

TENDER DOCUMENTATION

for the small-size public contract

Cell Cracker for CEITEC MU

Contracting entity

Masaryk University,

public university pursuant to Act No. 111/1998 Coll., not registered in the Commercial Register

with its registered office at Žerotínovo náměstí 9, 601 77 Brno

ID no.: 00216224

In Brno on 19. July 2011

Ref. no. MU/43952/2011/CEITEC

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1. Preamble

The contracting entity, Masaryk University, Žerotínovo náměstí 617/9, 601 77 Brno, ID no. 00216224, a public university established by Act No. 50/1919 Coll., not registered in the Commercial Register, is the director of the project entitled “CEITEC – Central European Institute of Technology”, project registration number CZ.1.05/1.1.00/02.0068, and the recipient of financial support for the aforementioned project from the operational programme Research and Development for Innovation (hereinafter “RDI”). The purpose of the above project that is being prepared jointly by the most important universities and research institutions in Brno is the development of a European centre of excellence in the field of life sciences and advanced materials and technology.

The estimated price of the public contract is CZK **800,000.00**, excluding VAT (in words: eight hundred thousand Czech crowns without Value Added Tax).

This tender documentation has been prepared as a set of information, requirements and technical conditions of the contracting entity, specifying the subject of the public contract in the details necessary for the preparation and submission of the bid (hereinafter the “Tender Documentation”) for the performance of the small-size public contract pursuant to Section 12 (3) of Act No. 137/2006 Coll., on Public Procurement, as amended (hereinafter the “Act” or the “Public Procurement Act”). In compliance with Section 18 (3) of the Act, this small-size public contract is not being assigned in the procedure described in the Act. This public contract is being assigned in compliance with the rules for the selection of contractors of the operational programme Research and Development for Innovation (hereinafter the “OP RDI Rules”, available at www.msmt.cz, link Structural Funds, link OP RDI for the period 2007–2013) and the internal guidelines of the contracting entity pertaining to public contracts assignment (hereinafter the “Internal Guidelines”).

The contracting entity hereby points out that although this Tender Documentation refers to the provisions of the Act, the public contract is not being assigned in the procedure described in the Act, as stated above, for which reason the contracting entity does not proceed pursuant to the provisions of Section 26 (5), second sentence, of the Act. The contracting entity refers to the Act because it uses some of its legal institutes, terminology and procedures.

In compliance with Section 149 of the Act, this public contract is being assigned by electronic means, through the electronic tool E-ZAK, available at the web sites <https://zakazky.muni.cz/>. Individual steps are performed electronically, except for the bids submission. The conditions and information regarding the electronic tool for public contracts assignment of Masaryk University, including information on the use of electronic signature, are available at:

<https://zakazky.muni.cz/data/manual/EZAK-Manual-Dodavatele.pdf>
https://zakazky.muni.cz/data/manual/QCM.Podepisovaci_applet.pdf

Any and all questions relating to the user control of the electronic tool available at the aforementioned web sites should be addressed to Mgr. Alice Spáčilová, CEITEC MU, e-mail: alice.spacilova@ceitec.muni.cz.

The contracting entity hereby points out that the communication through the given electronic tool requires registration using a guaranteed electronic signature.

A *contractor* shall mean a legal entity or an individual who provides services, providing that they have their registered office, place of business or permanent residence address in the territory of the Czech Republic, or a foreign contractor who is a foreign entity pursuant to Section 21 of Act No. 513/1991 Coll., the Commercial Code, as amended.

A *bidder* for the public contract shall mean a contractor who has submitted their bid within the prescribed period of time.

Qualification information shall mean a set of documents required by the law and the tender conditions, as set out in the invitation for bids submission and in this Tender Documentation, by which the contractor documents the fulfilment of its qualifications.

The provided Tender Documentation shall become the property of the bidder and need not be returned to the contracting entity. The bidder may only use the Tender Documentation for the purposes of processing its qualification information and the bid.

Prior to the bid submission, the bidder shall be obliged to get thoroughly acquainted with the Tender Documentation and to clarify any unclear issues prior to the submission of the qualification information and the bid. Any subsequent objections shall not be taken into account.

2. Type and Subject of the Public Contract

The subject of the public contract is the delivery of the device Cell Cracker – Cell Disintegrator, as specified in Annex C of the Tender Documentation, under the business terms and conditions specified in Annex A to the Tender Documentation.

The public contract shall also include:

- the transport of the device to the place of performance;
- preparation and delivery of instructions for use and service and maintenance manuals in the Czech or English language;
- delivery of declarations of conformity of all delivered devices with the approved standards;
- necessary co-operation with users in the course of the delivery preparation and performance

A detailed definition of the subject of the public contract is set out in the business terms and conditions and the technical conditions, constituting a part of this Tender Documentation.

Classification of the Subject of Public Contract

The classification of the subject of the public contract is primarily based on the following deliveries according to the code list of the Common Procurement Vocabulary:

Type of deliveries	CPV code
Biomedical devices	38434540-3

3. Technical Conditions and Specifications

In compliance with the Act, the Tender Documentation contains the technical conditions. The technical conditions are set out in Annex C to this Tender Documentation.

If the tender conditions, in particular the technical conditions, contain any requirements or references to any business names, names, or names and surnames, specific identification of goods and services being characteristic for a certain entity or its branch, any patents pertaining to inventions, utility designs, industrial designs, trademarks or designation of origin, the bidder shall be entitled to propose also another solution, similar in technical and quality terms.

4. Business Terms and Conditions and Requirement for Calculation of the Bid Price

The public contract is required to be performed under the *business terms and conditions* (including payment terms), specified in the draft agreement constituting Annex A to the Tender Conditions that shall be used by the bidders for the preparation of their bids. *The business terms and conditions* are binding for the bidders and may not be amended or supplemented in any manner.

In the draft agreement, the bidders shall fill in the required information, add all annexes and shall sign the resulting document.

The bid price shall mean the price for the performance of the subject of this public contract. The bid price must be specified in the bid in the Czech currency, broken down to the total price without VAT, the amount of VAT, and the total price + VAT. The bid price must be a fixed price, independent on any changes of conditions in the course of the public contract performance. The bid price must be determined also with consideration of the price developments in the given field, including the developments of the Czech currency exchange rate towards foreign currencies, until the completion of the public contract performance.

The bid price shall include all costs necessary for proper performance of the subject of the public contract, including all associated costs, i.e. in particular the costs of the goods acquisition, including the production costs, costs of the goods transportation to the place of performance, including any costs of handling mechanisms, costs of the goods insurance, its guarding and its delivery and acceptance, taxes and charges associated with the goods delivery, costs of the accompanying documentation.

The bid price may only be exceeded (or reduced) in the event of any changes of applicable VAT rates occurring in the period between the submission of the bid that has been evaluated as the most suitable and the execution of the relevant agreement on the public contract performance. In such a case, the aggregate bid price (price + VAT) shall be adjusted in the executed agreement so as to reflect the VAT rates applicable as of the agreement execution date.

5. Place and Terms of Performance

5.1 PLACE OF PERFORMANCE

The place of the public contract performance is the University Campus Bohunice, Kamenice 753/5, Brno – hall A4.

5.2 TERMS OF PERFORMANCE

The contracting entity has determined the following terms for the public contract performance:

- Performance commencement date: immediately after the purchase agreement execution.
- Term for the public contract performance (delivery handover and acceptance): within 6 weeks after the execution date of the purchase agreement

6. Qualification Requirements

6.1 QUALIFICATION REQUIREMENTS

The bidder shall be obliged to document its qualifications no later than by the deadline for the bids submission.

Qualification requirements shall be fulfilled by a bidder who documents the fulfilment of:

- I. **basic qualification requirements pursuant to Section 53 (1) of the Act;**
- II. **professional qualification requirements pursuant to Section 54 a), b) of the Act;**

The contractors shall document the fulfilment of qualification requirements by means of documents requested by the contracting entity in the invitation for bids submission. The contracting entity reserves the right to verify the information contained in the *Qualification Information*. The requested documents are specified in more detail in the following sections of this Tender Documentation.

Joint bid submitted by several bidders

If the bid is submitted **jointly by several contractors** (Section 51 (5) of the Act), each of the contractors must document the fulfilment of the basic qualification requirements pursuant to Section 50 (1) a) of the Act and the professional qualification requirement pursuant to Section 54 a) of the Act to the full extent. The fulfilment of the other qualification requirements pursuant to Section 50 (1) b) through d) of the Act must be documented jointly by the contractors submitting a joint bid.

If the bid is submitted jointly by several bidders, they shall be obliged, pursuant to Section 51 (5) of the Act, to attach to their bid the original of their agreement establishing the obligation specified in Section 51 (6) of the Act, i.e. that all these contractors shall be jointly and severally liable to the contracting entity and all third parties under all legal relations established in connection with the public contract and that this joint and several liability shall last for the entire term of the public contract performance and for the entire term of existence of any other obligations resulting from the public contract.

Foreign contractor

A foreign contractor shall document the qualification fulfilment in the manner described in Section 51 (7) of the Act, within the scope, in the manner and at the level corresponding at least to the requirements stipulated by the law and the contracting entity's requirements set out in the tender conditions.

Pursuant to Section 143 of the Act, a foreign contractor may document the fulfilment of a part of the qualification requirements by an extract from a foreign register or a foreign certificate only if the foreign contractor has the registered office, place of business, or address of permanent residence in the country in which such extract from a foreign register or such foreign certificate was issued.

Documents evidencing the qualification fulfilment shall be submitted by a foreign entity in the original language version, together with their sworn translation into the Czech or Slovak language (documents executed in the Slovak language need not be translated to the Czech language).

6.2 FULFILMENT OF QUALIFICATION REQUIREMENTS

I) Fulfilment of basic qualification requirements

The fulfilment of the basic qualification requirements shall be documented by the contractor by means of an affidavit containing the essentials set out in Section 62 (2) of the Act (the contracting entity recommends using the attached model declaration regarding fulfilment of the basic qualification requirements, constituting a part of Annex B to the Tender Documentation).

II) Fulfilment of professional qualification requirements

The fulfilment of the professional qualification requirements shall be documented by the contractor by means of:

- - submitting the documents set out in Section 54 a) of the Act (extract from the Commercial Register or another similar register where the bidder is registered); and
- - submitting the documents set out in Section 54 b) of the Act (document evidencing the bidder's authorisation to carry out business activities pursuant to special legal regulations within the scope corresponding to the subject of the public contract).

6.3 REQUIREMENTS REGARDING THE PREPARATION OF QUALIFICATION INFORMATION

*The contracting entity recommends that the contractor submit the documents evidencing its qualifications in the form of a file entitled *Qualification Information*.*

*The *Qualification Information* **must** be prepared in the full extent in written and printed form and in the Czech or Slovak language. Documents executed in any other language than Czech or Slovak must be submitted together with their sworn translation into Czech or Slovak.*

Documents evidencing the qualifications are sufficient to be submitted as simple copies. The bidder selected for the conclusion of the agreement pursuant to Section 82 of the Act shall be obliged to submit originals or officially verified copies of the documents evidencing the fulfilment of its qualifications upon the contracting entity's request prior to the agreement execution.

Documents evidencing the fulfilment of basic qualification requirements and extract from the Commercial Register may not be older than 90 calendar days as of the last day of the deadline for documenting the qualification fulfilment.

The contracting entity recommends that the *Qualification Information* contain a *declaration regarding the Qualification Information* prepared in accordance with the model declaration contained in Annex B to the Tender Documentation and signed by the contractor (in the manner corresponding to the extract from the Commercial Register or another similar register) or by a person(s) authorised to act on the contractor's behalf. If the document is signed by a person authorised to act on the contractor's behalf, the contracting entity recommends that a power of attorney granted to such person be attached to the *Qualification Information*. By signing this *declaration*, the contractor shall confirm the truthfulness, correctness, completeness and binding nature of all the information and facts contained in the *Qualification Information*.

The contracting entity further recommends using the form of the *Cover Sheet of the Qualification Information* for the preparation of the *Qualification Information*, as contained in Annex B to the Tender Documentation.

The contracting entity recommends that the *Qualification Information* be submitted by the contractor in two printed counterparts, of which one will be marked as the ORIGINAL and the other as the COPY, and in one electronic counterpart (CD or DVD containing files in pdf format). The contracting entity reserves the right to make any number of additional copies of the printed or electronic version of the *Qualification Information* for its own needs or for the needs of the Ministry of Education, Youth and Sports.

The contracting entity recommends that all pages of the *Qualification Information* be numbered in the bottom right corner in a continuous ascending order, starting from 1.

The contracting entity recommends that the *Qualification Information* be secured against tampering by means of individual pages being tied together by a firm string the loose end of which shall be sealed on the last page of the file. Such seal is recommended to be stamped or signed by the contractor.

6.4 CONTENT AND STRUCTURE OF THE QUALIFICATION INFORMATION

The contracting entity recommends that the *Qualification Information* be structured into sections following one another. The contracting entity recommends dividing individual sections by coloured dividers from the remaining pages of the file.

The contracting entity recommends the following structure of the *Qualification Information*:

- declaration(s) regarding the Qualification Information;
- affidavit(s) regarding the fulfilment of the basic qualification requirements (Section 62 (2) of the Act), unless contained in the declaration regarding the Qualification Information set out in paragraph 1;
- extract from the Commercial Register or another similar register (Section 54 a) of the Act);
- document evidencing the contractor's authorisation to carry out business activities within the scope corresponding to the subject of the public contract, in particular a document evidencing a trade licence or certificate (Section 54 b) of the Act);
- list of material deliveries for the past three years – Section 56 (1) a) of the Act;
- confirmation(s) with respect to individual material deliveries or affidavit(s) substituting such confirmation(s) – Section 56 (1) a) of the Act.

7. Conditions and Requirements for the Bid Preparation

The term *bid* shall mean the draft agreement (including all annexes) signed by a person authorised to act on the bidder's behalf.

The contracting entity requires the bidders to use the model draft agreement contained in Annex A to the Tender Documentation for the purpose of preparing the text part of the draft agreement, filling in the required information at the marked places and attaching:

- Annex 1 (technical specification)

By signing the *draft agreement*, the bidder shall confirm the truthfulness, correctness, completeness and binding nature of all information and statements contained in the bid. The draft agreement must be signed by the bidder in the manner corresponding to the extract from the Commercial Register or another similar register or by a

person(s) authorised to act on the bidder's behalf. Bids submitted jointly by several bidders must be signed in compliance with their agreement pursuant to Section 51 (6) of the Act.

If the contractor is represented by a representative, the contracting entity requires, for the sake of legal certainty, that the bidder specify and document the legal title for such representation in the bid (power of attorney, head of branch, authorisation, etc.), unless the legal title is implied by any other submitted documents (e.g. proxy in the extract from the Commercial Register).

The bid must be prepared to the full extent in written and printed form in the Czech or Slovak language. Annex 1 to the purchase agreement (technical specification) may also be prepared in the English language.

The contracting entity recommends that the contractors prepare their *bids* based on the following recommendations, possibly using the model (sample) documents contained in the annexes to the Tender Documentation.

The contracting entity recommends using the model *cover sheet of the bid* in Annex A to the Tender Documentation.

The contracting entity recommends that the contractors submit their *bids* in two written printed counterparts, of which one will be marked as the ORIGINAL and the other as the COPY, and in one electronic counterpart on CD or DVD in pdf format.

The contracting entity reserves the right to make any number of additional copies of the printed or electronic version of the *bid* for its own needs or for the needs of the Ministry of Education, Youth and Sports. In the event of any discrepancies between the original and the copies or the electronic version of the bid, the original shall prevail.

The contracting entity recommends that all pages of the *bid* be numbered in the bottom right corner in a continuous ascending order, starting from 1.

The contracting entity recommends that the *bid* be secured against tampering by means of individual pages being tied together by a firm string the loose end of which shall be sealed on the last page of the file. Such seal is recommended to be stamped or signed by the bidder.

The contracting entity recommends that the bid (together with the Qualification Information) be inserted in an envelope that shall be closed and sealed at all closing places. The contracting entity recommends that all seals be stamped or signed by the bidder or by the person(s) authorised to act on the bidder's behalf. The envelope shall bear the **name of the public contract, address (registered office) of the bidder and sign "DO NOT OPEN – TENDER – BID"**.

8. Additional Information Regarding the Tender Documentation

The bidders shall be entitled to request additional information from the contracting entity pertaining to the tender conditions. Such request must be submitted in writing, through the electronic tool E-ZAK, and must be delivered to the contracting entity no later than 5 days prior to the expiry of the deadline for the bids submission.

A request shall be deemed delivered if it is sent to the contracting entity within the prescribed period of time through the electronic tool E-ZAK.

The contracting entity shall provide the bidder with the requested additional information within 3 business days after the request delivery, through the electronic tool E-ZAK.

Such additional information, including the precise wording of the request, shall be also published by the contracting entity at its profile sites (www.zakazky.muni.cz) and provided through the electronic tool E-ZAK to all the other bidders who were individually invited by the contracting entity to submit their bids.

Pursuant to Section 49 (3) of the Act, the contracting entity may also provide the contractors with additional information pertaining to the tender conditions through the electronic tool E-ZAK without their prior request, no later than 2 days prior to the expiry of the deadline for the bids submission.

9. Binding Period

The bidders shall be bound by their bids for a period of three months, starting on the day following the expiry of the deadline for the bids submission. The bidders with whom it is possible to conclude the agreement pursuant to Section 82 (3) of the Act shall be bound by their bids until the agreement execution.

10. Deadline and Place for Bids Submission, Opening of Envelopes with the Bids

Bids must be submitted through a holder of the postal service licence or in person no later than by noon (12:00 p.m.) of 29 .8. 2011 to the filing room of the Chancellor's Building of Masaryk University, Žerotínovo nám. 9, 601 77 Brno.

Contact person: Mgr. Alice Spáčilová, tel. + 420 549 494 252, e-mail: alice.spacilova@ceitec.muni.cz

The envelopes containing bids shall be opened on 29. 8. 2011 at 1.00 p.m. at the contracting entity's registered office. The bidders shall meet at 12:50 in room no. 105. The envelopes opening may be attended by the bidders or their representatives who present a power of attorney for representation of the bidder at the envelopes opening. Each bidder may be represented by no more than two persons.

11. Manner of Bids Evaluation

The bids shall be assessed and evaluated by the evaluation committee.

The contracting entity shall deliver envelopes with the submitted bids to the evaluation committee.

The evaluation committee shall assess the bids in terms of fulfilment of the statutory requirements and the contracting entity's requirements set out in the tender conditions and in terms of whether the bidders have not submitted an unacceptable offer pursuant to Section 22 (1) d) of the Act, as well as in terms of extraordinarily low bid prices.

The bidders whose bids do not meet the above criteria in the course of the bids assessment shall be immediately disqualified from the tender by the contracting entity. The contracting entity shall inform the disqualified bidders of their disqualification without delay in writing, including specification of the reasons.

The evaluation committee shall evaluate the bids having met the tender conditions based on the following evaluation criterion: **lowest bid price**.

12. Provision of the Tender Documentation

The Tender Documentation, including all annexes, is available for download at the contracting authority's profile site <https://zakazky.muni.cz> (through the electronic system of public contracts assignment at the web sites <https://zakazky.muni.cz>) in Czech and English version; the English version shall have priority in application.

13. Requirements Regarding Alternative Bids

The contracting entity permits no alternative solutions to be proposed.

14. Cancellation of the Tender

The contracting entity reserves the right to cancel the tender in compliance with the Public Procurement Act and the OP RDI Rules. The contracting entity shall be entitled to cancel the tender for reasons set out in the law. A reason worth special attention in the sense of Section 84 (2) e) of the Act due to which it is not possible to require the contracting entity to continue in the tender shall be, inter alia, the absence of any bids with a bid price allowing the contracting entity not to exceed the financial limit for the given public contract.

15. Further Requirements of the Contracting Entity

The contracting entity reserves the right to change or amend the terms and conditions set out in the Tender Documentation, either upon the bidders' request for additional information relating to the tender conditions, or upon its own initiative. If the contracting entity makes any changes by means of the published announcement pursuant to Section 147 (8), it shall be obliged to extend the deadline for the bids submission according to the nature of the amendment made.

The bidders shall not be entitled to the reimbursement of any costs associated with their participation in the tender.

The bids shall not be returned back to the bidders and shall be kept by the contracting entity as a part of the documentation on the public contract assignment.

If any information contained in the bid is changed prior to the execution of agreement with the selected bidder, the bidder shall be obliged to inform the contracting entity of such changes without delay. In the event of any change in the bidder's qualifications, the procedure described in Section 58 of the Act shall apply.

The contracting entity reserves the right to verify the information contained in the contractor's bid with third parties.

The bidders acknowledge that pursuant to Section 2 e) of Act No. 320/2001 Coll., on Financial Control in Public Administration, as amended, the selected contractor shall be a person obliged to co-operate in the course of financial control performance. This obligation shall also apply to the parts of the bids, contracts and associated documents that are subject of protection pursuant to special legal regulations (e.g. business secret, confidential information), provided that the requirements prescribed by applicable legal regulations (e.g. Section 11 c) and d),

Section 12 (2) f) of Act No. 552/1991 Coll., on State Control) are met. The bidders acknowledge that the selected bidder shall be obliged to bind its subcontractors within a similar scope.

The bidders acknowledge that the contracting entity is obliged to observe the requirements regarding publicity within the framework of the Structural Funds programmes, as set out in Art. 9 of the Commission Regulation (EC) No. 1828/2006 and the publicity rules within the framework of the RDI programme, with respect to all relevant documents relating to the tender or the procedures, i.e. in particular the Tender Documentation and all agreements and other documents pertaining to the given public contract.

By submitting their bids, the bidders acknowledge and confirm their awareness of the fact that the subject of the public contract shall be financed from the operational programme Research and Development for Innovation within the framework of the project CEITEC – Central European Institute of Technology, project registration number CZ.1.05/1.1.00/02.0068. If the contracting entity does not receive the funds for covering the costs associated with the project implementation from the RDI operational programme or if these costs are classified as non-eligible, the contracting entity shall be entitled to unilaterally withdraw from the agreement. In the event of the contracting entity's withdrawal, the contractor shall be entitled to the payment of its remuneration corresponding to the scope of its delivery performed as of the withdrawal date.

16. List of Annexes to the Tender Documentation

Annex A Business Terms and Conditions

- Cover sheet of the bid
- Draft agreement

Annex B Qualification Information

- Cover sheet of qualification information
- Contractor's declaration regarding qualification information
- Affidavit regarding the fulfilment of basic qualification requirements

Annex C Technical Specification

In Brno on 19. 7. 2011

prof. RNDr. Jaroslav Koča, DrSc.
Director of the Central European Institute of
Technology