

Instituto de Biologia Molecular e Celular - IBMC

DIRECT AWARD No. 390/2023 - IBMC

**INVITATION TO TENDER
DIRECT AWARD PROCEDURE**

ACQUISITION OF HUMAN GENE MUTATION DATABASE (HGMD) CLINICAL LICENSES

1 Reference of the Procedure

The present procedure has as reference the designation DA 390/2023.

2 Contracting Authority

Instituto de Biologia Molecular e Celular – IBMC ("IBMC")

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

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

3 Decision to Contract

The IBMC Board took the decision to contract on January 23, 2023.

4 Type of Procedure

The present contract awarding procedure has the nature of a Direct Award, pursuant to Art. 24, no. 1, paragraph e), sub-paragraphs ii) and iii) of the Public Contracts Code ("PCC").

5 Reasons for the Choice of the Procedure

One of the strands of the CGPP consists of making genetic tests available to several national and international hospital centers. In this laboratory work, it is essential to integrate technical and scientific knowledge regarding the genetic variants identified in these genetic studies, applying an appropriate classification system and incorporating different levels of information. This type of work requires different tools for the interpretation of genetic variants, including the two types of licenses to be acquired. These HGMD licenses provide access to structured information about genes, variants, phenotypes and publications that are constantly updated and can be accessed through an internet browser ("online" version). On the other hand, the information available at HGMD is an indispensable resource for the diagnostic routine at CGPP that has been used in the analysis of all genetic tests based on exome ("download" version).

QIAGEN GmbH, the entity invited under this procedure, provided a declaration of exclusivity for the aforementioned licenses.

6 Invitation and Object of the Procedure

Instituto de Biologia Molecular e Celular - IBMC ("IBMC"), hereby invites the company *QIAGEN GmbH*, to submit a tender within a Direct Award procedure adopted for the award of *Acquisition of Human Gene Mutation Database (HGMD) Clinical Licenses*.

7 Access to the Documents of the Procedure

The documents of the procedure are the present Invitation to tender, annexes and the Specifications herein. The documents of the procedure can be downloaded through the free access in IBMC's website: <http://www.ibmc.up.pt/public-procurement>.

8 Clarifications and Rectifications on the Documents of the Procedure

The IBMC 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 IBMC shall provide the requested clarifications by the same way.

9 Documents that Constitute the Tender

9.1 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.

9.2 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.

9.3 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, under penalty of exclusion.

10 Variant Tenders

The submission of variant tenders is not authorized.

11 Prices

11.1 The prices listed in the tender shall be indicated in euros, in figures, VAT (value added tax) excluded.

11.2 Whenever several prices are indicated in the tender, in the event of any divergence between them, the most decomposed partial prices shall prevail for all purposes.

12 Tender Submission

12.1 The tender concerning this procedure shall be submitted through IBMC's website, which is free of charge: www.ibmc.up.pt/public-procurement.

12.2 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.

12.3 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.

12.4 The tenderer shall be responsible for any problem occurring during sending or receipt of oversized email messages.

13 Deadline for Tender Submission

The tender documents may be submitted until **16:00H on January 27, 2023**.

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.

15 Qualification Documents

15.1 In case of award, the successful tenderer shall present, under the terms of the article 81 of the PCC and the Ordinance 372/2017, of the 14th of December, within **3 (three) 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 55º, 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.

15.2 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.

15.3 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.

15.4 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 15.1 (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.

15.5 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.

15.6 Whenever there is a fact that determines the expiration of the award, in accordance with Art. 86. no.1 of the PCC, the IBMC 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.

15.7 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 IBMC shall fix an additional period of 5 (five) business days for the purpose of presentation of the missing Qualification Documents.

15.8 The Successful Tenderer must submit a reproduction of the qualification documents referred to in this article by e-mail: procedimentosccp@ibmc.up.pt

15.9 The IBMC notifies the successful tenderer of the presentation of the qualification documents by the Successful Tenderer in accordance with Art. 85 of the PCC.

15.10 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).

16 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.

17 Governing Law

To the present procedure of formation of contract, the Portuguese law is applicable being that to the procedure and in all in omission and or not specifically provided for in this invitation, will be applicable the provisions of the Public Contracts Code approved by Decree 18/2008 dated January 29, amended and republished by Decree-Law 111-B / 2017 of August 31st and other applicable legislation and regulations, and, if applicable, that set forth in the Specifications of this procedure.

Annexed: 4 annexes to Invitation,
Specifications and annex therein.

Porto, January 23, 2023

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 390/2023*, towards the *Acquisition of Human Gene Mutation Database (HGMD) Clinical Licenses*, 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 - Draft of Statement;
- b) Annex II – Draft of 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 statement as per Annex II of the Code, as well as the documents attesting that the tenderer is not in any of the circumstances referred in *b), d), e) and h)* 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".

³List 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]

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, number of identification document and address], acting in the quality of legal representative of⁵ ----- [company's name, registration number, taxpayer number, registration department, head office, share capital or, in case of group of tenderers, companies' names, registration numbers, taxpayer numbers, registration departments, head offices, share capitals], 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 390/2023*, towards the *Acquisition of Human Gene Mutation Database (HGMD) Clinical Licenses*, hereby presents its tender, and hereby undertakes the execution of the contract in accordance with the specifications, other elements of the procedure and with the following attributes:

- i. The tender's global price is € (by figures and extensive) (vide clause 9 of the Specifications) [Complete]
- ii. The contractual value proposed for HGMD "Download", Clinical Use, Medium Ent" is € ... (by figures and extensive) [Complete]
- iii. The contractual value proposed for HGMD "Online", "Clinical Use" is €... (by figures and extensive) [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]

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 390/2023*, towards the *Acquisition of Human Gene Mutation Database (HGMD) Clinical Licenses*, 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 the 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]

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°, nrs. 4 and 5 of the Public Contracts Code.

ANNEX IV - Model Declaration

(referred to in Article 10.1 c) of the Call, if applicable)

Declaration of Commitment of Subcontracted Entity

1- [name, identification document number and address], as legal representative of [name, tax identification number and address of the subcontracted entity], having fully and perfectly understood the parts of the Direct Adjustment procedure with reference *DA 390/2023*, for the *Purchase of Clinical Licences for the Human Gene Mutation Database (HGMD)*, hereby declares, on oath and as subcontracted entity, that in the event of the award of the tender submitted by [name of the tenderer or, in the case of a bidding group, the name of the entities that compose it], the entity represented by him undertakes to perform, on a subcontracting basis, the activity or activities of [identify all the activities for which the subcontractor will be responsible] included in the subject of the contract to be concluded, in accordance with the specifications, in relation to which he declares to accept, without reservation, all its clauses.

[Place], [Date], [Signature¹⁰]