

Contracting authority: OKD, a.s.

with registered

office at: Stonavská 2179, Doly, CZ - 735 06 Karviná, Czech Republic  
registered in business register kept by Regional court in Ostrava,  
section B, file 2900

BID: 26863154 (69)

VAT ID: CZ26863154, VAT payer

Bank connection: Česká spořitelna, a.s., account number 1650748349/0800

Represented by: by virtue of power of attorney by Ing. Jarmila Ivánková, Chief  
Financial Officer

**(hereinafter referred to as “contracting authority”)**

**according to Act No. 137/2006 Coll., on Public Procurement, as amended**

**(hereinafter referred to as “the Act”)**

**publishes**

Tender documents in accordance with Section 44 of the Act No. 137/2006 Coll. on Public Procurement, as amended (hereinafter referred to as the Act) for an job order under a framework agreement with several bidders in accordance with Section 89 of the Act to be awarded by negotiated procedure with publication:

## **Forwarding services for transporting fuels by rail to the Republic of Austria and Federal Republic of Germany**

### **1. Notice to candidates or bidders**

This tender documentation, including its annexes, may contain, inter alia, estimates and forecasts, whose preparation was based on subjective considerations and analyses. Any assumptions and forecasts concerning the future development of the OKD, a.s. based in Stonavská 2179, Doly, 735 06 Karviná, registered in the Commercial Register maintained by the Regional Court in Ostrava, Section B, file 2900, Business Identification Number 26863154, its financial condition, business activity or market position can not be interpreted as a statement or commitment of the contracting authority regarding future events, since these depend on the facts which the contracting authority can not fully control.

None of the provisions of the this tender documentation, including its annexes shall constitute affirmation, representation or warranty of the contracting authority. The only affirmations, representations or warranties that will be held by the Contracting Authority, will be the ones that will make part of the contract concluded with the selected bidders.

### **2. The Contracting Authority intends to conclude a framework agreement with several bidders in accordance with Section 89 of the Act**

- The text of the draft framework agreement will be listed in Annex 1 of the Call for tenders, which will be received by all the bidders who submit a written request to participate and demonstrate the fulfilment of qualifications within a specified period.

- Public contracts for specific services will be awarded in negotiated procedure without publication, always with addressing all parties to the framework agreement. The evaluation criteria will be the lowest bid price for the required particular shipment. The winner will conclude a partial contract to the framework agreement.
- The maximum number of bidders with whom the authority intends to enter into a contract is 5.
- The contracting authority shall conclude, in accordance with section 90, paragraph 2, a contract even with fewer candidates than with the specified maximum number.

### **3. Definition of subject of public contract**

Forwarding services for railway transport of fuels on the territory of the Republic of Austria and Federal Republic of Germany - individual destinations and estimated quantities will be listed in Annex 2 of the Call for tenders. The contracting authority reserves the right to amend destination and quantity within the above area, depending on market development.

Contract performance conditions will be included in the draft framework agreement.

### **4. Qualification**

Qualifying criteria are specified in the Contract notice – public services, published in the Journal of public procurement and in the Official Journal of the European Union in accordance with the law.

### **5. Business conditions**

- Duration of the framework agreement is determined as follows: from January 1, 2015 to December 31, 2017.
- The place of performance of the public contract are destinations in the Republic of Austria and Federal Republic of Germany
- Additional terms and conditions will be included in the draft framework agreement.

### **6. Payment terms and conditions**

- The invoice shall be due within 40 days from the date of receipt.
- Additional terms and conditions will be included in the draft framework agreement.

### **7. Technical conditions**

Provision of transport of fuels to individual destinations within the above areas with railroad cars. Detailed information on the type of railway wagons, the expected quantity, about whether it will be a transport by a comprehensive train or wagon groups will be listed in Annex No. 2 of the Call for tenders.

### **8. Variants of the bids**

The contracting authority does not admit any bid variants.

### **9. Method of preparation of the tender price**

- Bidding price of the candidates which they will complete in accordance with Annex No. 2 of the Call for tenders is the maximum price for the period of performance of one year – from January 1, 2015 to December 31, 2015 and shall also include any additional costs which the Supplier incurs in providing services for the purpose of proper and timely fulfilment of obligations established by the Contract, including

secondary charges and fees in accordance with the terms of the national administrators of rail routes.

- Conditions, in whose fulfilment is possible to increase the offer price are established:
  - The contracting authority reserves the right to change the transported quantity , or add other destinations in the given region, while the price for shipping will be derived from the unit prices offered by the bidder,
- Failure to meet the anticipated total volume by the contracting authority due to the decline of mining, demand in the location specified in Annex 2 of the Call for tenders shall not affect the unit price or other provisions of the contract concluded with the successful bidder.

#### **10. Evaluation of bids:**

Tenders submitted will be evaluated according to evaluation criteria - lowest bid price.

#### **11. The method of evaluation of bids pursuant to the evaluation criteria and detailed specification of data on the evaluation criteria set out in the notice of award procedures and the method of evaluation of bids in accordance with the evaluation criteria**

The structure of the total bid price is given in Annex No. 2 of the Call for tenders. Bids of individual candidates will be sorted in ascending order according to the amount of the total bid price offered, specified in the completed Annex No. 2 of the Call for tenders. The most advantageous will be the bid with the lowest total bid price and this bid will be followed by other bids according to the amount of the bid price. The Contracting Authority will evaluate and call the first 5 bidders to conclude the framework agreement.

The bidder that will conclude the Framework Agreement and that will offer, in accordance with Annex No. 2, the lowest total bid price for transport to the destination station, will also conclude a partial contract for transport to the destination station for the first year, ie. for the period from January 1, 2015 to December 31, 2015 to the framework agreement with the same price conditions offered in Annex No. 2.

Job orders for a further period or job orders to other destinations within the region (country) of transportation will be concluded with all parties to the framework agreement in the negotiation procedure without publication in accordance with the law.

#### **12. Terms and Conditions and requirements for elaboration of the bid**

The bid must contain the following:

- The bid shall be prepared in writing in Czech or English.
- The bid shall be submitted by the bidder in original and one copy as described in the call for tenders.
- The bid will be tied or otherwise secured against manipulation with individual sheets, including attachments. All the sheets of the bid and attachments will be numbered in ascending order starting with number 1.
- The bidder must attach a complete draft of the contract to the bid, signed by a person authorized to act on behalf of the bidder, in writing. Sample agreement will constitute Annex No. 1 to the Call for tenders, which will be received by the bidders that will submit a written request to participate and who meet the qualifications required by the contract which is specified in the Contract notice – public services,

published in the Journal of procurement and in the Official Journal of the European Union in accordance with the law.

- The draft contract must be consistent with the sample contract that will be attached as Annex No. 1 of the Call for tenders, without any changes, providing only that the designated areas must be completed consistently with the bidder's bid.
- If the bid is submitted by several persons jointly, it must include a contract of association in order to meet public procurement contract in accordance with the law. The contract of association must establish a single legal entity (member of association), who will be the head of the association and is entitled to represent the association in the matter of submitting the bid.
- If a different entity acts on behalf of the bidder under a public contract (other than the entity established by the establishment or foundation charter), the bid will also include a document proving the extent of its authorization (power of attorney - original or certified copy).
- The bid must also be in accordance with section 68 of the act:
  - list of statutory bodies or members of statutory bodies, who in the last 3 years from the deadline for submission of bids were in employment, functional or similar relationship with the contracting authority,
  - if the supplier has a form of joint-stock company, the list of the owners of shares with an aggregate nominal value exceeding 10% of registered capital, completed within the deadline for submission of bids,
  - bidder's declaration that it has not concluded and will not enter into an agreement prohibited by special legislation (Act No. 143/2001 Coll., on Protection of Competition, as amended) in relation to the public procurement contract being awarded.
- Contracting authority in accordance with section 44, paragraph 6 of the Act requires the bidder to specify the part of the contract that it intends to award to one or more subcontractors, and to specify the identification data of each subcontractor.
- The documents in the bid will be sorted in the following order:
  - Specification of the name of the public procurement contract, date, signature of the person authorized to act on behalf of the bidder, or stamp of the bidder,
  - contents of the bid,
  - basic identification information about the bidder (name, legal form, address, ID number, contact person, etc.),
  - description of the bid
  - draft contract in Annex No. 1 of the Calls for tenders signed by a person authorized to act on behalf of the bidder
  - other documents
  - completed Annex 2 to the Call for tenders specifying prices

### **13. Visit to the place of performance**

- With regard to the nature of the contract, the inspection is not expected.

- In case of a request for inspection the inspection is possible upon agreement with the contact person, however no later than 12 days before the deadline for submission of bids.

#### **14. Other detailing data provided by the contracting authority**

- The contracting authority is entitled to cancel the tender in accordance with the conditions specified in Section 84, paragraph 5 of the Act.
- Bids of the bidders in public tender must meet the tender specifications and requirements included in the tender specifications, in the contract notice, given by the law or comply with the other conditions laid down by generally binding regulations that apply to it.
- The contracting authority reserves the following rights:
  - not to return the submitted bids, except for the bids that were received after the deadline for submission of bids,
  - not to provide advances,
  - not to pay any costs incurred by bidders in relation to participation in this tender,
  - in subcontracts to the framework agreement to specify adequately the subject of the public procurement contract,
  - ask the contractor during the performance of the framework agreement for the submission of documents proving that it still complies with the required qualifications necessary to perform the contract.

#### **15. Specification of place and manner of submission of bids**

- The bid shall be submitted by the bidder in writing, in duplicate, in two separate envelopes. Of these one counterpart marked "ORIGINAL" shall meet the established requirements, the second counterpart marked "COPY" may contain photocopies of the bid. Both counterparts, "ORIGINAL" and "COPY" shall be delivered by the deadline for submission of bids.
- The bidder shall send the bids in "ORIGINAL" and "COPY" by registered mail to the address of OKD, a.s., Stonavská 2179, Doly, 735 06 Karviná, to the Department of Legal Services, or in person at the same place on business days from 8 to 14.00 o'clock.
- The bidder submits the bid in hardcopy form. The bids will have securely stapled sheets and will be delivered in sealed envelopes bearing the message "DO NOT OPEN", the name of public procurement contract and identification of the bidder, including the address to which it is possible to send a notice under section 71, paragraph 6 of the Act.
- Message on the envelopes:

ORIGINAL (second envelope COPY)

**"Public Procurement Contract" - "DO NOT OPEN" Forwarding services for transporting fuels by rail to the Republic of Austria and Federal Republic of Germany "**

- The bidder is bound by its offer for the entire period of the assignment period specified by the contracting authority in the announcement of the tender proceedings.
- The bid can be submitted only in Czech or English language.

#### **16. As part of the opening of the envelopes the following bids will be rejected:**

- bids in unsealed envelopes,
- bids that do not bear address, and identification data of the bidder on the envelope,
- bids that are not marked with distinguishing message of the public procurement contract,
- bids that were received after the specified deadline - the deadline for submission of bids,
- bids that do not meet the requirements of Section 71 of the Act:
  - they are not prepared in the desired language,
  - draft contract is not signed by a person authorized to act on behalf of the bidder,

The bid shall not include any cross-outs, insertions, deletions or other modifications, questioning the credibility of the original bid.

#### **17. Date and place of opening of the bids**

The deadline for submission of offers, places and other instructions for submission of the bids and opening of bids will be described in the call for tenders.

#### **18. Notice of the selection of the most suitable bid**

The contracting authority will send notice of the selection of the best bid within 5 working days following the decision to all bidders who have not been excluded from participation in the procurement procedure.

#### **19. Contact details of the contracting authority**

Contact details are set out in the Contract notice – public services, published in the Journal of procurement:

Contact person:	Bc. Daniel Trnka
	Tel.No. 00420 596 262 449
	e-mail: daniel.trnka@okd.cz

In Karviná, On 26.05.2014

**OKD, a.s.**

**Ing. Jarmila Ivánková**

Chief Financial Officer

By virtue of power of attorney of 4<sup>th</sup> February 2014