

Instituto de Biologia Molecular e Celular - IBMC

DIRECT AWARD No. 385/2022 - IBMC

**INVITATION TO TENDER
DIRECT AWARD PROCEDURE**

PURCHASE OF SOFTWARE LICENSES FOR VARIANT AND COPY NUMBER VARIATIONS (CNVs) ANALYSIS

Index

Article 1 - Reference and object of the Procedure.....	3
Article 2 - Contracting Authority	3
Article 3 - Decision to Contract.....	3
Article 4 - Reasons for the Choice of the Procedure	3
Article 5 - Invitation and Invited Entity	3
Article 6 - Procedure Management.....	3
Article 7 - Access to the Documents of the Procedure	4
Article 8 - Clarifications and Rectifications on the Documents of the Procedure.....	4
Article 9 - Documents that Constitute the Tender.....	4
Article 10 - Variant Tenders.....	4
Article 11 - Base Price and Indication of Price	5
Article 12 - Tender Submission	5
Article 13 - Deadline for Tender Submission	5
Article 14 - Tender Maintenance Period.....	5
Article 15 - Analysis of the Proposals and Adjudication.....	5
Article 16 - Qualification Documents	6
Article 17 - False Documents and Statements.....	7
Article 18 - Confirmation of Commitments.....	7
Article 19 - Counting of deadlines.....	8
Article 20 -Expenses and Charges.....	8
Article 21 - Prevalence	8
Article 22 - Governing Law	8
ANNEX I - Draft of Statement.....	9
ANNEX II – Tender template	11
ANNEX III – Statement template	12

Article 1 - Reference and object of the Procedure

1. The procedure is called Direct Adjustment with reference DA 385/2022, for the *Purchase of Software Utilization Licenses for Variant Analysis and Copy Number Alteration (CNV's)*, subject to the terms of the specifications and conditions in *Annex I - Technical Specifications, of the Specifications*.
2. The present acquisition has CPV classification 72540000-2 (Licenses (utilization service))

Article 2 - Contracting Authority

Instituto de Biologia Molecular e Celular – IBMC

VAT number 503 828 360 | Rua Alfredo Allen, 208 | 4200-135 Porto

Fax number 00351 225 570 770

E-mail address: procedimentosccp@ibmc.up.pt

Article 3 - Decision to Contract

The Public Contractor Board took the decision to contract on October 17 of 2022.

Article 4 - Reasons for the Choice of the Procedure

The procedure is by direct adjustment under the provisions of the Public Contracts Code, approved in annex to the DL 18/2008, 29/1 and other applicable legislation and regulations, hereinafter referred to as "CCP", in particular, under the terms and effects of the provisions of Article 16, paragraphs 1, a) and 2, e); sub-paragraphs ii) and iii) of paragraph e) of Article 24, paragraph 1; Article 36, paragraph 1; Article 38; and Articles 112 and following.

Article 5 - Invitation and Invited Entity

Instituto de Biologia Molecular e Celular - IBMC ("IBMC"), with head office at Rua Alfredo Allen, 208, 4200-135 Porto, telefax no. 00351 225 570 770 and email address: procedimentosccp@ibmc.up.pt, hereby invites the company *Golden Helix, Inc*, to submit a tender within a Direct Award procedure adopted for the award of a *Purchase of Software Licenses for Variant and Copy Number Variations (CNVs) Analysis*

Article 6 - Procedure Management

The procedure is conducted by the competent services of the Awarding Entity, in the person responsible for the direct award for the acquisition of the services in question, designated by the Management of the Public Contractor, on 17/10/2022, with the email address procedimentosccp@ibmc.up.pt and office hours of 9:00-12:30 and 14:00-17:30.

Article 7 - Access to the Documents of the Procedure

1. The procedure dossier is, in accordance with articles 40, n.º 1, al. a), and 2; 42 and 115 of the CCP, made up by the invitation to tender and by the specifications, as well as by the other documentation that is an integral part of it.
2. The documents of the procedure can be downloaded through the free access in Public Contractor's website: <http://www.ibmc.up.pt/public-procurement>.

Article 8 - Clarifications and Rectifications on the Documents of the Procedure

The Public Contractor is responsible for providing the necessary clarifications for a good comprehension of the procedure documents, which requests shall be addressed to the following e-mail address: procedimentosccp@ibmc.up.pt. The Public Contractor shall provide the requested clarifications by the same way.

Article 9 - Documents that Constitute the Tender

1. The tender to be presented shall include the following documents:
 - a. Declaration by the competitor of acceptance of the content in the Specifications, made in accordance with the *Annex I* template of this procedure (Declaration template referred to by Art. 57, no. 1, paragraph a) of the PCC);
 - b. Price offer made in accordance to the *Annex II (Tender Template)* template of the present Invitation, of which it is an integral part;
 - c. Other documents presented by the competitor, considered to be indispensable, by containing attributes of the tender, according to which he is willing to contract; However, the information contained in those documents shall be limited to what is strictly necessary for the characterization of the supply object of the contract, up to the limit of 5 (five) pages. In case this limit is exceeded, the excess pages won't be considered for any purpose.
2. All documents that constitute the tender may be presented in Portuguese or English languages, except for the one mentioned in paragraph a), which must be written in Portuguese.
3. The documents that constitute the tender must be signed by the invitee or by its legal representative with mandatory powers, or by a designee, in which case an instrument of mandate must be presented.

Article 10 - Variant Tenders

The submission of variant tenders is not authorized.

Article 11 - Base Price and Indication of Price

1. The base price set forth in clause 4 of the specifications is USD 58.608,00 (fifty eight thousand, six hundred and eight US Dollars), corresponding to the current exchange rate of € 60,314.91 (sixty thousand, three hundred and fourteen euros and ninety one cents).
2. The prices of the proposals, which shall include all charges inherent to the object of the contract to be signed, shall be indicated in figures and without value added tax (VAT).
3. Whenever several prices are indicated in the proposal, in case of divergence between them, the most decomposed partial prices shall always prevail, for all purposes.

Article 12 - Tender Submission

1. The tender concerning this procedure shall be submitted through Public Contractor's website, which is free of charge: www.ibmc.up.pt/public-procurement.
2. Up to 10 files may be submitted, with the maximum size of 26MB and in the following formats: pdf; zip, rar, xls, docx, doc and odt. After submission, the tenderer will receive a confirmation via email, of the act.
3. We warn you that only the email addresses authenticated by us will be allowed to access our portal, for the purposes of tender submission, together with a key, of the type "c5651f87c86dfdb3473e027ec8a28abb8958db", provided with invitation of this procedure.
4. The tenderer shall be responsible for any problem occurring during sending or receipt of oversized email messages.

Article 13 - Deadline for Tender Submission

The tender may be submitted **until 5pm on 21 October 2022**.

Article 14 - Tender Maintenance Period

The tender must be valid for a minimum period of 66 (sixty-six) days, counted from the expiration of the tender's submission deadline.

Article 15 - Analysis of the Proposals and Adjudication

1. The awarding is the act by which the competent body for the decision to contract accepts the proposal presented, being done in a global manner.
2. After the analysis of the proposal, the organ competent for the contracting decision takes the decision of adjudication and notifies it, until the end of the period of the obligation to maintain the proposals, and, together with this notification, also notifies it in the terms of paragraph 2 of article 77 of the CCP.

Article 16 - Qualification Documents

1. In case of award, the successful tenderer shall present, under the terms of the article 81 of the PCC and applicable additional legislation, within **5 (five) working days** counted from the receipt of award decision notice, the *following Qualification Documents*:

- a. A statement, under oath, made in accordance with the *Annex III* template of this Invitation, of which it is integrant part;
- b. Document attesting that the tenderer is not in any of the circumstances referred to in Article 55°, *b), d), e) and h)* of the PCC, namely:
 - ✓ The criminal record from the Board of Administration, Company Management or Direction, or an equivalent document issued by the competent judicial or administrative authority, that proves that those requirements are satisfied;
 - ✓ Company Register, or an equivalent document;
 - ✓ Proof of regularized status regarding social security contributions and taxes due in the country of the successful tenderer or equivalent certificate issued by the competent authority.

2. Pursuant to Art. 4 of Ordinance 372/2017 of the 14th of December, when, by their very nature or origin, the qualification documents mentioned in paragraph b) above are written in a foreign language, the successful tenderer must accompany them with a duly legalized translation.

3. Under paragraph b), no. 2, Art. 3 of the Decree-Law 60/2018 of August 3, the declaration provided for in paragraph 14.1 (a), provided that it is presented in the languages admitted for the presentation of the proposal, does not require a duly legalized translation.

4. Within the scope of paragraph c), no. 2, Art. 3 of the aforementioned Decree-Law, when, in the country of origin of the Contractor, the required document(s) or certificate(s) in paragraph 17.1 (b) are not issued, they may be replaced by declaration of honor. It may be drawn up in the languages provided for the submission of the tender, not requiring a duly legalized translation or being presented before a notary, judicial or administrative authority or any other competent authority.

5. In accordance with Art. 3, no. 7, of Ordinance 372/2017 of December 14, the competent body for the decision to contract may request the successful tenderer, even if they do not appear in this Invitation, the presentation of any documents proving the ownership of the qualifications legally required for the provision of the services covered by the contract to be concluded, setting a deadline for that purpose.

6. Whenever there is a fact that determines the expiration of the award, in accordance with Art. 86. no.1 of the PCC, the Public Contractor will notify the Successful Tenderer for which the event occurred, setting the deadline of 2 (two) days for comment, in writing, under the right of prior hearing.
7. When, for the reasons brought forward, the situations referred to in Art. 86, no.1 of the PCC are derived from a fact not attributable to the tenderer, the Public Contractor shall fix an additional period of 5 (five) business days for the purpose of presentation of the missing Qualification Documents.
8. Where any document described above is not issued in the country concerned, it may be replaced by a sworn statement made before a judicial authority or notary or, failing that, a solemn statement made before an administrative authority or a qualified professional body in its country of establishment
9. The Successful Tenderer must submit a reproduction of the qualification documents referred to in this article by e-mail: procedimentosccp@ibmc.up.pt
10. The Public Contractor notifies the successful tenderer of the presentation of the qualification documents by the Successful Tenderer in accordance with Art. 85 of the PCC.
11. Non-presentation of the qualification documents in accordance with the terms of this article implies the expiration of the award (vide Art. 86 of the CCP).

Article 17 - False Documents and Statements

Without prejudice to participation to the competent authority for the purpose of criminal proceedings, falsification of any document of authorization or the wrongful delivery of false declarations entails the forfeiture of the award.

Article 18 - Confirmation of Commitments

1. The Successful Tenderer must, within 10 (ten) days from notification of the award decision, confirm, if applicable, the commitments made by third parties relating to attributes or terms or conditions of the awarded proposal.
2. Under the scope of that set forth in Article 92 of the CCP, at the request motivated by the Successful Tenderer, the Competent Body for the contracting decision may extend the period fixed for the confirmation of commitments assumed by third parties relative to attributes or terms or conditions of its proposal.
3. The non-confirmation of commitments is regulated under the terms of the provisions of Article 93 of the CCP.

Article 19 - Counting of deadlines

The counting of the deadlines relative to this contract formation procedure is regulated under the provisions of article 470 of the CCP.

Article 20 - Expenses and Charges

All expenses related to the participation in the present procedure, including those related to the preparation and submission of proposals and qualification documents and to the execution of the contract, when applicable, shall be the Successful Tenderer's costs.

Article 21 - Prevalence

1. In case of divergence between the clarifications and rectifications and the parts of the procedure to which they refer, of which they are an integral part, the former shall prevail.
2. In case of divergence between the documents referred to in number 2 of article 96 of the CCP, the prevalence is determined by the order in which they are indicated in that number.
3. In case of divergence between the documents referred to in paragraph 2 of Article 96 of the CCP and the clauses of the contract, the former shall prevail, except for the adjustments proposed in accordance with the provisions of Article 99 of the same law and accepted by the Successful Tenderer under the terms of the provisions of Article 101 of the same law.

Article 22 - Governing Law

The Portuguese law is applicable to the present contract formation procedure, namely the Public Contracts Code, Decree-Law no. 18/2008, of January 29 in its current wording and, if applicable, the provisions set forth in the Specifications of this procedure.

Annexed: 3 annexes to Invitation,
Specifications and annex therein.

Porto, October 17, 2022

ANNEX I - Draft of Statement

[referred to in no. 1 a) of Article 57 or referred to in no. 3 b) i) or no. 3 c) of article 256-A, as applicable]

1- _____ [name, number of identification document and address], acting in the quality of legal representative of¹ _____ [company's name, taxpayer number and head office or, in case of group of tenderers, companies names, taxpayer numbers and head offices], having full and perfect knowledge of the specifications regarding the execution of the contract to be entered into following the direct award procedure referenced *DA 385/2022*, towards the *Purchase of Software Licenses for Variant and Copy Number Variations (CNVs) Analysis*, hereby declares on his honor that the company he represents² undertakes the execution of the contract in accordance with the referred specifications, which clauses expressly accepts without reservations.

2- Also declares that it will perform the referred contract pursuant the terms included in the attached documents³:

- a) ANNEX I - The Statement;
- b) Annex II – The Tender;
- c) ...;

3- Moreover, it waives any special jurisdiction and hereby submits itself, in which regards the execution of the contract, to the applicable Portuguese legislation.

4- Also hereby declares on his honor that is not in any of the situations provided for in no. 1 of article 55 of the Public Contracts Code.

5- The declarant is fully aware that false statements imply, as appropriate, the exclusion of the tender or the expiry of the award that eventually about her relapse and is deemed to be a very serious offence, pursuant to Article 456 of the Public Contracts Code, which may determine the application of the penalty of deprivation of the right to participate as a tenderer or as a member of tender grouping in any procedure, without prejudice to the criminal participation of the competent authority.

6- When requested by the contracting authority, the tenderer shall, in accordance with Article 81 of the Public Contracts Code, present the documents attesting that the tenderer is not in any of the circumstances referred in *b), d), e)* and *h)* of no. 1 of Article 55 of the Public Contracts Code.

¹Applicable when tenderer is a legal person.

²In case the tenderer is a natural/individual person, delete the words "the company he represents".

³ List all document included in the tender, besides the present statement, In accordance with the terms set forth in Article 57º, nr. 1, b), c) e d) and nrs 2 and 3 of the PCC.

7- The declarant is fully aware that the fail to present the requested documents, with fault on its part, shall imply as appropriate, the exclusion of the tender or the expiry of the award that eventually about her relapse and is deemed to be a very serious offence, pursuant to Article 456 of the Public Contracts Code, which may determine the application of the penalty of deprivation of the right to participate as a tenderer or as a member tender grouping in any procedure, without prejudice to the criminal participation of the competent authority.

[Place], [Date], [Signature ⁴]

[The notes set out in this draft should not be reproduced in the document but are merely indicative of how the document should be drafted].

⁴ In accordance with the terms set forth in Article 57º, nrs. 4 and 5 of the Public Contracts Code

ANNEX II – Tender template

----- [name], acting in the quality of legal representative of⁵ ----- [company name, tax identification number and registered office or, in the case of a competing grouping, company names, tax identification numbers and registered offices and share capital], having taken full and complete knowledge of the invitation and specifications of the procedure, concerning the execution of the contract to be entered into following the procedure of Direct Adjustment with reference *DA 385/2022*, towards the *Purchase of Software Licenses for Variant and Copy Number Variations (CNVs) Analysis*, hereby declares on his honor that its represented company proposes to execute, in accordance with the specifications, in relation to which it declares to accept without reservation all the clauses and applicable legislation, the object of the contract to be concluded, in terms of the specifications and with the characteristics and under the conditions contained in the specifications of the present procedure and for the following attribute(s):

- i. The tender's global price is € (in figures and words) [vide clause 9 of the Specifications] [Complete]*

Communications and notifications:

For the Successful Tenderer:

At the attention of: ... [Complete]

Address: ... [Complete]

E-mail: ... [Complete]

The value added tax at the legal rate in force will be settled by the contracting authority in accordance with the standards in force.

Additionally, in which relates with the subject of the procedure and the execution of the contract we declare to be submitted to the Portuguese legislation in force and to the jurisdiction of the District Court of Porto, with express waiver to any other jurisdiction.

[Place], [Date], [Signature⁶]

[The notes set out in this draft should not be reproduced in the document but are merely indicative of how the document should be drafted].

⁵ Applicable when tenderer is a legal person.

⁶ In accordance with the terms set forth in Article 57º, nrs. 4 and 5 of the Public Contracts Code.

ANNEX III – Statement template

[Referred to in no. 1 a) of the Article 81 of the Public Contracts Code]

1- _____ [name, number of identification document and address], acting in the quality of legal representative of _____ [company's name, taxpayer number and head office or, in case of group of tenderers, companies' names, taxpayer numbers and head offices], successful tenderer in the direct award procedure with reference *DA 385/2022*, towards the *Purchase of Software Licenses for Variant and Copy Number Variations (CNVs) Analysis*, hereby declares on his honor that the company he represents⁷ is not in any of the situations provided for in no. 1 of Art. 55 of the Public Contracts Code.

2- The declarant annexes [or indicates... website where it can be consulted⁸] the supporting documents that the company he represents⁹ is not under the circumstances referred in *b), d), e) and h)* of no.1 of Article 55 of the Public Contracts Code.

3- The declarant is fully aware that the provision of false statements implies the forfeiture of the award and constitutes a very serious misdemeanor, under the terms of Art. 456 of the Public Contracts, which may determine the application of the accessory sanction of deprivation of the right to participate, as a candidate, as a competitor or as a member of a candidate group or competitor, in any procedure adopted for the formation of public contracts, without prejudice to participation to the competent authority for the purpose of criminal prosecution.

[Place], [Date], [Signature¹⁰]

[The notes set out in this draft should not be reproduced in the document but are merely indicative of how the document should be drafted].

⁷ In case the tenderer is a natural/individual person, delete the words "the company he represents".

⁸ Add the necessary information to the consultation, if applicable.

⁹ In case the tenderer is a natural/individual person, delete the words "the company he represents".

¹⁰ In accordance with the terms set forth in Article 57^o, nrs. 4 and 5 of the Public Contracts Code.