

	<b>The Rules and Regulations of the Technical Dialogue</b>	Number	ZP/1.10/2020
		Date of entry into force	10 March 2020
<b>PROCEDURE</b>		Version	04

1. **The objective of the procedure**

These Rules and Regulations define the principles of organising a Technical Dialogue by the Institute.

2. **The scope of the procedure**

Objective scope	These Rules and Regulations define the principles of organising a Technical Dialogue by the Institute, preceding a public procurement procedure, in accordance with Articles 31a through 31d of the Public Procurement Law (PPL);
Subjective scope	All employees

3. **Document authorisation**

	Position	First name, surname	<i>Signature</i>
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Approved by	Chief Accountant	Robert Nowak	
Approved by	Director of the Institute	Andrzej Dybczyński	

4. **The scope of the Rules and Regulations**

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- 4.1. These Rules and Regulations define the principles of organising a technical dialogue by the Contracting Authority, as referred to in Articles 31a through 31d of the PPL, hereinafter “the Dialogue”, preceding the Procedure.
- 4.2. The Economic Operator shall be selected as a result of a separate public procurement procedure, conducted pursuant to the provisions of the PPL.
- 4.3. The Dialogue shall be conducted pursuant to, and in accordance with Articles 31a through 31d PPL.
- 4.4. The technical dialogue is conducted in a way ensuring fair competition and equal treatment of potential economic operators and of the solutions they propose.
- 4.5. All activities referred to in these Rules and Regulations are performed on behalf and for the Contracting Authority by persons appointed for the purpose by the Contracting Authority’s Manager.

## **5. The subject-matter of the dialogue**

- 5.1. Before instituting public procurement proceedings, the Contracting Authority may inform economic operators about the plans and expectations concerning a given contract, in particular by conducting a technical dialogue, turning to experts, public authorities or economic operators for advice or information in the scope necessary to prepare the description of the subject-matter of contract, the specification of essential terms of contract, or the definition of contractual provisions.
- 5.2. The subject-matter of the Dialogue may include, but is not limited to, :
  - 5.2.1. technical, technological, legal, executive, organisational, commercial, economic or logistic issues related to the performance of Contract in line with the Contracting Authority’s needs;
  - 5.2.2. state-of-the-art, the most advantageous, the least expensive technical, technological, legal, executive, organisational, commercial economic or logistic solutions covering the sphere being the subject-matter of Contract;
  - 5.2.3. collection of information used for the development of Contract documentation.

## **6. Information about the intention to conduct a Dialogue**

- 6.1. The Contracting Authority shall provide information about its intention to conduct the Dialogue and its subject-matter on its website.
- 6.2. The Contracting Authority may also provide information on its intention to conduct the Dialogue in another form of its choice, including to send to selected entities information on its intention to conduct the dialogue in a paper or electronic form.
- 6.3. The information on the intention to conduct the Dialogue should indicate, in particular:
  - 6.3.1. the subject-matter of the contract and the purpose of conducting the dialogue;

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- 6.3.2. the scope of information the Contracting Authority wishes to obtain from the Participants;
- 6.3.3. The procedure, time limits and place of sending applications for participating in the dialogue and the method of communicating with the participants;
- 6.3.4. the planned duration of the Dialogue.
- 6.4. The decision on not entering into the dialogue does not infringe the rights of, or have a disadvantageous effect on, the potential economic operators wishing to take part in a relevant public procurement procedure.
- 6.5. The announcement and conduct of the Dialogue does not impose an obligation on the Contracting Authority to hold the public procurement procedure or to award a contract.
- 6.6. The Contracting Authority shall provide information about its intention to conduct the Dialogue and its objects on its website.

## **7. The organisation of the dialogue**

- 7.1. The Contracting Authority shall invite to the dialogue those participants who send a correctly filled out applications for participating in the Dialogue, in Polish, and, optionally, additional statements, positions or documents the Contracting Authority may request in the information on the intention to conduct the Technical Dialogue, within the time limit and in line with the procedure which may not be shorter than 7 days of the publication of the information on the intention to conduct the Dialogue.
- 7.2. In the information on the intention to conduct the dialogue, the Contracting Authority may include a template application form.
- 7.3. Participants invited to participate in the Dialogue will be informed of the fact by the Contracting Authority, in a way defined in the contents of the information on the intention to conduct a dialogue.
- 7.4. The Contracting Authority is not obliged to conduct the Dialogue in a specified form with all the participants, and may decide on various forms of dialogue with individual participants, depending on the substantive contents of the positions presented by the participants in relation to the dialogue, taking into account the fair competition and equal treatment principles.
- 7.5. The Contracting Authority communicates with the participants via correspondence sent to the mailing address, fax number or email address provided by the participant concerned. The receipt of the correspondence is acknowledged by:
  - 7.5.1. an acknowledgement of receipt signed by the addressee - for written communication (via a postal service operator),
  - 7.5.2. transmission report - for faxes;
  - 7.5.3. and for electronic mail - the date shown on the electronic acknowledgement of receipt, and should there be no such acknowledgement, it is deemed that the correspondence was duly served 1 day after the correspondence is sent to the participant's ICT system.

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7.5.4. In justified circumstances, information on the intention to conduct the dialogue may provide for additional conditions for participating in the dialogue. The conditions may not be in breach of the fair competition and equal treatment principles.

## **8. Activities as part of the dialogue**

- 8.1. The Contracting Authority may appoint a Committee to conduct the Dialogue.
- 8.2. As a rule, the Dialogue is conducted in Polish. In special circumstances, it is permitted to use English due to the specific nature of a given contract, where foreign entities might form a substantial share of all economic operators preparing their tenders.
- 8.3. The Dialogue may be conducted in any form selected by the Contracting Authority, without violating the fair competition and equal treatment principles. The Contracting Authority's choice is communicated in the information on the intention to conduct the dialogue, or in an invitation to the dialogue addressed to specific participants.
- 8.4. The forms of the dialogue may include, but are not limited to,
  - 8.4.1. exchange of correspondence in paper or electronic form;
  - 8.4.2. individual meetings with participants;
  - 8.4.3. a group meeting with participants to discuss a topic specified by the Contracting Authority, under a procedure and on dates defined by the Contracting Authority.
- 8.5. The Contracting Authority may decide to conduct a dialogue with the use of selected or all above-mentioned forms of communication.
- 8.6. The Contracting Authority may at any time resign from conducting the Dialogue with a selected participant, if it finds that the information provided by the said participant will not contribute to reaching the objective of the dialogue.
- 8.7. During the Dialogue, the Contracting Authority may use the support of experts and advisers having expertise necessary to conduct the Dialogue. Such persons are obliged to adhere to the confidentiality obligation as referred to in Point 8.10 of the Rules and Regulations.
- 8.8. The Contracting Authority may make a decision to extend the term of the Dialogue provided for in the information on the intention to conduct the dialogue.
- 8.9. The participants shall bear the costs of taking part in the Dialogue. The costs of participating in the dialogue will not be refunded by the Contracting Authority, even if no public procurement procedure is instituted as a result of the dialogue or no contract is awarded. The participants shall not receive any remuneration from the Contracting Authority on account of participating in the Dialogue.
- 8.10. During the term of the dialogue and following its termination, the Contracting Authority will not disclose any information constituting trade secret, within the meaning of Article 11 (2) of the Act of 16 April 1993 on Counteracting Unfair Competition (consolidated text, Journal of Laws of 2018, item 419, as amended) if, while giving such

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information, the participant explicitly states that the information provided to the Contracting Authority may not be disclosed to any other entities.

## **9. Termination of the Dialogue**

- 9.1. The Contracting Authority may terminate the dialogue, and is not bound by the obligation to provide reasons for the termination.
- 9.2. The Contracting Authority will promptly post a notification on terminating the Technical Dialogue on its website, and in the event of terminating the Dialogue after selected Participants have been invited, also by notifying the Participants concerned.
- 9.3. After terminating the Dialogue, the Contracting Authority shall draw up a report, consisting in the following information:
  - 9.3.1. Information about the course of the Dialogue;
  - 9.3.2. Entities which took part in the dialogue;
  - 9.3.3. Information about the effect of the dialogue on the description of the subject-matter of contract, the specification of essential terms of the contract or contractual conditions.
- 9.4. The Contracting Authority shall include information on the dialogue conducted in a contract notice, to which the dialogue referred.
- 9.5. Information referred to in Point 6.3 hereof constitute part of the record of procedure preceded by a dialogue.
- 9.6. The dialogue report with annexes is available to the public, subject to the provisions of Point 8.10 of the Rules and Regulations.
- 9.7. Any correspondence, reports, letters, studies, opinions and any other documents related to the dialogue are kept by the Contracting Authority, and shall not be returned after the dialogue is terminated. The Contracting Authority may return to the participant, at its request, any samples, equipment or any other materials provided as part of the Dialogue.
- 9.8. If there is a possibility that an entity which participated in preparing a given public procurement procedure, applies for the award of the contract, the Contracting Authority shall ensure that the participation of such entity will not distort competition, by providing the other economic operators with information it has received and submitted during the procedure preparation stage, and by setting a reasonable time limit for submitting tenders. The Contracting Authority shall identify measures aimed at preventing distortion of competition in the report.