authority an extract from the List of Approved Economic Operators pursuant to Section 228 of the Act (hereinafter referred to as the "**extract from the List of Approved Economic Operators**"), such extract shall replace the document attesting to

- a) the basic qualification pursuant to Section 74 of the Act and
- b) the professional qualification pursuant to Section 77 of the Act to the extent to which the data contained in the extract prove the fulfilment of the professional qualification criteria.

**6.14** The Contracting Authority shall accept an extract from the List of Approved Economic Operators provided that on the last day on which the basic qualification or professional qualification is to be proved, the extract is not older than 3 months. The contracting authority is not obliged to accept an extract from the List of Approved Economic Operators in which the commencement of proceedings pursuant to Section 231 (3) of the Act is recorded.

**6.15** In the same manner as using an extract from the List of Approved Economic Operators, the economic operator may prove its qualification by submitting a certificate issued in another Member State of the European Union, European Economic Area or the Swiss Confederation, in which the economic operator has its registered office, and which is an equivalent of the extract from the List of Approved Economic Operators.

#### Proving qualification by a certificate from a System of Certified Economic Operators

**6.16** A valid certificate pursuant to Section 239 of the Act, issued within an approved System of Certified Economic Operators (hereinafter referred to as the "**certificate**"), may be used to prove

qualification during the procurement procedure. The economic operator is presumed to be qualified to the extent recorded in the certificate.

**6.17** The Contracting Authority shall not question the data recorded in the certificate without specific reasons. Prior to concluding a contract, the economic operator who has proven its qualification by a certificate may be requested to submit the documents referred to in Section 74 (1 b) to d) of the Act.

**6.18** In the same manner as using a certificate, the economic operator may prove its qualification by submitting a certificate issued in another Member State, in which the economic operator has its registered office, and which is an equivalent to the certificate issued within a System of Certified Economic Operators.

## **7. LIST OF ANNEXES**

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**7.1** The following annexes are part of the Qualification documentation:

**Annex No. 1** Draft of a written affirmation for basic qualification

**Annex No. 2** Draft of a list of significant supplies