

Participant questions and Contracting Entity answers concerning the PPA tender for TRSCSSV for RWE Gas Storage, s.r.o. 2013, which has been published on Central address under no. 367678 on Sep 25, 2013

Questionnaires' report no. 1 published on Nov 12, 2013

Question No 1

I would like to clarify few aspects about bank guarantee (BG) for tendering process :

- There is a specific format required or can be used standard format from issuance bank ?
 - Language of BG can be English?
 - Can be BG issued by a bank from abroad of Czech Rep.?

questions are related to document TD_TRSCSSV , pag 6-7 , paragraph 12.10 -tender security

Answer No. 1

Langue of BG can be Czech or English according to section 13.6 of TD. BG can be issued by a bank from abroad of the Czech Republic but according to the below stated provisions of the TD.

The wording of BG and Subject who will issue the BG must meet requirements specified below:

The conditions for tender security are specified in TD and its annexes as follows:

In Tender documentation

Tender security: The Contracting Entity requires the Tenderer to guarantee performance of its obligations resulting from its participation in the tender by a **bank guarantee, insurance of guarantee or by depositing** a financial amount of 75,000 EUR (in words: seventy five thousands euro) or 1 875,000 CZK (in words: one million eight hundred seventy five thousand Czech crowns) to the bank account of the Contracting Entity (hereinafter referred to only as the "monetary guarantee"). In case of other currency the amount of the bank guarantee will be re-counted by the actual exchange rate at the day the bank guarantee was executed.

The monetary guarantee must be deposited to the Contracting Entity's account no later than one day before the last day for submission of bids.

During this action, the Tenderer shall among others indicate the registration number of this public procurement from CA or TED. The Contracting Entity's account number is specified in Section 1 of this TD.

"Proof of guarantee deposition" (original counterpart of written confirmation of the bank) must form an integral part of the bid. Bank guarantee or guarantee insurance contract must be valid at least until the end of the award period.

In case of bank guarantee or insurance of guarantee the original of bank guarantee or insurance contract shall be included in the bid.

In Annex No.2 to TD

The bank guarantee must be issued as irrevocable, irrelegable and payable upon Contracting Entity's first request.

An adequate ensuring shall mean a guarantee in cash or the provision of guarantees issued by entities rated by Standard & Poors at least A-, respectively. BBB+ or equivalent rating agency Moody's or Fitch.

The Expenses arising in connection with issuing of Bank Guarantee goes to the participant account.

Question No. 2

We are currently struggling to get internal legal approval for the contract liability clause as it is worded in Annex 2 Section 8 Clause 8.3. Therefore, can we ask that you re-word this clause as follows: *"The Supplier shall compensate the Buyer for any damages regardless and in addition to the amount of any paid contractual penalties as set forth in this Clause 7 of the Contract for Supplies if and to the extent that the actual damages suffered exceed the amount of the contractual penalties agreed.*

Notwithstanding anything to the contrary contained herein, the total liability of Seller with respect to any claims under this Contract regardless of cause of such claims shall not in the aggregate exceed the value of the Contract and Buyer shall indemnify Seller for direct damages in excess thereof. Notwithstanding anything to the contrary contained herein neither party shall be liable for the other party lost profit."

We assume such change will be acceptable as it is exactly the same wording as it was used by RWE Gas Storage in the previous PPA tenders that we were involved in (e.g. tender for gate valves last year). Otherwise we unfortunately wouldn't be able to sign the contract due to our internal regulations.

Answer No. 2

The limitation is set to 100 % as it is in clause as written in article 8.3 of the contract, this was discussed with other participants and it seems to us as market standard. If the bid will not include the signed contract by responsible person it will lead to exclusion of the bid.

Question No. 3

We would like to ask a clarification with regards to payment terms specified in the contracts for both of the tenders. It is specified that the payment terms would be 60 days after invoice receipt as per the Clause 7.3.1 in the Contract; in Section 7.3.4 it is specified that the payment is 100% of contract value paid in advance (or 80%/20% split for Control Panels contract). Then, in Section 7.3.6 there's an

early payment based discount schedule. Is our understanding correct that you propose Supplier to invoice 100% of sales value of the contract as pre-payment with the invoice maturity of 60 days? And then the services will be invoiced upon delivery also with 60 days payment terms? Also, we assume that it will be up to Supplier to accept early payment option with discount or keep the 60 days payment terms with 0% discount? Could you please confirm if our understanding of the contract payment terms is correct?

Answer No. 3

The Contracting Entity intent to have two options for payment one as advance payment against bank guarantee and second as payment after delivery and choice of variant will be subject to each individual order.

Allowance is not a subject of decision by Participant, but by Contracting Entity, which will decide when will be invoice paid and according the period it will be deducted for certain percentage as describe in Annex 2 point 7.3.7

Additional information

Annex 2 SPC rev 2 was published with update of article 8.3