*Please note that this is the translation of the Tender Regulation*

*(approved by Procurement Commission in Latvian - state language)*

*for foreign suppliers to understand the requirements*



**INSTITUTE OF SOLID PHYSICS OF THE UNIVERSITY OF LATVIA**

OPEN TENDER

**“Supply of X-ray absorption spectrometer with nano-scale resolution”**

**Id. Nr. LU CFI 2018/5/ERAF**

**NOLIKUMS**

Riga, 2018

1. **GENERAL INFORMATION**
   1. **Procurement identification number:** LU CFI 2018/5/ERAF.
   2. **Contracting Authority:**

Institute of Solid State Physics of the University of Latvia (hereinafter – ISSP UL)

Address: Kengaraga str.8, Riga, LV-1063, Latvia

Scientific Institutions Reg.No. 381016

Tax payers No. LV90002124925

* 1. **Procurement – open tender “Supply of X-ray absorption spectrometer with nano-scale resolution”.**
  2. **Tenderer** is a supplier who has submitted a tender.
  3. **Supplier** – an individual or a legal entity or any association of such in any combination that offers to supply goods on the market.
  4. **Commission** – the permanent Procurement Commission of ISSP UL established pursuant to the Order no.15-v of November 27, 2017, of the Director of ISSP UL.
  5. Principal CPV code: 38000000-5 *Laboratory, optical and precision equipments*
  6. **Information on the Subject Matter of the Procurement:** 
     1. **The subject matter of the Procurement shall not be divided.**
     2. The Procurement shall be co-financed from the ERDF project No. 1.1.1.4/17/I/002 Development of Research Infrastructure of the Institute of Solid State Physics of the University of Latvia implemented within the framework of the Activity 1.1.1.4 Development of the R&D Infrastructure in the Fields of Smart Specialization and Strengthening of Institutional Capacity of Scientific Institutions of the Specific Aid Objective 1.1.1 To increase the research and innovative capacity of scientific institutions of Latvia and the ability to attract external financing, investing in human resources and infrastructure of the Operational Programme of the European Regional Development Fund Growth and Employment.
     3. **The Deadline for the Delivery and Installation of the Subject Matter of the Procurement:** within 8 (eight) months of the conclusion of the procurement contract.
     4. **Place of Delivery of the Goods:** Kengaraga str.8, Riga, LV-1063, Latvia.
     5. **Procurement Contract (hereinafter also the Contract):** as a result of the Procurement the Contract shall be concluded with the winning Tenderer. Draft Contract shall be attached to the Regulations as Annex 4.
     6. **Procedure for Settlement of Accounts:** the procedure for settlement of accounts shall be laid down in the Draft Procurement Contract.
     7. **The Supplier Shall Submit a Tender on the Whole Subject Matter of the Procurement.**
     8. Potential inflation, changes to the market situation or any other circumstances shall not be deemed valid basis for raising the price of the Goods, the Tenderer shall forecast the market situation upon drawing up the Financial Proposal.
  7. **Tender Selection Criterion:** the Contracting Authority shall award the right to enter into the Procurement Contract to the most economically advantageous Tender in terms of the price only.

# Place of Receipt of the Regulations, Supply of Additional Information and Other Terms and Conditions.

* + 1. All information about the Procurement, including the Regulations (hereinafter – the Regulations), amendments to the Regulations and answers to the questions asked by the interested suppliers, shall be available on the website of the Contracting Authority [www.cfi.lu.lv](http://www.cfi.lu.lv/) – section “Procurements” and on [www.eis.gov.lv](http://www.eis.gov.lv/). An interested supplier may register in the Electronical Procurement System E-procurement’s (hereinafter – *EPS*) subsection in order to register as a supplier of EPS.[[1]](#footnote-1) The Tenderers can read and download the Regulations **until March 20, 2018, 11:00 AM.**
    2. The Contact person of the Contracting Authority authorized to supply organizational information on the Regulations in the course of the Procurement procedure: *Please find in the website of ISSP UL.*
    3. Requesting and supplying additional information:
       1. In the event that the Supplier has requested additional information on the requirements regarding drawing up and submitting Tenders or the selection of Tenderers laid down in the documents of the Procurement procedure in a timely manner, the Contracting Authority shall provide the same within 5 (five) business days, however, no later than 6 (six) days before the Tender submission deadline;
       2. The Contracting Authority and the interested suppliers of the Tenderer shall exchange information under the procedure laid down in the Public Procurement Law with electronic communication methods including for the purpose of sending and receiving documents signed with an electronic signature;
       3. The interested persons who have registered in the EPS as recipients of Regulations shall receive notification of amendments to the Procurement documentation and other changes to the indicated email addresses.
  1. **Time, Place, and Procedure for Submission, Opening of Tenders.**
     1. The Tenderer shall submit the Tender by **March 20, 2018, 11:00 AM** in the EPS.
     2. **Tenders submitted outside of the EPS shall not be accepted and shall be returned to the respective Tenderers.**
     3. The Tenders submitted shall be opened in the EPS **on 20 March 2018 at 11:00 AM** after the Tender submission deadline. The opening process of the Tenders may be tracked in on-line mode in the EPS.
     4. **The Tenderer may supplement or amend the Tender submitted only before the Tender submission deadline.**
     5. The Commission shall examine the Tenders at a closed meeting.
     6. The Tenderer shall ensure communication with the Contracting Authority in Latvian.

1. **TENDER FORMATTING**
   1. **The Tender Shall Be Submitted Electronically in the EPS with the Following Options for the Tenderer:**
      1. With tools offered by the EPS by filling in the forms found in the section of this Procurement in the sub-system E-procurements of the EPS;
      2. By drawing up the documents to be filled in electronically outside the EPS and uploading the PDF forms filled in, int. al., with files integrated into the form, in the respective pages of the system (in this case the Tenderer shall be responsible for the compliance of the forms with the documentation requirements and the templates);
      3. By encrypting the Tender drawn up electronically (as PDF) outside the EPS with the data protection tools offered by a third party and protection with an electronic key and a password (in this case the Tenderer shall be responsible for the compliance of the forms with the documentation requirements and the templates and ensure that the document can be opened and read).
   2. **Upon Drawing up the Tender the Tenderer Shall Take the Following into Consideration:**
      1. The Application Form, the Technical and the Financial Proposal shall be filled in only electronically in a separate electronic document of a format readable with Microsoft Office 2010 (or a more recent software version) tools;
      2. Upon submission Tenderer's Application (Annex 1) shall be signed by the person authorized to represent the Tenderer and the document certifying representation (e.g., Power of Attorney) shall be enclosed;
      3. The Tenderer shall at his own discretion have the right to submit other documents electronically by signing the same with the electronic signature offered by the EPS or a safe electronic signature;
      4. The Tender shall be submitted in Latvian, documents certifying quality (e.g., certificates) may be submitted in another language with translations into Latvian certified by the Tenderer;
      5. In the event that the Tenderer submits a copy of any document, it shall be certified pursuant to the Law on Legal Force of Documents[[2]](#footnote-2). In the event that the Tenderer fails to certify the document copy pursuant to the laws and regulations stipulated above, the Contracting Authority, should it doubt the authenticity of the document copy submitted, may under the procedure laid down in Section 37 of the Public Procurement Law[[3]](#footnote-3) request that the Tenderer presents the original copy of the document or submits a certified document copy;
      6. The Tenderer shall indicate in the Tender the information which pursuant to the Section 19 of the Commercial Law[[4]](#footnote-4) is a commercial secret or is deemed confidential. Information that is defined as available to general public by the Public Procurement Law shall not be a commercial secret or confidential information;
      7. By submitting the Tender the Tenderer shall fully accept all the terms and conditions contained in the Regulations (including its annexes and the forms found in the Procurements section of the EPS);
      8. The Tender shall be drawn up in a manner that shall not pose a threat to the functioning of the EPS or limit access to the information contained in the Tender, int. al., the Tender shall not contain computer viruses and other harmful software or the generators thereof or, if the Tender is encrypted, the Tenderer shall submit a valid electronic key and a password to open the encrypted document within a specific deadline (within 15 minutes from the commencement of opening of Tenders).

In the event that the Tender contains any of the risks above, it shall not be considered.

* 1. **Documents to Be Submitted:**
     1. Tenderer's Application for Participation in the Procurement according to the form (Annex 1 to the Regulations) published in the EPS section of this Procurement;
     2. Qualification documents (Paragraph 4 of the Regulations);
     3. Technical Proposal (according to the forms published in the EPS section of this Procurement and Paragraph 5 of the Regulations);
     4. Financial Proposal (according to the forms published in the EPS section of this Procurement and Paragraph 5 of the Regulations).

1. **TERMS OF Tenderer EXCLUSION**
   1. The Contracting Authority shall exclude the Tenderer from participation in the Procurement procedure in the cases prescribed in Section 42, Paragraph one of the Public Procurement Law (hereinafter – the PPL).
   2. The Contracting Authority shall examine the existence of instances of Tenderer exclusion under the procedure prescribed by the Section 42 of the PPL.
2. **Tenderer QUALIFICATION**

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| * 1. The Tenderer shall meet the following requirements: | * 1. In order to prove that the Tenderer meets the requirements of the Contracting Authority the Tenderer shall submit the following **documents certifying compliance with requirements**: |
| 4.1.1. The Tenderer shall agree to the Regulations. | 4.2.1. For the purpose of certifying implementation of the Sub-paragraph 4.1.1 of the Regulations, the Application for participation in the Procurement filled in pursuant to the Annex 1 to the Regulations – Application Letter Form shall be submitted.  In the event that the Tender is submitted by an association, all members of the association shall sign the Application for Participation in the Procurement. |
| 4.1.2. The Tenderer's representative who has signed the Tender documents shall have the right of representation (signatory powers). | 4.2.2. For the purpose of certifying implementation of the Sub-paragraph 4.1.2 of the Regulations, a document certifying the signatory powers (right of representation) of the Tenderer's representative who signs the Tender shall be submitted. In the event that the Tenderer submits a power of attorney, it shall additionally submit a document to certify that the principal is authorized to sign on behalf (represent) the Tenderer. |
| **Suitability to Professional Activity** | |
| 4.1.3. The Tenderer is registered pursuant to the laws and regulations of its country of registration or permanent place of residence. | 4.2.3. For the purpose of examining implementation of the Sub-paragraph 4.1.3 of the Regulations, the Procurement Commission shall verify if the tenderers registered in the Republic of Latvia have been registered pursuant to laws and regulations in the database of the Register of Enterprises. Tenderer registered abroad shall submit a document issued by a competent authority of the said country to certify that the Tenderer has been registered according to the laws and regulations of the respective country. |
| **Technical and Profession Skills** | |
| 4.1.4. The Tenderer shall have the right to supply and perform warranty services of the Goods under the procedure and in the amount laid down by the Contracting Authority and warranty terms of the manufacturer of the Goods. | 4.2.4. For the purpose of certifying implementation of the Sub-paragraph 4.1.4 of the Regulations, the Tenderer shall submit a document issued by manufacturers of the Goods offered as objective proof of the right to supply the Goods offered and perform the warranty services of the same under the procedure and in the amount laid down by the Contracting Authority and in the warranty terms of the manufacturer of the Goods. |

* 1. Tenderers' qualification requirements shall be mandatory to all Tenderers who wish to obtain the right to perform the subject matter of the Procurement and conclude the Procurement Contract.
  2. The Tenderer shall have the right to refer to possibilities of other businesses, if required for the implementation of the respective contract, regardless of the legal character of mutual relationship. In this case the Tenderer shall prove to the Contracting Authority that it shall have the required resources at its disposal by submitting a statement issued by the said businesses or an agreement on cooperation for the purpose of implementing the respective contract with a note on the manner of hand-over (how the resources shall be handed over) and quantity of the required resources.
  3. In the event that the Tender is submitted by an association of individuals or legal entities in any combination or by a partnership, the Tender shall indicate the person who represents the association of Tenderers in the Procurement as well as the scope of responsibility, the list of work to be performed and agreement on cooperation for the purpose of implementation of the respective contract.
  4. The Contracting Authority shall accept the European Single Procurement Document as an initial proof of compliance with the Tenderer selection requirements stipulated in Paragraph 4.1 of the Regulations. In the event that the Tenderer chooses to submit the European Single Procurement Document to certify that it complies with the Tenderer selection requirements, it shall also submit this document on every person to the possibilities of which it refers in order to certify that its qualification corresponds to the requirements stipulated. An association of Tenderers shall submit a separate European Single Procurement Document (ESPD) on each of its members.
  5. The Tenderer may submit an ESPD submitted in another Procurement procedure, should it confirm that the information therein is true.
  6. The ESPD indicated in Paragraph 4.6 of the Regulations of the Procurement is available in .doc format on: <http://www.iub.gov.lv/sites/default/files/upload/1_LV_annexe_acte_autonome_part1_v4.doc> or on the website of the European Commission in on-line mode: <https://ec.europa.eu/growth/tools-databases/espd/filter?lang=lv>.
  7. In the event that the Tenderer to be awarded the right to enter into the Procurement Contract has submitted the ESPD as an initial proof of compliance with the Tenderer selection requirements stipulated in the Regulations, the Procurement Commission shall request that a document that certifies the Tenderer's compliance with the Tenderer selection requirements is submitted before it makes a decision on awarding the right to enter into the Procurement Contract.

1. **ExplanationS OF Drawing up the Technical AND FINANCIAL Proposal**
   1. By submitting the Technical Proposal according to the forms published in the EPS section of this Procurement and filling in the respective forms in Microsoft Word the Tenderer shall confirm the compliance of the Goods offered with the requirements laid down in the Technical Specification. The Technical Proposal shall be signed by a person authorized to represent the Tenderer and the document certifying representation (e.g., power of attorney) shall be enclosed.
   2. The Tenderer shall not make any changes to the structure of the forms, int. al., delete or add paragraphs or columns, published in the EPS section of this Procurement.
   3. **In the event that the Technical Specification of the Contracting Authority indicates a specific name of the Goods or a standard or another indication of specific origin of the Goods, special process, brand or type, the Tenderer may offer equivalent goods or compliance with equivalent standards that meet the requirements and parameters of the Technical Specification and that ensure the operation and functionality required in the Technical Specification.** The Tenderer shall prove the compliance of the equivalent goods offered with the technical requirements for the subject matter of the Procurement.
   4. The Tenderer shall submit a Financial Proposal pursuant to the forms published in the EPS section of this Procurement by filling in the respective boxes on the Financial Proposal form in Microsoft Word.
   5. The Tenderer shall indicate the price in EUR excluding value-added tax. The following shall be included in the price:
      1. Value of the subject matter of the Procurement offered;
      2. All the taxes and duties prescribed by the state and municipal governments except the value-added tax;
      3. Other costs related to the supply and warranty maintenance of the Goods for the purpose of implementation of the Contract.
   6. The price shall be calculated and specified with 2 (two) digits after the decimal point.
2. **Examination of Tender FORMAT AND selection of TENDERERs** 
   1. The Commission shall examine the format of Tenders and select Tenderers at a closed meeting by examining the compliance of the Tenders with the requirements laid down in the Regulations.
   2. A Tender shall be rejected and shall not be further evaluated, should the Commission find that:
      1. The Tender fails to meet the requirements laid down in Paragraph 2 of the Regulations which renders objective identification of the Tenderer and the content of the Tender impossible;
      2. The Tenderer fails to meet any of the requirements laid down in Paragraph 4 of the Regulations.
   3. In the event that the information on the Tenderer's qualification contained in the documents submitted is not clear or complete, the Contracting Authority shall request that the Tenderer or a competent authority explain or supplement the information contained in the said documents.
3. **Compliance Examination of the Technical Proposal**
   1. The Commission shall examine the Technical Proposal at a closed meeting by examining the compliance of each selected Technical Proposal with the Technical Specifications.
   2. The Contracting Authority shall have the right to request that the information contained in the Technical Proposal is explained in the course of examining the Proposal.
   3. The Technical Proposal shall be rejected and shall not be further evaluated, should the Commission find that the Tenderer has failed to submit the documents of the Technical Proposal or the documents or the content thereof renders objective establishment of compliance of the Proposal with the requirements of the Regulations and Technical Specifications impossible.
4. **Compliance Examination of the Financial Proposal**
   1. The Commission shall examine the Financial Proposal at a closed meeting.
   2. The Commission shall check Financial Proposals for arithmetic errors. In the event that the Commission finds any arithmetic errors, it shall correct the said errors. The Commission shall notify the Tenderer, who submitted the Tender wherein errors were found and corrected, of the errors and the corrected Proposal. Upon evaluating the Proposal, the Commission shall take into consideration the corrections made.
   3. In the event that in the course of evaluation the Commission finds that a Tenderer has submitted a Tender that may be unreasonably cheap, the Commission may, for the purpose of making sure that the Tenderer has not submitted an unreasonably cheap Tender, request that the Tenderer gives a detailed explanation of the material terms and conditions of the Tender including special terms and conditions, technologies or other terms and conditions that allow offering the said price.
   4. Should the Commission find that the Tenderer has submitted an unreasonably cheap Tender, the Commission shall exclude it from further participation in the Procurement under the procedure laid down in Section 53 of the Public Procurement Law.
   5. After the Commission has examined the compliance of the Financial Proposal with the requirements of the Regulations, it shall select the most economically advantageous Tender, who meets the requirements of the Regulations, in terms of price only.
5. **Awarding the Right to complete the Contract,**

**EntERING into the Contract**

* 1. The Commission shall identify the Tenderer who meets all the requirements laid down in the Regulations and has offered the most economically advantageous Tender in terms of price only as the winner of the Procurement to be awarded the right to enter into the Contract.
  2. The Contracting Authority shall within three business days notify all the Tenderers simultaneously of the decision made regarding entry into the Procurement Contract.
  3. Should the Tenderer, with whom the Contracting Authority has decided to enter into the Procurement Contract, be an association, the Tenderer shall be obligated to register the partnership under the procedure laid down in the laws and regulations within 10 (ten) days of the moment the result of the Procurement becomes incontestable under the procedure laid down in laws and regulations.
  4. Should the winner of the Procurement refuse to enter into the Contract with the Contracting Authority or the winner of the Procurement withdraw the Tender without a valid reason within 10 (ten) business days following the day on which the decision on awarding the right to enter into the Contractor becomes effective, the Commission shall select the Tenderer with the second most advantageous Tender. The Contracting Authority shall, before making a decision on entering into the Contract with the Tenderer who submitted the second most advantageous Tender, make sure that the it is not the same player on the market together with the Tenderer who refused to enter into the Contract with the Contracting Authority. If necessary, the Contracting Authority shall request from the second Tenderer a confirmation and proof that it is not deemed the same player on the market together with the Tenderer selected first.
  5. In the event that the Tenderer who submitted the second most advantageous Tender is deemed the same player on the market together with the Tenderer selected first or the second Tenderer refuses to enter into the Contract, the Contracting Authority shall decide to discontinue the Tender without selecting a single Tender.
  6. The Contracting Authority and the winner of the Procurement shall enter into the Procurement Contract under the procedure laid down in Section 60 of the PPL.

**10. ANNEXES**

**These Regulations shall have the following annexes:**

Annex 1 – Tenderer's Application for Participation in the Procurement template in a separate file;

Annex 2 – Technical Specification – Technical Proposal template in a separate file;

Annex 3 – Financial Proposal template in a separate file;

Annex 4 – Draft Procurement Contract in a separate file.

1. See information on how an interested supplier can register as a recipient of Regulations on <https://www.eis.gov.lv/EIS/Publications/PublicationView.aspx?PublicationId=883>. [↑](#footnote-ref-1)
2. The Law on Legal Force of Documents available: <https://likumi.lv/doc.php?id=210205> [↑](#footnote-ref-2)
3. The Public Procurement Law available: <https://likumi.lv/doc.php?id=287760> [↑](#footnote-ref-3)
4. The Commercial Law available: <https://likumi.lv/doc.php?id=5490> [↑](#footnote-ref-4)