

RULES FOR CONDUCTING PRELIMINARY MARKET CONSULTATION

No. WKR/2024/10/0011/ZA

preceding public procurement procedure conducted in 2 parts:

Part I: "Long-term Service Contract for Gas Turbine-driven Compressor Units: Kędzierzyn-Koźle Compressor Station";

Part II: "Long-term Service Contract for Gas Turbine-driven Compressor Units: Jeleniów II Compressor Station".

§ 1

Scope of application

These Rules set out the principles for conducting Preliminary Market Consultation preceding the intended contract award procedure by Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A., to be conducted in 2 parts:

Part I: "Long-term Service Contract for Gas Turbine-driven Compressor Units: Kędzierzyn-Koźle Compressor Station";

Part II: "Long-term Service Contract for Gas Turbine-driven Compressor Units: Jeleniów II Compressor Station".

§ 2

Definitions

Whenever reference is made in these Rules to:

PPL – it shall mean the Act of 11 September 2019, Public Procurement Law;

Market Consultation – it shall mean preliminary market consultation as regulated by Article 84 of the PPL;

Announcement – it shall mean the Announcement of the Preliminary Market Consultation;

Procedure – it shall mean the intended contract award procedure to be conducted in parts:

Part I: "Long-term Service Contract for Gas Turbine-driven Compressor Units: Kędzierzyn-Koźle Compressor Station";

Part II: "Long-term Service Contract for Gas Turbine-driven Compressor Units: Jeleniów II Compressor Station".

Rules – it shall mean these Rules for Conducting Preliminary Market Consultation;

Participant – it shall mean an entity taking part in the Preliminary Market Consultation conducted by the Contracting Entity;

Contracting Entity – it shall mean Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A.

§3

General provisions

1. All activities performed on behalf of and for the benefit of the Contracting Entity in the course of the Preliminary Market Consultation referred to herein shall be performed by the Contracting Entity's employees.
2. Conducting the Preliminary Market Consultation shall not oblige the Contracting Entity to initiate the Procedure to which the Preliminary Market Consultation applies.
3. The Market Consultation shall be conducted on the basis of and in accordance with the provisions of Article 84 of the PPL.
4. The Market Consultation shall be conducted in a manner ensuring transparency, fair competition and equal treatment of potential contractors and the solutions offered by them.
5. The Market Consultation shall be conducted in Polish or English. The Participant, before entering the Market Consultation, shall be obliged to indicate the preferred language in which the consultation is to be conducted: Polish or English. If English is selected, all communication and documentation related to the Market Consultation will be provided in English. Failure by a Participant to indicate the preferred language prior to the commencement of the consultation will be treated as acceptance of the Polish language for communication.
6. The Market Consultation shall be public. The Contracting Entity shall not disclose, in the course of the Preliminary Market Consultation or after its conclusion, information constituting a business secret within the meaning of the Act on Combating Unfair Competition of 16 April 1993, if the Participant, no later than when providing the information to the Contracting Entity, has stipulated that the information provided constitutes a business secret and may not be disclosed to other entities.
7. The Contractor for the public contract to which the Market Consultation applies will be selected under a separate contract award procedure conducted pursuant to the provisions of the Polish Public Procurement Law.
8. The Contracting Entity advises that this Market Consultation precedes the opening of the Procedure and participation in Preliminary Market Consultation is considered involvement in the preparation for Procedure. This means that the above fact will need to be taken into account when completing the form of the European Single Procurement Document (ESPD) at the stage of the Procedure to which this Preliminary Market Consultation applies. The Contracting Entity shall undertake the necessary measures to ensure that the Participants' involvement in the intended contract award procedure does not distort fair competition.

9. Information on the initiation of the Market Consultation shall be published in the contract notice to which this Market Consultation pertains.

§ 4

Purpose and subject of the Market Consultation

1. The purpose and subject matter of the Market Consultation is to prepare the Procedure and inform potential contractors about the Contracting Entity's plans and requirements for the contract.
2. In the course of the Market Consultation, the Contracting Entity shall have the right to reduce or extend the scope of the subject matter of the Market Consultation to issues selected by the Contracting Entity, provided that, in the Contracting Entity's opinion, this will allow obtaining all relevant information for the planned Procedure.

§ 5

Initiation of the Market Consultation

1. The Preliminary Market Consultation shall commence on the day of its Announcement.
2. The Contracting Entity shall post a Notification on its website announcing its intention to conduct a Preliminary Market Consultation with entities of its choice and the subject matter of the Market Consultation.
3. In the Announcement, the Contracting Entity shall indicate in particular:
 - 1) the purpose of conducting the Market Consultation;
 - 2) basic requirements for admission to the Preliminary Market Consultation and the conditions for participation in the Market Consultation;
 - 3) date, place and manner of submitting the Request to Participate in the Market Consultation;
 - 4) method of communicating with the Participants.
4. The Contracting Entity shall, in addition to posting the Announcement on its website, invite the selected entities to participate in the Market Consultation. For this purpose, the Contracting Entity may send the above invitation to the selected entities in paper or electronic form.
5. Failure to participate in the Market Consultation shall not limit the rights of or disadvantage potential Contractors in the planned public procurement procedure.

§ 6

Organisation of the Market Consultation

1. The Contracting Entity shall admit to participate in the Market Consultation all invited entities which submit a properly prepared Request to Participate in the Preliminary

Market Consultation and any additional statements, positions or documents requested by the Contracting Entity in the Announcement, acting in accordance with the Rules for Conducting the Preliminary Market Consultation. In inviting to participate in the Preliminary Market Consultation, the Contracting Entity will have regard to the purpose of conducting the Preliminary Market Consultation and ensuring its effectiveness. The Contracting Entity is entitled to specify in the Announcement the conditions for participation in the Market Consultation.

2. The Contracting Entity may admit entities that submit the Request to Participate in the Market Consultation after the deadline or entities that have not been invited but have submitted a properly filled Request to Participate in the Market Consultation.
3. The Contracting Entity will send to the entities admitted to the Market Consultation an invitation to commence the Consultation.
4. The Contracting Entity shall specify in the Announcement the template for the Request to Participate in the Market Consultation.
5. The Contracting Entity shall specify in the Announcement the manner of communication with the Participants.

§ 7

Manner of conducting the Market Consultation

1. The Contracting Entity shall decide on the form of the Preliminary Market Consultation in the Announcement or in the invitation to the Preliminary Market Consultation addressed to the Participants.
2. The Contracting Entity is not obliged to conduct the Market Consultation in a particular form with all Participants and may decide on different forms of Market Consultation with different Participants, depending on the substantive content of the positions submitted by the Participants in connection with the Market Consultation, respecting the principles of transparency, fair competition and equal treatment of the Participants.
3. If several entities belonging to the same capital group, within the meaning of the Act on Competition and Consumer Protection of 16 February 2007, request to participate in the Preliminary Market Consultation, the Contracting Entity may qualify them as one Participant.
4. The Market Consultation may, in particular, take the form of:
 - 1) exchange of correspondence in traditional paper or electronic form (by e-mail or via the Contracting Entity's procurement portal);
 - 2) individual meeting with the Participants in the form of teleconferences and/or videoconferences;

- 3) individual meetings with the Participants held at the head office of the Contracting Entity or of the Participant;
- 4) individual meeting with the Participants at Kędzierzyn-Koźle or Jeleniów II Compressor Stations;
5. The Contracting Entity may decide to conduct the Market Consultation using any or all of the above forms of communication.
6. The Contracting Entity may choose to abandon the Preliminary Market Consultation with a selected Participant at any time if the Contracting Entity considers that the information provided by the Participant has achieved the purpose of the Preliminary Market Consultation.

§ 8

Closure of the Market Consultation

1. The Market Consultation will continue until the Contracting Entity considers that its purpose has been achieved or that it is no longer practical to continue the Preliminary Market Consultation. The Contracting Entity shall not be obliged to state the reasons for its decision.

§ 9

Report from the Market Consultation

1. The Contracting Entity shall prepare a report from the Market Consultation, which shall contain at least:
 - 1) information on the conduct of the Market Consultation;
 - 2) identification of the entities that participated in the Market Consultation;
 - 3) information on the effect of the Market Consultation on the description of the subject of the contract, the contents of the terms of reference or the terms and conditions of the contract;
 - 4) identification of information obtained and provided by the Contracting Entity during the preparation of the Procedure and a proposal for an appropriate deadline for the submission of tenders (number of days) and any other measures aimed at preventing distortion of competition if there is a possibility that an entity which participated in the preparation of the Procedure by the Contracting Entity's will compete for the award of the Contract.
2. The report with the attachments shall be public, with the exception of information referred to in § 3(6) of the Rules.
3. Correspondence, minutes, letters, studies, opinions and any other documents related to Market Consultation shall remain at the disposal of the Contracting Entity and shall not be returned after the conclusion of the Preliminary Market Consultation.

§ 10

Costs and means of redress

1. Each Participant in the Preliminary Market Consultation shall independently bear all costs incurred in connection with the preparation for participation and its participation in the Preliminary Market Consultation.
2. The Participants in the Preliminary Market Consultation shall not be entitled to any claims whatsoever towards the Contracting Entity, including, in particular, reimbursement of the costs of preparation for and participation in the Preliminary Market Consultation.
3. The Participants in the Market Consultation and other entities are not entitled to means of redress stipulated the PPL.

§ 11

Information regarding the protection of personal data (Article 13 of the GDPR)

Data controller

1. The data controller within the meaning of the EU Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ (UE L 119, p. 1 and (OJ EU L 127 of 23 May 2018, p. 2), hereinafter referred to as "the GDPR", of:
 - 1) entity who is a natural person,
 - 2) entity who is a natural person running a sole proprietorship,
 - 3) representative authorised to represent the entity during the Preliminary Market Consultation,

shall be **Operator Gazociągów Przesyłowych GAZ-SYSTEM S.A. with its registered office in Warsaw** (address: ul. Mszczonowska 4, 02-337 Warszawa) as the Contracting Entity.

Data protection rights can be exercised (or more information can be obtained) by communicating with the Contracting Entity at the e-mail address indicated in Announcement.

Purpose of personal data processing

2. Personal data shall be processed for the purposes related to the Market Consultation and archiving.

Legal basis for personal data processing

3. The legal basis for the processing of personal data of the persons indicated in section 1 is Article 6(1)(b) and (c) of the GDPR;

Recipients of personal data

4. Personal data will be processed by employees or associates of the Contracting Entity.
5. Recipients of personal data shall be persons or entities to whom the Market Consultation documentation shall be made available on the basis specified by law.
6. Personal data concerning the persons referred to in item 1 shall also be made available to the employees or collaborators of contractors with whom the Contracting Entity has concluded contracts or agreements for the use of IT systems provided by these contractors for the transfer or archiving of data. However, the scope of the transfer of data to these recipients is limited exclusively to the possibility of becoming acquainted with this data in connection with the provision of technical support services and failure recovery. These recipients are bound by the obligation to maintain the confidentiality of all data, including personal data.

Period of personal data processing

7. Personal data will be processed for the period necessary to compete the Market Consultation, after which the data will be stored for archival purposes for the period prescribed by law.

Transfer of data to third countries or international organisations

8. Given the public nature of the Market Consultation, personal data may be transferred to third countries or international organisations pursuant to the applicable legislation.

Automated decisions

9. The Contracting Entity does not make automated decisions and does not perform profiling based on personal data.

Rights

10. The persons referred to in item 1 have the right to:
 - a) access their personal data, i.e. obtain information what data is processed, in what manner and for what purpose,
 - b) rectify, i.e. demand that the data be updated if it turns out that the data collected is incorrect or no longer up-to-date,
 - c) have the personal data deleted, i.e. demand the removal of the personal data in whole or in part. If the request is justified, the Contracting Entity shall immediately delete such data;

- d) restrict the processing, i.e. demand that the personal data processing be limited to its storage. Restriction of the processing may be repealed after the circumstances justifying the limitation of the processing cease to exist;
- e) have their personal data transferred, i.e. to receive from the Contracting Entity, in a structured, commonly used machine-readable format, the personal data that concerns them,
- f) file a complaint against the Contracting Entity with the President of the Office for Personal Data Protection (Prezes Urzędu Ochrony Danych Osobowych) if they believe that the processing of their personal data violates the provisions of law..

§12

Information regarding the protection of personal data (Article 14 of the GDPR)

Data controller

1. The data controller within the meaning of the EU Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), (OJ (UE L 119, p. 1 and (OJ EU L 127 of 23 May 2018, p. 2), hereinafter referred to as "the GDPR", of:
 - 1) entity who is a natural person,
 - 2) entity who is a natural person running a sole proprietorship,
 - 3) representative authorised to represent the entity during the Preliminary Market Consultation,

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6. Personal data concerning the persons referred to in item 1 shall also be made available to the employees or collaborators of contractors with whom the Contracting Entity has concluded contracts or agreements for the use of IT systems provided by these contractors for the transfer or archiving of data. However, the scope of the transfer of data to these recipients is limited exclusively to the possibility of becoming acquainted with this data in connection with the provision of technical support services and failure recovery. These recipients are bound by the obligation to maintain the confidentiality of all data, including personal data.

Period of personal data processing

7. Personal data will be processed for the period necessary to compete the Market Consultation, after which the data will be stored for archival purposes for the period prescribed by law.

Transfer of data to third countries or international organisations

8. Given the openness of the public procurement procedure, personal data may be transferred to third countries or international organisations pursuant to the applicable legislation.

Automated decisions

9. The Contracting Entity does not make automated decisions and does not perform profiling based on personal data.

Rights

10. The persons referred to in item 1 have the right to:
 - a) access their personal data, i.e. obtain information what data is processed, in what manner and for what purpose,
 - b) rectify, i.e. demand that the data be updated if it turns out that the data collected is incorrect or no longer up-to-date,
 - c) have the personal data deleted, i.e. demand the removal of the personal data in whole or in part. If the request is justified, the Contracting Entity shall immediately delete such data;

- d) restrict the processing, i.e. demand that the personal data processing be limited to its storage. Restriction of the processing may be repealed after the circumstances justifying the limitation of the processing cease to exist;
- e) have their personal data transferred, i.e. to receive from the Contracting Entity, in a structured, commonly used machine-readable format, the personal data that concerns them,
- f) file a complaint against the Contracting Authority with the President of the Office for Personal Data Protection (Prezes Urzędu Ochrony Danych Osobowych) if they believe that the processing of their personal data violates the provisions of law.

§13

Entry into force

The Rules come into force upon signature, upon publication on the Contracting Entity's website.