

Memorandum of Information

Clarification questions on European Public Tender for: Two (2) Glovebox systems, Ref. 2022 FPL/INK 035, date 04-03-2022"

No.	Section nr. / subject	Question	Answer
1	8.9 - Aspect "transport, installation, hook up and start-up" - 42	Our glovebox systems are manufactured outside Europe and ship via container freight. Currently, heavy delays in assigning containers and vessels are very frequent. We have no control on this. The risk is that we will not meet the 22 week delivery time because of such delays. Our question is therefore: can you waive the penalty clause for not meeting the delivery time, if we can proof that the shipping date of the glovebox systems out of the factory was done in time?	Timely delivery is the sole responsibility of the Tenderer/Supplier, and TNO will not waive the penalty clause if the delivery time/date is not met. The penalty clause in requirement 8.9.1 and 8.9.2 remains unchanged
2	8.2 - Glovebox system no. 1 - Aspect "Antechambers" - 32	Regarding requirement 8.2.1.4; The large AC of GB1 needs its own vacuum pump" : Can you confirm that this means that this pump may not be used for the purifier and solvent trap regeneration, nor for the normal GB pressure control? And for these last 3 functions (regeneration of purifier and solvent trap and GB pressure) we can include 1 vacuum pump? Or do you prefer these functions also split up between multiple pumps?	Correct, that is exactly how we intended this. We want to be able to pump down the AC and leave it with the pump pumping down for longer periods of time, while we continue processing and using the rest of the GB as normal. Therefore, if you use a pump for GB pressure control, we need one extra. There's no need for an extra pump just for regeneration.
3	9 - Appendices - 46	Appendix A03 / core competency 1 : "....that demonstrates core competency 2, and had ...". Shouldn't this be "...competency 1..."	Correct, this is a typo and the correct text should be read as follows: Reference relates to core competency 1 The Tenderer has experience in the manufacturing and delivery of gloveboxes that are used for battery pouch cell production, in use in a scientific or research environment. Reference project: During the three (3) years prior to the date of the Call for Tenders, the Tenderer has completed a project that demonstrates core competency 1, and had a contract value of at least € 150.000, excluding VAT. The project must have been completed in accordance with all the contractual conditions agreed at the time, including those relating to lead time and budget.
4	8.9 - Aspect "transport, installation, hook up and start-up" - 42	8.9.8 ; What is meant by "The entire answer should be no more than six (6) A4 pages. If the answer exceeds 3 A4 pages, the additional pages will be disregarded.", a maximum of 3 or 6 pages?	It should be read as follows: "The entire answer should be no more than six (6) A4 pages. If the answer exceeds six (6) A4 pages, the additional pages will be disregarded."
5	2.2.17 - Period of validity - 14	Due to the current developments in transport costs and prices of raw materials on the world market, the risk for the tenderer with a validity of 90 days is very long. Is it possible to adjust the stated validity to a maximum 45 days, given the time between submission and Contract Award (40 days)? This means that TNO has 5 days to issue the PO.	TNO wants to accommodate you and reduce the 90-day period to 60 days. For the sake of clarity, The Tender represents a formal offer which must remain valid for at least sixty (60) days from the final date to submit Tenders (see paragraph 2.1). This period of validity is automatically extended with the Tenderer who emerges as the Provisional Contractor until the point at which the final Contract is signed. If an objection to the Award Decision is placed before the judicial authorities in accordance with paragraph 6.2.1, the period of validity will (if necessary) be further extended by a period of thirty calendar days following the day on which the court returns its judgment.
6	2.2.20 - Legally valid signature - 14	Please explain what is meant by "If a Tender and/ or one or more documents are legally and duly signed, the Tender is invalid and the Tenderer will be excluded". Doesn't this have to be "...documents are NOT legally and duly signed..."?	A typo, if a Tender and/ or one or more documents are not legally and duly signed, the Tender is invalid and the Tenderer will be excluded, except when this is disproportionate and not contrary to the fundamental principles of procurement law
7	5.2.2.1 - Reference projects - 22	The defined Core Competences include 'manufacturing'. Tenderer is a distributor/service provider and experienced and exclusive dealer for the offered products, but not the original manufacturer. The manufacturing is performed at our supplier in Germany, and in close contact with the customer and Tenderer. In this case will you ignore the requested requirement of 'manufacturing'?	Since you represent the manufacturer in the Netherlands, as exclusive distributor/service provider, we equate you with the manufacturer and therefore make no distinction between you and the manufacturer.
8	8.9 - Aspect "transport, installation, hook up and start-up" - 42	8.9.1 + 2: With respect to delivery time, we can estimate quite accurately at the moment. However, the worldwide situation concerning disrupted transport and availability of materials/electronics is an unpredictable factor for the near and far future. Therefore I like to propose that clause 8.4 of the General Purchasing Conditions TNO – 2022 will apply, instead of a penalty discount of 20%. Do you agree?	TNO does not agree with your proposal, and the penalty clause in requirement 8.9.1 and 8.9.2 remains unchanged.
9	8.10 - Aspect "Payment Terms" - 44	Are you open to accept different payment terms and conditions without bank guarantee? For example 80% payment after delivery and 20% after SAT?	Yes, TNO is willing to accept the following: - 80% after delivery at location TNO. - 20% after installation and commissioning On-site and Site Acceptance Test (SAT) including test periods, approved by TNO's management. If we agree on this payment scheme, TNO will not require a bank guarantee from you.
10	8.10 - Aspect "Payment Terms" - 44	How long should the bank guarantee be valid? Does this include the 6 months test period (2.2.23)?	Validity of the bank guarantee may not expire until approval of the SAT by TNO.
11	9 - Appendices - 46	C03/GPC/5.1 (vii): Manufacturer of the Goods is ISO certified, however the Tenderer (distributor) is not. Is this acceptable to you?	With respect to Article 5.1, it is relevant that the Performance is suitable for our purposed Use, and complies with our Specifications. The Performance, the Goods, shall be performed in compliance with the applicable standard requirements of ISO or equivalent standard requirements of another comparable organization, either by you or by the manufacturer.
12	9 - Appendices - 46	C03/GPC/ 6.4: Do you accept to declare this article not applicable?	Not agreed, unless the first payment is due after delivery, as specified under no. 9, as an alternative to requirement 8.10.1.

13	9 - Appendices - 46	C03/GPC/ 7.2: Can you please indicate in advance if you are planning a Test prior to delivery? And if this is a complete FAT? This will influence price and delivery time.	TNO has no intention of having a test performed at the Tenderer's site before delivery. A FAT is not part of this tendering procedure.
14	9 - Appendices - 46	C03/GPC/8.3 Do you accept agree with the adaptation that Supplier will not compensate TNO for any damage suffered and to be suffered as a result of the delay.	TNO agrees that Article 8.3, as well as Article 8.4 of TNO's GPC, will not apply. Requirement 8.9.1 replaces both Articles 8.3 and 8.4.
15	9 - Appendices - 46	C03/GPC/ 8.9 Do you agree with adding that TNO will make a note on the shipping documents of any damage on the packaging or of an activated shock-indicator.	TNO confirms that it will carry out a visual inspection of the delivered Good(s)
16	2.2.4 - Order of precedence - 9	What is the order of importance between Tender Instructions and Appendices? So for example are the Tender Instructions overruling the GPC on same topics?	Where any discrepancies between the contents of the various tender documents exists, the following order of precedence applies (in descending order of importance). - Memoranda of Information, most recent first - Tender Instructions - Appendices - Call for Tenders. Tender Instructions (guideline) indeed overrules the GPC TNO.
17	9 - Appendices - 46	C03/GPC/ 11.5: Do you accept the following adaptation: TNO may not retain any properties of Supplier.	No, Article 11.5 remains unchanged.
18	9 - Appendices - 46	C03/GPC/16.3(h): Is it acceptable if Tenderer does not have a policy in accordance with ISO 20400?	We would be very surprised if you do not have an ISO 20400 policy within your organisation, but we will not exclude you from further participation in the Tender Process at this stage if you do not have such a policy. Please be aware, however, that this will play an increasingly important role for TNO in future Tenders.
19	9 - Appendices - 46	C03/GPC/18.1 Do you agree to delete the following phrase:"... but not later than within 10 working days."?	No, not acceptable, but we understand that in some cases more time may be needed to remedy such a Defect, for these reasons Article 18.1 will be completed with "...", unless otherwise agreed between the parties".
20	9 - Appendices - 46	C03/GPC/18.2: Do you accept the following adaptation: Warranty period is limited to the initial period. When parts are replaced from 3 months before the end of the initial warranty period, the warranty period for spare parts is 3 months.	Not acceptable. Article 18.2 remains unchanged.
21	9 - Appendices - 46	C03/GPC/18.2: Can you accept deleting the following phrase: "... at the expense of the Supplier and the Supplier is obliged to pay those costs..."	Not acceptable. Article 18.2 remains unchanged.
22	9 - Appendices - 46	C03/GPC/19 Do you accept a Liability for Supplier that is limited to the direct damage only?	Contrary to the provisions in Article 19.1, the Supplier is liable vis-à-vis TNO for all damage suffered and to be suffered by TNO directly in connection with non-performance, inadequate performance or late performance of its obligations vis-à-vis TNO under the Agreement, as well as for each and every Defect, and is limited to twice the order amount.
23	9 - Appendices - 46	C03/GPC/19 Do you accept to limit the Liability of Supplier to the amount that the insurer pays for the respective case or that which is covered under the insurance? At TNO's request, Supplier will send a certificate of the respective insurance policy	Not acceptable. The Tenderer must hold full liability insurance with a cover of at least € 1.000.000 per event giving rise to damage or series of related events, or must be willing to meet this requirement if identified as the Provisional Contractor. The insurance cover must be in place for the entire term of the Contract.
24	9 - Appendices - 46	C03/GPC/21.2: Do you accept to change the following: Supplier is only obliged to compensate TNO for direct damage.	See previous modification of Article 19 (under no. 22)
25	9 - Appendices - 46	C03/GPC/24.1: Do you accept the following adaptation: All goods delivered by or on behalf of SUPPLIER remain the property of SUPPLIER until the moment that the TNO has fulfilled all its due and payable obligations towards SUPPLIER?	Agreed
26	9 - Appendices - 46	C03/GPC/24.2: Do you accept the following adaptation?: The risk of theft, damage, destruction or deterioration passes to the TNO at the time of delivery of the goods in question. The risk during transport on the TNO's premises is at all times at the TNO's expense unless the TNO can prove that the damage was caused by intent or gross negligence of SUPPLIER personnel.	Not acceptable. Article 24.2 remains as is. The risk of an Item passes to TNO at the time ownership of the Item passes to TNO.
27	9 - Appendices - 46	C03/GPC/26.1-3: Do you accept to apply the following restriction?: The TNO has the authority to identify personnel of SUPPLIER during the execution of the Agreement, but only within the legal provisions, including privacy legislation.	Agreed
28	1.3.1.1 - Optional maintenance/service	Since prices might show significant fluctuation, do you agree with fixed prices for one year?	Agreed regarding the requested optional maintenance/service contract prices

29	8.1 - Glovebox system no. 1 - Aspect	<p>8.1.1: With intern Tot=1250+1250+1800=4300 mm main Oven AC=600mm right side mini oven AC=400mm left side ----->> W tot=4300+600+400= 5300 mm</p> <p>If you want to have a mini antechamber on the left side as per Requirement 8.2.2 this means the total dimension will exceed 5000 mm wide (and please consider the fact that spindle and extruded trays are also playing a role in the total footprint.)</p> <p>So, can you accept a wider total footprint?</p>	<p>The width is intended as an internal dimension. This is the internal width of the GB. The ACs are therefore not included</p>
30	8.1 - Glovebox system no. 1 - Aspect "General" - 30	<p>There is no requirement for the number of gloves required. What is the preferred number of gloves?</p>	<p>TNO will not specify the number of gloves. We assume that you, as glove box suppliers, have a standard classification for gloves. We want to adhere to that. TNO requires a suitable amount of gloves, to cover the entire working space of the GB, so we can repurpose it later.</p>